

Alternatives to Conservatorship

SAMPLE
Not Legal Advice

Sometimes there are other ways to help an adult besides establishing a conservatorship. But usually, the adult must be able to understand and agree.

If the adult can only understand and communicate at certain times, use these times to talk about their options. If you are not sure if the adult can understand and communicate, talk to a lawyer.

Care for adults who can understand and communicate:

Social Services Agencies

In San Francisco, there are many agencies that help people with special needs because of illness or disability. They assign a case manager (usually a social worker or a nurse) to see what the adult can and cannot do.

They meet with the adult regularly to see how they are doing. And they check to see if the services they are providing are helping.

The case manager can arrange for meals, housekeeping, transportation to health care appointments, and personal care at home.

Advance Health Care Directives

You can fill out an Advance Health Care Directive (AHCD) to say:

- What type of health care you want if you become gravely ill, and
- Who you want to make decisions for you.

You can get AHCD forms and information from:

- California Coalition for Compassionate Care: www.finalchoices.calhealth.org
- California Medical Association: www.cmanet.org
- American Bar Association: www.abanet.org/aging Look for the “Consumer’s Tool Kit for Health Care Advance Planning.”

Care for adults who cannot understand or communicate:

California law allows teams of **health care professionals in nursing homes** to make medical decisions for adults in nursing homes who cannot do so and have no one to help them.

Sometimes the court makes medical decisions or allows someone else to do so. For example, a hospital may want to make a change in treatment or living arrangements for an adult who is unable to give consent and has no conservator. The court only does this if just one or a few decisions are needed.

Financial decisions for adults who can understand and communicate:

Daily money management programs

Many social services agencies have programs to help people with simple, financial tasks like paying bills, making bank deposits, and filing taxes.

Joint bank accounts

The adult can set up a joint bank account with someone they trust. This lets the trusted adult write checks, make deposits and withdrawals.

It is very important to choose a trusted, competent person because the adult will have little control over the account. And, if one of the persons dies, the other can keep what is left in the account.

General or Limited Power of Attorney

A general or limited power of attorney allows the adult to appoint someone to help them for a limited time or for a single action. The adult is called “the principal,” and the helper is called the “attorney-in-fact.”

For example, an adult with severe arthritis in his hands may give his sister power of attorney for a specific bank account so she can write the checks for the monthly bills.

Most financial institutions have their own power of attorney forms.

If the adult loses the mental ability to make decisions, the power of attorney is no longer valid.

Durable Powers of Attorney for Finances (DPOA)

A DPOA lets someone help the adult manage their finances if they become unable to. The adult is called “the principal,” and the helper is called the “attorney-in-fact.”

The Attorney-in-fact can pay bills, hire in-home help, and file taxes for principals. A DPOA is called “durable” because the attorney-in-fact will still have power after the principal can no longer make decisions for himself.

DPOAs are fairly simple and inexpensive. But there are risks: attorneys-in-fact are not monitored or bonded. It is very important to choose a trusted, competent person because they will control your finances.

You can get a DPOA form online or from a stationery store. But, have a lawyer check your DPOA to make sure it is as “theft-proof” as possible and right for your situation.

Financial and property decisions for adults who cannot understand and communicate:

Representative Payeeship

Many federal agencies can authorize a person or institution to receive a check on behalf of an adult who has a disability.

This means a relative, friend, volunteer, social service agency, or nursing home can receive the monthly check and use it to pay for the adult’s needs.

Some of the agencies that allow this are:

- Social Security Administration
- Department of Veterans Affairs
- Department of Defense
- Railroad Retirement Board, and
- Office of Personnel Management

But first you must explain why the person cannot handle their finances, and a doctor must provide a statement explaining the disability.

This may be a good choice for adults whose only income is from a public agency.

Living Trusts

A living trust lets an adult put assets and property, like bank accounts, real estate and life insurance, under the control of a *trustee*.

Most people set themselves up as the *trustee* and they also name a trusted person to be the *successor trustee*. When they die or become unable to manage the trust, the *successor trustee* takes over.

Living trusts are a good choice for people who have a lot of assets and can understand how their assets should be managed. A trust is a complicated document. You will need an attorney to set up the trust so it does what you want it to do.

How do I find a lawyer?

Choose a lawyer who specializes in probate law or elder law.

For help finding a lawyer, contact:

- The Bar Association of San Francisco’s Lawyer Referral Service. If you have limited income, they can refer you to their Volunteer Legal Services Program.
Call: **415-989-1616**
- The National Academy of Elder Law Attorneys (NAELA). They give advice about how to find and choose attorneys with experience in legal matters affecting older people.

Visit their website: www.naela.org

Other Resources

Buy the *Handbook for Conservators*. It costs \$20 and comes with a *Resource Supplement* that lists support services in San Francisco. You can buy it at in Room 103 or download it for free (it’s 300 pages) from: www.courtinfo.ca.gov/selfhelp/seniors/handbook.htm

AARP has information about living trusts and other planning documents: www.aarp.org



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