
Training: *Aligning San Francisco's LPS Conservatorship Process with New Qualifications in Senate Bill 43*

Effective January 1, 2024



Welcome & Introduction

Goals



- Training Goals are to review:
 - New Conservatorship criteria.
 - How to assess individuals for eligibility for Conservatorship, under SB 43 changes.
 - How to correctly submit a referral for conservatorship to the Office of the Public Conservator (PC).



LPS Conservatorship Review

LPS Conservatorship Overview



- This is a legal process through which the Superior Court appoints a conservator to authorize psychiatric treatment of a person who is **gravely disabled due to mental illness, severe substance use disorder (new criteria), and/or chronic alcoholism.**
- Within DAS, the **Office of the Public Conservator (PC)** works closely with the Superior Court and Department of Public Health to authorize, carry out, and oversee treatment for individuals under conservatorship. The program supports overall health and wellbeing through case management and service coordination.
- The City Attorney's office represents the PC in court, and proposed Conservatees are represented by the Public Defender's Office.
- If conserved, clients may be placed in community settings (e.g., residential living facilities, private homes, etc.), locked psychiatric facilities, and hospital and acute care settings.

LPS Conservatorship Process: A Refresher



NOTE: The referral, petition, and legal process for LPS Conservatorships is not changing

- A Conservatorship can be granted when the court finds an individual to be chronically gravely disabled.
- Only a Psychiatrist/Psychologist can make a referral for conservatorship by submitting a justification and a recommendation.
- Only the Public Conservator's Office can file petitions for conservatorship with the court.
- A temporary conservatorship can be granted without a hearing if sufficient evidence is presented to the court and it is necessary to provide immediate protection and intervention of the individual.
- A conservatorship lasts for up to one year and can be renewed annually.
- Conservatees have ongoing legal rights including right to counsel and right to challenge all court orders, which may include jury trials. None of these rights will change.

Differences: Care Court, AOT, Conservatorship



	CARE Court	AOT	Conservatorship
Accepts referrals from hospital facilities, community, and jail	X	X	X (1)
Accepts referrals from first responders	X		
Accepts referrals from family			
Accepts referrals from BH providers	X	X	
Involuntary treatment			X
Requires Grave Disability criteria			X
Involuntary medication			X
Court ordered treatment	X	X	X
Requires prior negative outcomes		X (2)	X
Allows for respondent-identified supporter to assist in the process	X		
Serious mental illness	X (3)	X	X
Severe substance use disorder			X

ADDITIONAL QUALIFICATIONS:

1. Only may be submitted by psychologists & psychiatrists.
2. Must include 2 or more inpatient psychiatric hospitalizations or incarcerations where an individual received MH treatment in last 36 months OR documented serious threats, attempts, or acts of violence in last 48 months.
3. Schizophrenia Spectrum and other Psychotic Disorders.



SB 43 Overview

What *Is* Changing in Respect to LPS Conservatorships

SB 43 Overview



The procedures for involuntary commitment – including Conservatorship and 5150 holds – are governed by the Lanterman-Petris-Short (LPS) Act of 1967 (Welfare & Institutions Code, Section 5000 et seq.) SB 43 (Eggman) expands the Grave Disability definition in respect to these procedures. The change took effect January 1, 2024, and adds the elements in bold to the Grave Disability definition:

A condition in which a person; as a result of a mental health disorder, a **severe substance use disorder**, or a co-occurring mental health disorder and a substance use disorder; is unable to provide for their basic personal needs for food, clothing, shelter, **personal safety, or necessary medical care.**

SB 43 Overview



- Expanded definition of Grave Disability applies to 5150, 5250, 5270 holds and LPS Conservatorships*
- “Severe” substance use disorder is defined as:
 - A presence of at least six symptoms, out of at least eleven possible symptoms, pursuant to the DSM-5.
- Personal safety is defined as:
 - The ability of one to survive safely in the community without involuntary detention or treatment.
- Necessary medical care is defined as:
 - Care needed to prevent serious deterioration of an existing physical medical condition, which if left untreated, is likely to result in serious bodily injury.

