



**STATE OF CONNECTICUT**  
 Department of Mental Health & Addiction Services



**Commissioner's Policy Statement and Implementing Procedures**

<b>SUBJECT:</b>	Application for Involuntary Conservatorship of DMHAS Clients
<b>P &amp; P NUMBER:</b>	Chapter 6.25
<b>APPROVED:</b>	Miriam Delphin-Rittmon, Commissioner <span style="float: right;">Date: 10/15/2015</span>
<b>EFFECTIVE DATE:</b>	October 15, 2015
<b>REVISED:</b>	4/21/2011
<b>REFERENCES:</b>	
<b>FORMS AND ATTACHMENTS:</b>	

**STATEMENT OF PURPOSE:** Conservatorship of the person or the estate imposes a legal restriction on a person’s freedom and autonomy. An application to probate court seeking the involuntary appointment of a conservator must allege that the person being sought to be conserved is incapable and must state the reasons for the incapability. An application for the involuntary appointment of a conservator triggers legal proceedings with serious implications for the legal rights of the person being sought to be conserved. Petitioning a probate court for the appointment of a conservator for a DMHAS client should be done only when there is no less restrictive alternative.

The extent of a conservator’s authority to make decisions for a conserved person is limited to the authority set forth in the Probate Court decree for that conserved person. Therefore, it is possible to have a situation in which the conserved person retains some rights and authority to make their own decisions. It is also possible that a DMHAS client who is conserved might attain a level of recovery that increases their independent functioning so as to warrant a change or reduction in the powers of the conservator.

**POLICY:** No application for appointment of an involuntary conservator of estate or conservator of person for a DMHAS client shall be made unless the treatment team determines that a client is incapable of self-care or incapable of caring for his or her own affairs and no less restrictive means of intervention will assist the client to care for his or her person or manage his or her affairs. When a client achieves a level of recovery at which he or she consistently demonstrates functioning at a level of independence that no longer indicates the need for a conservator, or indicates continuation of a conservator with reduced powers, the treatment team shall recommend that a petition be filed with the probate court seeking termination or modification of the conservatorship.

**PROCEDURE:**

1. Determine whether there is a sufficient basis for concluding that the client is “incapable of caring for himself or herself” or “incapable of managing his or her affairs” as those terms are defined in C.G.S. § 45a-644(c) and (d).

2. Prior to initiating an involuntary conservatorship application, determine if there is a less restrictive means of intervention.
  - A. The treatment team will investigate with the client whether a less restrictive means of intervention than involuntary conservatorship is available to assist the individual in caring for him/ herself or in managing his or her affairs.
    - i. Identify problems the conservatorship is expected to resolve, and what actions the conservator is expected to perform to assist the client in managing his or her affairs or caring for him/herself.
    - ii. Explore the use of an advance directive, power of attorney or RAP?
    - iii. Identify other forms of available assistance i.e., friends, family or community services.
    - iv. Determine whether the client would consider a voluntary conservatorship.
    - v. Determine whether the client wishes to name a proposed conservator.
  - B. If there is a less restrictive means of intervention, the team will work to establish that intervention and will not proceed with a conservatorship petition.
  - C. If there is no less restrictive means of intervention, the team will identify the minimal powers and duties necessary for a conservator to accomplish the goal of assisting the individual to care for himself or herself or to manage his or her affairs
3. If the treatment team determines that an involuntary conservatorship is appropriate, the team will cause a petition for involuntary conservatorship to be completed and filed with the probate court. The petition shall:
  - A. Specify only the minimal powers and duties necessary for a conservator to accomplish the goal of assisting the individual to care for him or herself or to manage his or her affairs as determined in accordance with 1C above.
  - B. Include the name of the person the client proposes to serve as conservator, if any
  - C. Indicate that the respondent is indigent, if applicable.
4. A representative of the treatment team will attend the probate court hearing on the petition for involuntary conservatorship and provide testimony to the probate court as may be required.
5. After the Probate Court Hearing:
  - A. If a conservator has been appointed, the treatment team will familiarize itself with the scope and limitations of the conservator's authority and will include a copy of the probate court appointment in the client's medical record.
  - B. The treatment team will recognize the authority of a conservator to act on the client's behalf to the extent such authority is granted by the probate court order. If a question arises about a conservator's authority to act in a particular situation, the team will follow the facility's administrative chain of command to request legal advice.

The conservator's authorization is not required in order for the client to consult with or retain an attorney.