

LPS
Mental Health
Conservatorships

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Limitations ...

- *I am a private practice psychologist, not an attorney*
- *I have been performing LPS eligibility evaluations for 9 years*
- *I have evaluated referrals from Mendocino and Lake Counties*
- *I have been having vocal cord issues (much to my friends' delight) and may have to utilize a pre-recorded narrative to complete my presentation.*

Disclaimers ...

- *I am not sponsored by anyone*
- *I am not endorsing a product*
- *I am not trying to get you to purchase anything*
- *Names and identifying data of sample cases have been altered*

*”Civilization is measured by
how it treats its most
vulnerable people.”*

Ghandi



LANTERMAN-PETRIS-SHORT ACT, 1967

- Purpose of the Act (W&I Sec 5000 et seq) was “to end the inappropriate, indefinite, and involuntary commitment of persons with mental health disorders”.
- Limits involuntary commitments and treatment to where police or a mental health professional deems the individual a danger to self, a danger to others, or is “gravely disabled”. May be “held” for 72-hours (Sec 5150), 14-days (Sec 5250), or 30-days *T-Con* (Sec 5350).

LPS ACT, cont.

- If the individual remains gravely disabled *and* unwilling/unable to accept treatment voluntarily, an LPS Conservatorship may be established (W&I Code 5008 *et seq*) for the individual's "financial and personal protection".
- Fundamental purpose of an LPS Conservatorship is "To provide individualized treatment, supervision and placement" for people who are gravely disabled due to a mental disorder (W&I Code 5350.1).

“GRAVELY DISABLED”

Beyond A Reasonable Doubt

- The person is at risk of physical harm because he/she is *unable* to provide food, clothing or shelter *due to a mental disorder* or chronic alcoholism (Sec 5008). **Not dangerousness.**
- To be recommended, the person must be currently unable to meet basic needs and to voluntarily accept treatment (Sec 5352), not just previously or potentially unable.
- The person must not have a responsible third-party (e.g., friend or relative) willing and able to provide for the his/her basic needs. Third-party must write letter or appear in court.

CASE STUDY: THE PROPHET



- 32-year old Caucasian male
- Lived with father in remote rural area; father dying of cancer and could no longer provide third-party assistance
- Multiple psychiatric hospitalizations, denies having mental illness
- Found wandering the streets wearing aluminum hat with antennas “to ward off the devil”
- “Voice of God” tells him he is a prophet, he doesn’t need sleep, medicines are made of dirt and poisons but takes with apple juice: “Keeps doctor away”
- **FOOD:** “Our bodies aren’t technically meant to eat food, it has human remains in it and pollutes our bodies”; “God’s plan is for everyone to drink their own urine”
- **SHELTER:** “The planet is my home”
- **CLOTHING:** From thrift store dumpsters; ‘They’re always oversupplied”

SOLUTION TO OUR MENTALLY ILL HOMELESS CRISIS?

- Estimated 1/3 of homeless have a major mental disorder.
- Homeless mentally ill individual must be *unable* to provide for his/her food, shelter, or clothing, not just *unwilling*.
- LPS Conservatorships are costly (legal--*judge, attorneys, psychologist/psychiatrist, patient's rights advocate, conservator*), placement, medical/psychiatric treatment, supervision); cost borne by home county, wide variation between counties in application.

SOLUTION TO MENTALLY ILL INCARCERATION?

- Estimated 20-25% of incarcerated individuals have a serious mental illness, many on misdemeanor "nuisance" charges".
- "Criminalization" of mental illness.
- Largest mental health treatment facilities in the US are jails and prisons.
- US has the same per capita number of psychiatric hospital beds that it had 150 years ago.
- Estimated 90% of inpatient treatment beds are filled with individuals sent through the criminal justice system.

CLIENT RIGHTS

TYPICAL RIGHTS TRANSFERRED TO CONSERVATOR

- To decide least restrictive place to live (range: own home to locked facility).
- To make treatment decisions, including right to consent or refuse treatment.
- To manage finances.

SAMPLE DISCRETIONARY RIGHTS

- To enter contracts
- To have a driver's license
- To possess a firearm
- To vote

CLIENT RIGHTS (cont.)