*Subject to court approval at every stage of the proceedings.

SB 43 Overview



- As per the Health and Safety Code 15610.67, **serious bodily injury** (for necessary medical care) is defined as:
 - An injury involving extreme physical pain, substantial risk of death, or protracted loss or impairment of function of a bodily member, organ, or of mental faculty, or requiring medical intervention, including, but not limited to, hospitalization, surgery, or physical rehabilitation.

Grave Disability: Pre and Post SB 43



Elements of Grave Disability Definition	Old Definition	New Definition
Mental Disorder diagnosis is a basis for Grave Disability (“GD”)	X	X
Stand-alone Severe Substance Use Disorder (“SUD”) is a basis for GD		X
Co-occurring Mental Disorder and SUD is a basis for GD	X	X
Inability to provide for food, clothing, shelter is a basis for GD	X	X
Inability to provide for personal safety is a basis for GD		X
Inability to provide for medical care is a basis for GD		X
Causation required between Mental Disorder/SUD and inability to provide for basic needs	X	X
Referral from psychiatrist/psychologist required for Conservatorship petition	X	X
Constitutional rights/protections for patients subject to involuntary holds and Conservatorships	X	X



Assessing for LPS Conservatorship

Identifying Cases



- The Department of Public Health is responsible for identifying and filing petitions for Conservatorship when clinically appropriate.
- All providers should identify when an individual should be considered for Conservatorship.
- Psychiatrists and psychologists are authorized under Welfare and Institutions Code to submit referrals to the Office of Public Conservator.
- NOTE: Conservatorships can be initiated from the hospital/jail OR community.

Identifying Cases: Support is Available



- Providers, Department of Public Health, or Community based organizations have several options for support if they want to consult on potential cases:
 - Email DPH-ConservedAdultCareCoordination@sfdph.org.
 - Contact the DAS Hub at (415) 355-6700.

Get Connected | DAS Benefits & Resource Hub

The DAS Hub has intake specialists who can help your department determine if an individual meets minimum criteria for conservatorship

We are available Monday through Friday, 8 am – 5 pm



In Person

Drop in to see us at
2 Gough Street



By Phone

Call our helpline at
(415) 355-6700



Online

Visit our website at
www.SFHSA.org

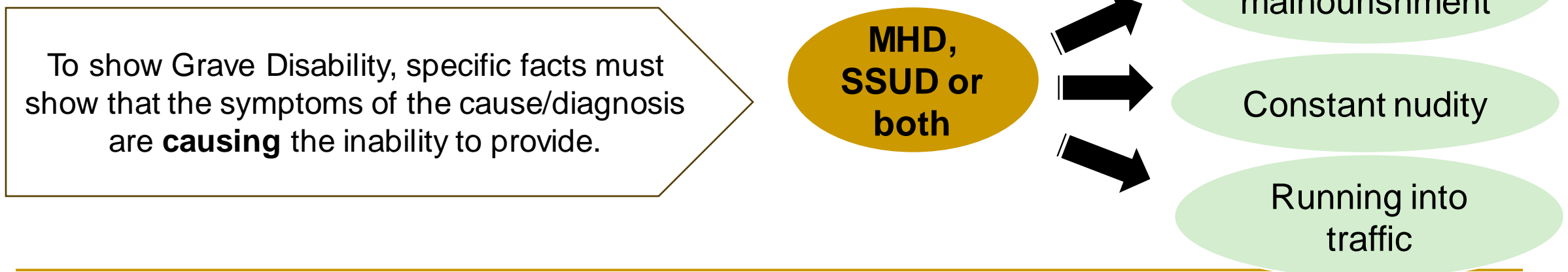
Identifying Grave Disability for Conservatorship



The two main legal criteria that must be connected:

CAUSE: what are seeing **MUST** be due to a mental health disorder, a severe substance use disorder, or both.

