

Conservatorship Policy

I. **Purpose:** It is the intent of San Andreas Regional Center to work with the person served, the family, the court, and the Department of Developmental Services (DDS) as appropriate, recognizing that a conservatorship shall be used to promote and protect the wellbeing of the person served, in compliance with all state and federal laws, regulations, and court decisions.

II. **Definitions:**

- **Consumer, individual, and person served are used interchangeably in regional center policy and the Lanterman Developmental Disabilities Services Act, and mean a person who has been found eligible and receives services from the regional center.**
- A *limited conservatorship* can be created by the probate court for developmentally disabled adults. It is utilized as necessary to promote and protect the wellbeing of the developmentally disabled adult and is ordered to the extent necessitated by the individual's mental and adaptive limitations. *Conservatees* retain specific powers to care for themselves and manage their financial affairs commensurate with their abilities. If developmentally disabled individuals lack the capacity to perform all of the tasks necessary to provide properly for their own personal needs of physical health, food, clothing or shelter, or to manage their own financial resources, the court can appoint a conservator of the person or a conservator of the estate, or both.

Powers of conservatorship may include:

1. The ability to decide where the individual will live (other than a locked facility)
2. The ability to make decisions in regards to the state of the individual (make decisions in regards to his or her money)
3. The ability to contract on behalf of the individual
4. The ability to give or withhold consent for medical treatment (except sterilization and other specified medical procedures)
5. The ability to make decisions for the individual concerning his or her education and vocational training
6. The ability to give or withhold consent to marriage
7. The ability to make decisions regarding his or her social and sexual contacts and relationships.

- A *conservator of the person* is an individual appointed by the court to ensure that the overall needs and personal affairs of the conservatee are secure.
- A *conservator of the estate* is an individual appointed by the court to be responsible for managing the conservatee's money and other property.

In some cases the court may appoint both a conservator of the person and a conservator of the estate. One individual may serve both roles, or two individuals may be appointed, each to serve a specific role.

- III. **Policy:** It is the policy of the San Andreas Regional Center that the existence of a developmental disability should not be in and of itself sufficient reason for the establishment of a conservatorship.

The establishment of a conservatorship is considered a family responsibility. The regional center will work with the court, individual and family during the conservatorship process.

In the event conservatorship is needed and no appropriate private individual is available to institute conservatorship proceedings, immediate referral will be made to the Public Guardian's Office. In the event the Public Guardian's Office does not accept the case, the regional center will make the referral to the DDS. The DDS will then determine if it will proceed with a petition for conservatorship on behalf of the person.

- IV. **Purchase of Service Standard:** San Andreas Regional Center may authorize purchase of services for the assessment of conservatorship in the event a psychologist employed by the regional center is not available to perform an assessment as required by law. San Andreas Regional Center may also authorize purchase of services for specialized administrative services as needed to implement the individual's IPP (Individual Program Plan) included conservatorship services.

- V. **Exception Process:** The executive director has full discretion to authorize purchases of service which are exceptions to the board-adopted purchase of service policies and standards. The executive director has designated certain individuals within the regional center who are authorized to grant an

exception in the executive director's stead; these individuals are referred to as director's designees.

The first formal discussion of a request for service takes place at the planning team meeting. If the request falls within the service policy, the request is granted.

If the request for service is not consistent with the policy, the service coordinator starts the exception review process by exploring the basis for the request. A time line for the director's exception review is set by agreement between the individual/family and the service coordinator but the time line may not exceed fifteen (15) days. Within that time, another planning team meeting will be convened. In the meantime the coordinator presents the information to the manager to determine whether a director's exception may be warranted. At the scheduled planning team meeting the decision will be made. The director's designee will attend the planning team meeting if necessary. If the exception is granted, the service coordinator amends the person-centered individual program plan, notifies the individual/family, and gives a copy of the amended plan to the individual/family.

- VI. **Notice of Action:** If the exception is not granted, the service coordinator promptly informs the individual/family that it has not been granted, informs the individual/family of their appeal rights, and sends a notice of action and a fair hearing form.

If a decision is made to deny, reduce, or cancel the service without the agreement of the individual or the individual's representative, a Notice of Action will be sent.

DDS Approved: October 25, 2017

Adopted: November 20, 2017