SAMPLE RETAINED RIGHTS

- To challenge the conservatorship (every 6 months, burden shifts)
- To legal representation by an attorney (usually a public defender)
- To wear your own clothes
- To make confidential phone calls and correspondence
- To have visitors daily
- To have money for canteen/commissary expenses
- To least restrictive treatment and placement
- To refuse surgery unless risk of death or serious bodily injury

PATHS TO LPS CONSERVATORSHIP As Recommended to Public Conservator

- 1. W&I Sec. 5150, 5250, 5350 T-Con**
- 2. Not restorable to trial competency**
(vs IOT, diversion, dismissal, commitment)
- 3. Direct petition by doctor or care provider**

TYPICAL LPS CONSERVATORSHIP PROCESS

- **Doctor/caregiver referral to County's Public Conservator**
(typically Public Guardian or a Behavioral Health designee)
- **Public Conservator conducts investigation (including possible third-party support); petitions court** *(WIC5354)*
- **Court orders formal grave disability evaluation by psychiatrist or qualified psychologist**
- **Pre-trial Conference/Trial**

GRAVE DISABILITY EVALUATION

-- Document Review:

5150, 5250, 5350 Reports

Recommendation and Justification for Conservatorship

Conservatorship Investigator Report

Placement Progress Notes and Clinical Reports (60 days)

Placement Medication Administration Record

-- Examination

-- Collateral Input (*parents/associates, caregivers, jail records, etc.*)

KEY EXAMINATION QUESTIONS

”You will probably be asked in court”

- Do you know what a conservatorship is?
- What happened that you are being considered for conservatorship?
- If not conserved, where would you live?
- How would you feed yourself?
- How would you get clothes if you need them?
- Do you have a mental illness? A diagnosis? What does it mean?
- Do you take psychiatric medications? Names, purposes, dosages
- Would you take them if you weren't conserved; how get refills

EVIDENCE OF GRAVE DISABILITY DUE TO A MENTAL DISORDER

- Past hospitalizations
- Lack of insight (*anosognosia*)
- Belief that doesn't need medications, but has failed to meet basic needs without them
- Requires supervision to take medications
- Reliable hearsay (*e.g. behavioral health or facility staff, family*)
- Person's own words (*recording with consent*)

Evidence

- **Food**: evidence of malnutrition or dehydration
- **Clothing**: evidence of medical or physical harm due to lack of clothing
- **Shelter**: evidence that symptoms of mental illness are preventing the patient from utilizing shelter (*evictions? availability?*)

**Must be a nexus between the symptom and the disability.
not just the result of an informed lifestyle choice or unrelated delusion**

Most common mental symptoms are delusions, impaired executive functioning, disorganized thinking, and/or mood lability rendering the person unable to plan and/or execute a plan for meeting their basic needs



CASE STUDY: BLANCHE DUBOIS

- Aging southern belle
- Delusional
- Wealthy

LPS TRIALS

- Initial -- Contested annual (5362) -- Optional placement review hearing every six months (5358) -- Optional non-jury rehearing every six months (burden of proof on conservatee; 5364)
- Bench or jury (*rare*) trials
- If person does not have their own attorney, the Court must appoint an attorney (typically a Public Defender) within 5 days of the date of the petition for conservatorship
- Testifying: qualifications as expert, method of evaluation, opinion, evidence/basis for opinion,

TYPICAL LPS CONSERVATEE

Mendocino County

- **Caucasian**
- **Schizoaffective Disorder**
- **Medication noncompliant, Hx of decompensation**
- **Methamphetamine User**
- **Homeless**
- **Loner**

SPECIAL SITUATIONS: PERSONALITY DISORDERS

“An enduring and inflexible pattern of long duration leading to significant distress or impairment not due to substance use or medical condition.”

