

CONSERVATORSHIPS FOR PERSONS WITH HOARDING DISORDER

Hon. Dianne Yamin
Probate Judge
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Introduction

- ◉ Probate Courts are statutory courts with jurisdiction over conservatorships
- ◉ Nearly 22,000 CT residents have conservators
 - Conservators of the Estate help manage financial affairs
 - Conservators of the Person help manage personal needs, including housing needs
- ◉ Of those 22,000 residents many have dementia or psychiatric disabilities
- ◉ Focus today on Involuntary Conservatorships

Common Scenarios Involving Persons with Hoarding Disorder

- ◉ Petitions for appointment of a conservator filed by:
 - Institutions where the person may be hospitalized
 - Public officials, e.g. Health Department, may have restricted access to residence, or who may be seeking enforcement actions such as condemning the property or property clean up
 - Social service agency or mental health agency where workers see concern for health and safety
 - Family, friends or neighbors concerned about the person

Procedural Challenges in Hoarding Cases: Due Process

- Appointment of involuntary conservator involves significant intrusion into fundamental rights and liberties
- Due process protections are required
 - Respondent must be "served" notice in-hand by marshal or indifferent person
 - Respondent may attempt to avoid service of process

Procedural Challenges in Hoarding Cases: Incapacity

- The Probate Court must find that the respondent is incapable defined as:
 - Having a condition making them unable to process information, or make or communicate decisions; and
 - Being unable, even with appropriate assistance, to manage affairs and/or meet essential needs
- Requires recent medical evidence
 - Medical evaluation performed within 45 day of hearing
 - Medical evidence may be waived under limited statutory exceptions, i.e. refusal to be examined
 - Probate Court may order examination, respondent can still refuse to be examined

Procedural Challenges in Hoarding Cases: Least Restrictive Alternative

- Conservator may only be appointed if least restrictive means of intervention
 - Affords the person the greatest amount of independence and self-determination
- Court must assign specific powers to meet the identified needs of the respondent/conserved person
 - Conserved person retains any powers not assigned to conservator
- During hearing, parties may testify and disagree on solutions, care/case plans or alternatives

Procedural Challenges in Hoarding Cases: Duties/Authority

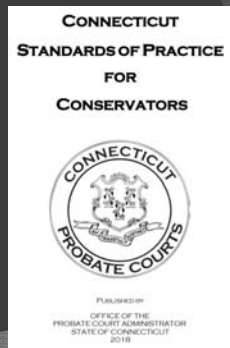
- ⦿ Conservator of the Person authority may include:
 - Personal care, comfort, safety, maintenance, medical or other professional care
 - Place of residence
 - Personal effects
- ⦿ Conservator of the Estate authority may include:
 - Manage income and assets, pay bills, file income tax returns and pay taxes
 - Apply for public assistance
 - Manage conserved person's real property
 - Limited to available resources

Procedural Challenges in Hoarding Cases: Duties/Authority

- ⦿ Conservators MAY NOT do the following without a specific Probate Court order;
 - Terminate lease, sell real property, dispose of household furnishings or place person in facility for long-term care
 - Commit conserved person to an institution for treatment of psychiatric disability
 - Contravene decisions of conserved person's health care representative

Conservator Standards of Practice

- ⦿ Provide guidance on duties
- ⦿ Establish high expectations
- ⦿ Available online or booklet



Conservator Standards of Practice Key Principles and Ethics

- Treat conserved person with dignity
- Focus is on the conserved person: decision-making, constitutional rights, least restrictive alternatives, beliefs and preferences, independence and self determination
- Maintain confidentiality
- Comply with CT law, court orders, and regulations
- Manage affairs and estate respectfully and avoid conflicts of interests

Conservator Standards of Practice

- Standard 5: The conservator shall:
 - Investigate and coordinate current and available services within the resources available
 - Engage professional services as necessary to meet the goals, needs and preferences of the conserved person
- Standard 7: In decision making, the conservator shall:
 - Assess the risks and benefits of each alternative
 - Follow conserved person's preferences unless adherence would cause harm
 - Decide based on best interests only if preferences not ascertainable or adherence would cause harm

Conservator Standards of Practice

- Standard 8: The conservator shall:
 - Choose the alternative that minimizes restrictions on conserved person's individual liberties
 - Balance independence and safety
 - Make individualized decisions based on the specific conserved person
 - Consider independent assessment of abilities
- Standard 9: The conservator shall:
 - Provide the conserved person with the opportunity to exercise rights and participate in decisions
 - Encourage person in efforts to regain capacity
 - Promote independence

Conservator Standards of Practice

- Standard 12: The conservator shall:
 - Arrange for appropriate living environment that addresses the conserved person goals, needs and preferences
 - Seek court approval before changing residence
 - Strive to enable living at home within person's preferences
- Standard 19: The conservator shall:
 - Seek court approval to sell, transfer, or dispose of property
 - Consider specific factors when deciding to sell, transfer, or dispose of property

Resources

- www.ctprobate.gov
 - Court directory
 - CT Probate Court User Guides
 - All probate court forms
- Connecticut Standards of Practice – available at ctprobate.gov
 - Required for conservators
- Training videos for conservators – available at ctprobate.gov
 - Can be completed in multiple sessions
- Melissa's Project: Guardian Ad Litem Services, Inc.
 - guardian-ct.org

Thank you