EFFECT: the things you are seeing in the field that show the individual is unable to provide for their basic needs (food, clothing, shelter, personal safety OR necessary medical care); these are the “facts” you will gather to show probable cause for make a GD determination.



Determining Grave Disability – With the Addition of “Severe Substance Use Disorder”



Severe Substance Use Disorder:

- A presence of at least six symptoms, out of at least eleven possible symptoms, pursuant to the DSM-5.

Implications:

- Previously, Grave Disability was defined as a condition resulting from a mental health disorder or a co-occurring mental health disorder and a substance use disorder. Now, Grave Disability can also result from severe substance use disorder alone.

Determining Grave Disability:

Background on What Constitutes Severe Substance Use Disorder



11 criteria used to define Substance Use Disorders; presence of 6 indicates “severe” SUD:

- ❑ Use in larger amounts or for longer periods of time than intended.
- ❑ Unsuccessful efforts to cut down or quit.
- ❑ Excessive time spent getting, using, and recovering from effects.
- ❑ Craving or intense desire or urge to use substance.
- ❑ Recurring use results in failure to fulfill major obligations.
- ❑ Continued use despite it causing significant social/interpersonal problems.
- ❑ Social, recreational and/or occupational activities reduced or given up.
- ❑ Recurrent use in unsafe environments.
- ❑ Persistent use despite knowledge that it may cause or deepen physical or psychological problems.
- ❑ Tolerance: high doses needed to achieve the desired effect, or usual dose has reduced effect.
- ❑ Withdrawal: exhibits symptoms of withdrawal and/or seeks substance to relieve withdrawal symptoms.

Determining Grave Disability - New Assessment Criteria: Personal Safety



Assessing for "**personal safety**" requires that you determine if a person has the ability to survive safely in the community without involuntary detention or treatment. Hypotheticals:

- Running in and out of traffic.
- Being assaulted, abused, exploited, or victim of crime.
- Unhygienic/uninhabitable conditions at home or other home safety issues such as arson.
- Inability to care for hygiene, cleanliness, needles, which leads to illness (especially if doesn't rise to level of serious bodily injury).
- Failure to thrive (may be a crossover with medical care).
- Multiple near-fatal overdoses requiring inpatient hospitalization (Note: Narcan reversals alone would not meet this criteria).

Please note that one of these examples alone is likely not enough to initiate a hold and we should review the totality of a situation and document all symptoms indicating the reason for a hold.

Determining Grave Disability -

New Assessment Criteria: Necessary Medical Care



When assessing for “**necessary medical care**” you will determine if a licensed healthcare practitioner, operating within the scope of their practice, determines the treatment to be necessary to prevent serious deterioration of an existing physical medical condition, which if left untreated, is likely to result in serious bodily injury. Hypotheticals:

- Wound care and infection issues that are likely to lead to loss of limb or life if not treated.
- Untreated comorbidities such as HIV, Diabetes, Cancer, liver/kidney disease that is life-threatening.
- Extreme physical pain.

**Please note that one of these examples alone is likely not enough to initiate a hold and we should review the totality of a situation and document all symptoms indicating the reason for a hold*



Submitting Recommendation and Justification for LPS Conservatorship

This process has NOT changed

Referring an Individual for LPS Conservatorship



Only Psychiatrists, MDs, and Psychologists are qualified to complete the Justification and Recommendation for Conservatorship form.



Prior to filing for conservatorship, the individual must be given official notice and allowed at least 5 days to file objections with the Superior Court.



Submit an electronic version of the Referral Form via Email or Fax to the Office of the Public Conservator

Form Review



- This is a legal document.
 - Please be accurate.
 - Form must be completed fully.