CLUSTER A (Odd, Eccentric):

Paranoid, Schizoid, Schizotypal

CLUSTER B (Dramatic, Erratic):

Antisocial, Histrionic, Narcissistic, Borderline

CLUSTER C (Anxious, Fearful):

Dependent, Avoidant, Obsessive-Compulsive

Personality Disorders and Grave Disability

- **Not considered a “primary” severe mental disorder:**
e.g. psychotic spectrum disorder, severe mood disorder
- **Not considered a “treatable” severe mental disorder**
- **Dr. Michelle Vorwerk 2023 FMHAC training on distinguishing severe mental disorders from personality disorders: “*I am not aware of any case law that precludes a Personality Disorders from being used as a mental disorder as a basis for grave disability, but I have never once seen it used in my 16 years doing LPS conservatorship evaluations.*”**

SPECIAL SITUATIONS: DEVELOPMENTAL DISABILITIES

- **Intellectual Disability** (IQ and Adaptive Behavior SS<70)
- **Autism Spectrum Disorder**
- **Epilepsy**
- **Cerebral Palsy**
- **Other Similarly Handicapping Conditions** (e.g. FAS, ADHD)
- *Onset before age 18, Incurable, Significant Impairment*

Can be placed on a Limited Conservatorship (typically covering only temporary medical and/or financial decisions)

CASE STUDY: BAD GIRL MESS

- 22-year old Caucasian female
- Adopted at 5 weeks, bio mother prenatal meth and alcohol
- First psych meds age 18-mo for “emotional/behavioral dysregulation”
- Age 11: Dx ADHD, ODD, BPD, FAS, First 5150
- Regional Center client: IQ 55, mild/moderate ID
- Polysubstance use and promiscuity since mid-teens, cutter
- Probate conservatorship with adoptive mother at age 18, now relinquishing and applying for LPS conservatorship per recommendation of probate court or “she may wind up dead”
- Unable to manage money, crash pad, multiple evictions



SPECIAL SITUATIONS: NEUROPATHOLOGY

- **Dementia** (*Parkinson's, Alzheimer's, Korsakoff's*)
- **Traumatic Brain Injury**

**Typically placed on a Probate Conservatorship
with close friend or family member designated**

SPECIAL SITUATIONS: ALCOHOLISM

- **LPS ACT:** Includes grave disability due to mental disorder or *“impairment by chronic alcoholism”* with or without a mental disorder
- **W&I CODE 5008:** Only specifies grave disability *“as a result of a mental disorder”*
- **Varies county-to-county:** e.g. San Joaquin County states that *“LPS only applies to cases of chronic alcoholism if the client continues to suffer severe cognitive debilitation after the use of alcohol has stopped”*

Alcoholism and LPS

“It can happen, but often the public conservator wants to see other areas of disability due to a mental illness. IE, they want to see that the conservatee has a concurrent mental illness and does not suffer from alcoholism alone. If they suffer from both then they may be considered for LPS. With alcoholism alone, the patient is placed lower on the list of urgency for the public conservator.”

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SPECIAL SITUATIONS: SUBSTANCE ABUSE

- **Not mentioned in the LPS Act or in W&I Code 5008**
- **Senate Bill 43 (*The CARE Act: Community Assistance, Recovery, and Empowerment Act*):**
 - **For individuals with diagnosis of psychosis who are not engaged in treatment, are substantially deteriorating and/or unlikely to survive safely without supervision**
 - **A family member, behavioral health provider, first responder or other approved petitioner files a petition with the Superior Court**
 - **A CARE plan for voluntary treatment is developed**

CARE - LPS

- If the person fails to comply with CARE plan, the Judge can order an involuntary LPS conservatorship investigation
- “Grave disability” expanded to include being due to impacts of severe substance abuse alone
- “Grave disability” expanded to include “inability to provide necessary medical care and/or personal safety due to mental *or* substance use disorder”

CARE effective 1/1/24 but counties can defer implementation until 2026.

Most Counties deferring due to lack of involuntary SUD Tx facilities.