New Form's Introduction



Instructions:

- Fill in all grey blanks – shown here with red notations

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO
PROBATE COURT – MENTAL HEALTH DIVISION

In re the Conservatorship of the Person of:

[1] ,

Proposed Conservatee.

Case No.

**AFFIDAVIT OF PROFESSIONAL PERSON IN
SUPPORT OF PETITION FOR
APPOINTMENT OF TEMPORARY
CONSERVATOR AND/OR CONSERVATOR
OF THE PERSON AND IMPOSITION OF
LEGAL DISABILITIES DURING
TEMPORARY CONSERVATORSHIP PERIOD**

Pursuant to Welfare and Institutions Code section 5352 and 5352.1, I, [2] , declare:

1. I am the professional person, or his/her designee, in charge of an agency providing comprehensive evaluation, a facility providing intensive treatment, or of providing mental health treatment at a county jail.
2. I am a psychiatrist or psychologist, licensed by the State of California.
3. The above-named Proposed Conservatee is a San Francisco County resident, and is receiving treatment at [3] , as an involuntary or voluntary patient. If hospitalized/detained, I anticipate Proposed Conservatee will be ready for discharge/release on or about [DATE]
4. Prior to hospitalization/detention (if applicable) the Proposed Conservatee's address was/is [4] .

DSM Diagnosis



- SB 43 provides additional options: Severe Substance Use Disorder.
- Some examples include:

5. Proposed Conservatee is diagnosed with the following disorder(s):

DSM Diagnosis	Code
Alcohol Use Disorder, Severe	F10.20
Opioid Use Disorder, Severe	F11.20
Other (or Unknown) Substance Use Disorder, Severe	F19.20

Symptoms of the Disorder

- The updated form provides a range of symptom options to support your diagnosis.
- For a diagnosis solely for SSUD, at least 6 symptoms must be observed.

6. Proposed Conservatee exhibits the following symptoms of their disorder(s):

- | | | | | |
|--|---|--|--|---|
| <input type="checkbox"/> Anosognosia | <input type="checkbox"/> Hypersexuality | <input type="checkbox"/> Disorganized Thinking | <input type="checkbox"/> Disorganized Speech | <input type="checkbox"/> Irritability |
| <input type="checkbox"/> Avolition | <input type="checkbox"/> Impulsivity | <input type="checkbox"/> Grossly Disorganized | <input type="checkbox"/> Cognitive Deficits | <input type="checkbox"/> Hallucinations |
| <input type="checkbox"/> Delusions | <input type="checkbox"/> Mania | <input type="checkbox"/> Catatonia | <input type="checkbox"/> Negative Symptoms | <input type="checkbox"/> Pressured Speech |
| <input type="checkbox"/> Grandiosity | <input type="checkbox"/> Paranoia | <input type="checkbox"/> Abnormal Motor Behavior | <input type="checkbox"/> Mood Lability | |
| <input type="checkbox"/> Other (please explain) - space is provided for an explanation | | | | |

For Severe Substance Use Disorder Diagnosis (minimum of six required if no co-occurring mental disorder):

- | | | |
|--|---|--|
| <input type="checkbox"/> Consumes larger amounts of substances, and for longer amount of time than intended | <input type="checkbox"/> Persistent desire or unsuccessful attempts to cut down or regulate substance use | <input type="checkbox"/> Spends great deal of time obtaining, using, recovering from the effects of substance use |
| <input type="checkbox"/> Craving, strong desire or urge to use the substance | <input type="checkbox"/> Recurrent substance use results in impaired ability to fulfill major obligations | <input type="checkbox"/> Continued substance use despite it causing significant social/interpersonal problems |
| <input type="checkbox"/> Reduction or discontinuance of recreation/social/occupational activities due to substance use | <input type="checkbox"/> Recurrent substance use in unsafe environments | <input type="checkbox"/> Persistent substance use despite knowledge that it may cause or exacerbate physical or psychological problems |
| <input type="checkbox"/> Tolerance: higher doses needed to achieve desired effect or usual dose has reduced effect | <input type="checkbox"/> Withdrawal: exhibits symptoms of withdrawal and/or seeks substance to relieve symptoms of withdrawal | |
| <input type="checkbox"/> Other (please explain) - space is provided for an explanation | | |

Making Your Determination of Grave Disability



[General LPS Conservatorship Only – for Murphy Conservatorship, skip to #8]

7. I have determined that Proposed Conservatee is gravely disabled as defined in Welfare and Institutions Code section 5008(h)(1)(A).