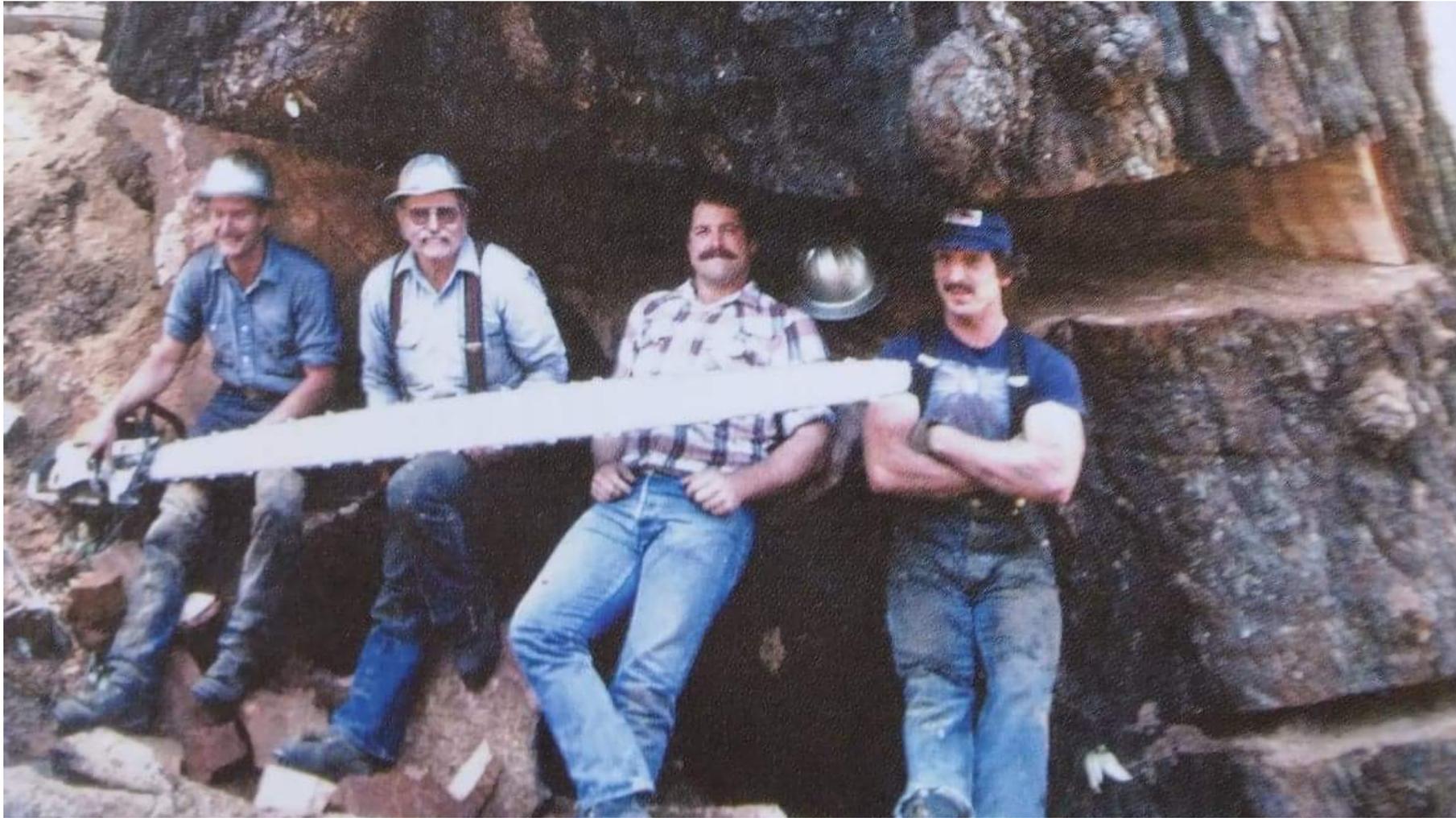
SPECIAL SITUATIONS: DANGEROUSNESS MURPHY LPS CONSERVATORSHIP

- Person has been found incompetent to stand trial due to a mental disorder and has no substantial likelihood of being restored to competency in the foreseeable future (PC1370).
- Felony charges involving death, great bodily harm, or serious threat to the physical well-being of another person.
- Probable cause determined that the alleged crime was committed.
- The person continues to represent a substantial danger of physical harm to others by reason of a mental disease, defect, or disorder.
- Typically placed in “hospital for criminally insane” until restored to trial competency or deemed no longer a danger of harm to others.

CASE STUDY: PAUL BUNYAN LUMBERJACK

- **Paranoid schizophrenia**
- **Meth addiction**
- **Not restorable to competency**
- **Homeless**
- **Stalks and harasses women**





"They Want The System To Leave Me Alone Dr. James Holden"

“In Ephesians.. It speaks of Cops.. Authorities.. That They are Scandalis... They work for Jocks.. and Disrespected the Wrong Jehovahs Witness.. I'll find someone else interested in Payback on Mendocino County Dirt Bags...”