- a. Proposed Conservatee is unable to provide for food (if applicable) as a result of a mental disorder and/or severe substance use disorder as evidenced by the following: **(Provide details)**
- b. Proposed Conservatee is unable to provide for clothing (if applicable) as a result of a mental disorder and/or severe substance use disorder as evidenced by the following: **(Provide details)**
- c. Proposed Conservatee is unable to provide for shelter (if applicable) as a result of a mental disorder and/or severe substance use disorder as evidenced by the following: **(Provide details)**
- d. Proposed Conservatee is unable to provide for personal safety (if applicable) as a result of a mental disorder and/or severe substance use disorder as evidenced by the following: **(Provide details)**
- e. Proposed Conservatee is unable to provide for necessary medical care (if applicable) as a result of a mental disorder and/or severe substance use disorder as evidenced by the following: **(Provide details)**

Murphy Conservatorship



8. I have determined that Proposed Conservatee is gravely disabled as defined in Welfare and Institutions Code section 5008(h)(1)(B).

a. It is my belief and understanding that Proposed Conservatee was found mentally incompetent to stand trial under Penal Code section 1370, was charged with a felony involving death, great bodily harm, or a serious threat to the physical well-being of another person, there was a finding of probable cause and the case has not been dismissed.

b. Proposed Conservatee is unable to understand the nature and purpose of the proceedings taken against them and to assist counsel in the conduct of their defense in a rational manner. The facts on which this opinion is based are: **(Provide details)**

c. Proposed Conservatee represents a substantial danger of physical harm to others due to their mental disorder. The facts on which this opinion is based are: **(Provide details)**

Consolidated Questions on Capacity and Consent



9. Proposed Conservatee is unwilling and/or incapable of accepting treatment voluntarily. The facts on which this opinion is based are: **(Provide details)**

10. I have determined that Proposed Conservatee does or does not have the capacity to consent to or refuse treatment related specifically to them being gravely disabled including administration of psychotropic medication. If the Proposed Conservatee does not have capacity, the facts on which my opinion is based are outlined in the attached Affidavit B. **(Attach Affidavit B, if appropriate)**

11. I have determined that Proposed Conservatee does or does not have the capacity to consent to routine medical treatment unrelated to the grave disability. If the Proposed Conservatee does not have capacity, the facts on which my opinion is based, are outlined in the attached Affidavit C. **(Attach Affidavit C, if appropriate)**

- The details related to the proposed conservatee's unwillingness or inability to accept voluntary services are critical.
- Element 9 addresses capacity to consent to treatment related to their grave disability.
- Element 10 addresses capacity related to medical treatment unrelated to the grave disability.

New Placement Element + T-Conn Request



12. In my opinion, the least restrictive alternative placement for Proposed Conservatee is independent living, board and care, unlocked treatment facility, locked treatment facility, state hospital, other . My opinion that Proposed Conservatee should be placed in a locked setting (if applicable), and cannot be treated in a lower level of care, is based on the following facts: **(Select an option and provide supporting details)**

13. In my opinion, it is necessary to establish a temporary conservatorship immediately. The facts on which this opinion is based are: **(Provide details)**

This element provides more expansive options for placement and also requires facts related to a recommendation for a locked setting.

How to contact the Public Conservator



If you need to consult or if you need technical assistance, please reach out!

Department of Public Health, Behavioral Health Services

DPH-ConservedAdultCareCoordination@sfdph.org

Department of Disability and Aging Services

Office of the Public Conservator

Telephone: 415-355-3680

[Email - sfpc@sfgov.org](mailto:sfpc@sfgov.org)

Fax: 415-355-3683

*Please use the new referral form that has been updated for SB 43.



Scenarios

Scenario #1



- Evaluate the following scenario to determine if the client meets the criteria for a referral to conservatorship, under the expanded definition of grave disability.

A young man experiences auditory commands to maintain vigil outside a specific church. His fixation on this church resulted in his sleeping on the sidewalk in front of the church at night. Sometimes he is seen sleeping on a grate near parked cars to stay warm. A community program has successfully engaged with him to provide meals. He has no income and no permanent home, and he has an open, festering wound on his leg, but he does not want any medical treatment from the same community program because he does not want to leave his vigil and says that God will protect him. He declines reasonable offers of shelter or housing due to his ongoing belief. The community program has tracked this behavior for three months, and has reached out to you for additional advice on options, including conservatorship.

Scenario #1



Discussion: Is there probable cause for grave disability?

- Key data: this young man is not an imminent threat to himself or others, but there is evidence of lack of shelter and lack of ability to accept necessary medical care for a condition that could be serious if untreated, due to his evident mental health condition. These threatening circumstances have been in place for 3 months.

Discussion:

- Is he a candidate for writing a referral for conservatorship?
- Are other options available?

Scenario #2



- Evaluate the following scenario to determine if the client meets the criteria for a referral for conservatorship, based on the expanded definition of grave disability.

A 23-year old woman a neighborhood CBO has been working with is found incapacitated on the street, with evidence of a drug overdose. She has been taken to ZSFG ED 3 time in the last 3 months under similar circumstances, each requiring Naloxone intervention by paramedics or hospital. She has no shelter. She also has insulin-dependent diabetes, and does not take her insulin, which is causing or placing her at risk of serious complications. The clinician who has been attempting to treat her reports to you that she declines medical care due to her substance use and is at risk of her leg being amputated. She is also frequently found in a state of undress and it is believed that she has been the victim of repeated sexual trauma. Collateral information indicates she frequently seeks out substances, if often alone, and most of her day is spent around substance-related activities. She is often found intoxicated or withdrawing from substances and neglects her personal safety.

Scenario #2



Discussion: Is there probable cause for grave disability?

- Key data: her current condition; past history of likely severe substance use disorder; inability to maintain her personal safety, the seriousness of her medical condition and the clinician's reported attempts to provide medical treatment – without success.

Discussion:

- Is she a candidate for writing a referral for conservatorship?
- Are other options available?

The Future View



- Entering new territory with untested definitions.
- There is not yet any case law supporting the interpretations of these new definitions.
- In the year or two ahead, we will be tracking emerging case law and adapting our policies accordingly.

Wrap-Up and Questions



- This training is required for any psychologists and psychiatrists who write referrals for conservatorship.
- If you have staff or colleagues who were unable to attend today, a recording of this training will be distributed.
- Training must be completed by February 29, 2024.