- ***“Prison Ruling is Illegal... and Got the Better of Me because of Hypocrits... Now it's gonna change.”***



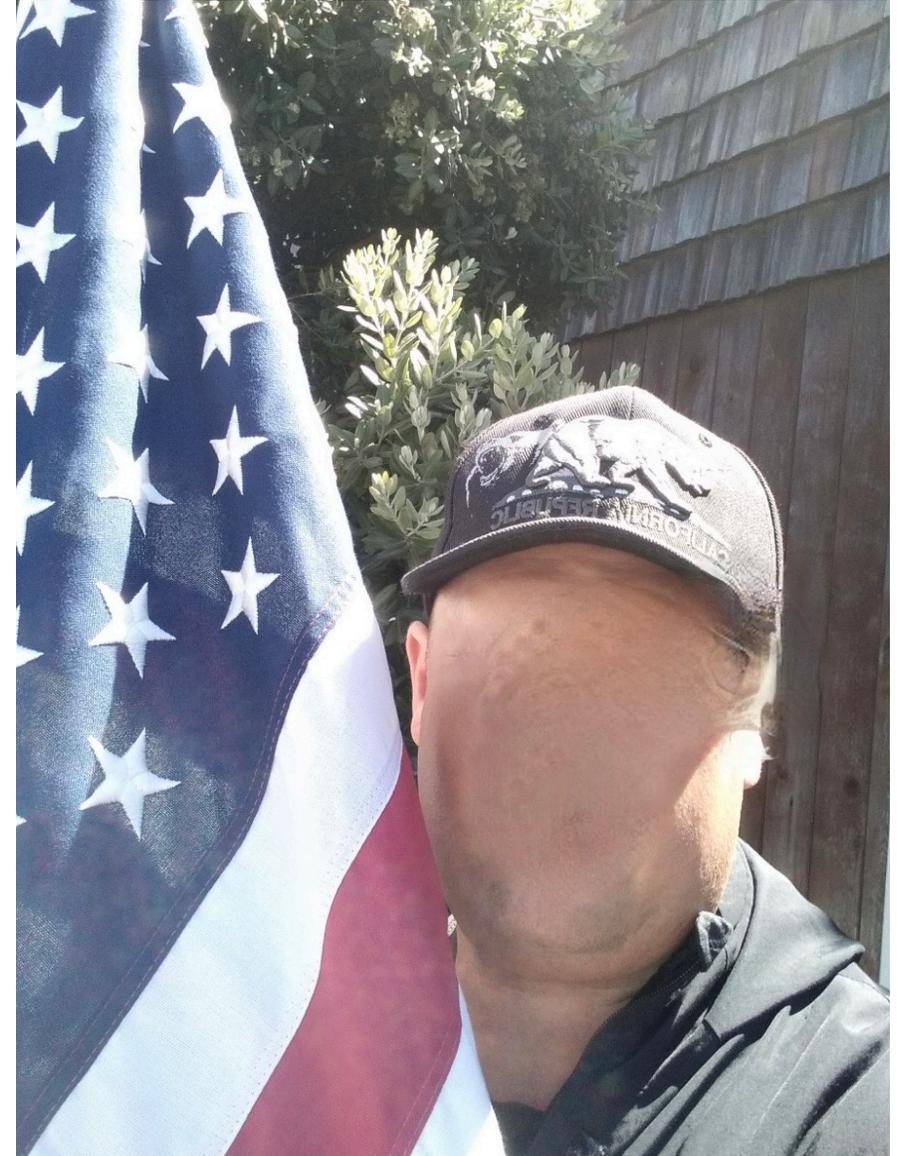
***"Tell Her Everything
You Know. She'd Like
To Know Everything"***

***“I am an American Citizen...
I’m military protected.”***

***“I feel it's completely legal
to defend Myself in All categories..***

***I Hate Jocks.. and Cops.. and Lawyers
haven't proved to be any better ”***

***“I'm Clean, Healthy and Competent...
Not Delusional in any way..”***





***“I will Pay You a Percentage
for Putting Them All
Under Citizens Arrest..***

Have a Good Day Sir.”

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- *SAMPLE LPS LEGAL FORMS*
- *SAMPLE GRAVE DISABILITY INTERVIEW QUESTIONS*
- *SAMPLE SYMPTOMS RELATING TO IMPAIRMENT*
- *LPS CASELAW*