Appendices



LPS Conservatorship: Our Existing System

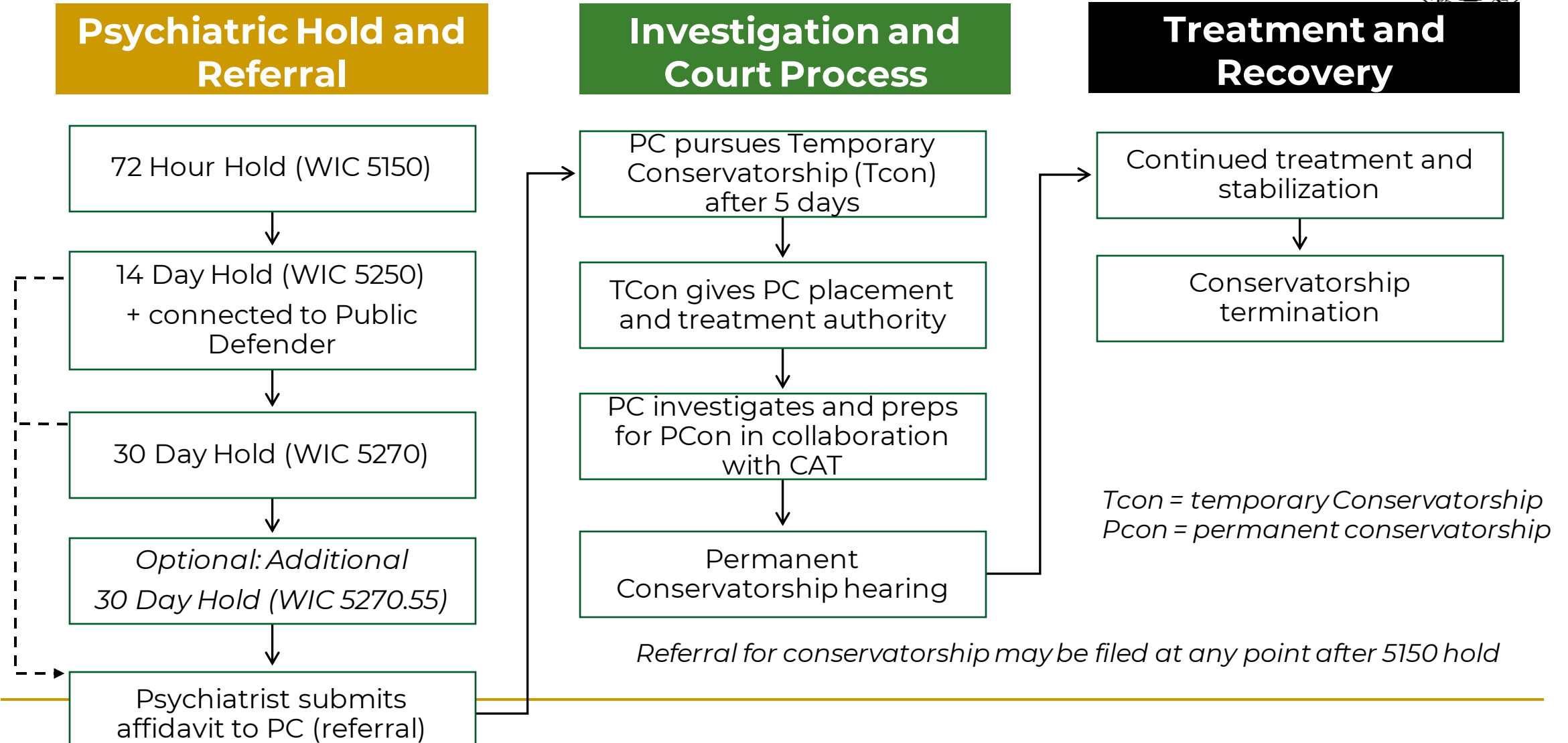
LPS Conservatorship: Key Provisions



- Conservatorship is a legal mechanism to provide individualized treatment, supervision, and placement.
- LPS referrals can be submitted by MDs/Psychiatrists and Psychologists.
- LPS Act provides extensive due process protections.
- Temporary Conservatorships are pursued to provide PC with ability to act immediately and protect an individual in crisis.*
- Permanent Conservatorships are granted for one year and may be renewed if the individual continues to be gravely disabled.*
- PC may seek out involuntary psychiatric medication authority and medical decision-making powers as appropriate.*
- PC must follow the Least Restrictive guiding principle.

*Court must make finding by clear and convincing evidence or beyond a reasonable doubt, depending on stage of proceeding

LPS Flow From Hospital



LPS Flow From Community (Outpatient)

