

## **The Nuts and Bolts of Conservatorship**

**Author: Alexis Lynch, Attorney at Law**

The transition to adulthood is laden with uncertainties for parents of special needs young adults. Parents want to encourage independence and decision-making skills in their child, but also want to know they will still be able to make important decisions concerning their child, such as the residence, medical treatment and education of their child. From a legal standpoint, in most states, once a child turns 18, parents no longer legally have a say in these matters. This loss of legal authority can result in losing access to their child's confidential records, such as school or medical reports, or hitting roadblocks when governmental agencies or financial institutions refuse to assist a parent without proof of legal authority. Even worse, some doctors will not perform medical treatment without the consent of the child, even if that child is unable to communicate consent.

Establishing a conservatorship (sometimes called a "guardianship" in states outside California) allows a parent to retain these legal authorities related to their child's personal or financial needs. The Court appoints a parent (or another responsible adult) as conservator of the adult disabled child.

**In California, establishing a conservatorship involves the following steps:**

- 1. The proposed conservator files a petition and accompanying documents with the local Court;**
- 2. The Court appoints an attorney to represent the disabled child;**
- 3. The Regional Center prepares a required report;**
- 4. The child's doctor completes required paperwork;**
- 5. A Court Investigator conducts an investigation, which includes interviewing various people associated with the child; and**
- 6. A hearing takes place in front of a judge.**

Parents can hire an attorney to handle most of the work for them or they can complete the process without the assistance of an attorney. Some court websites (such as **Marin** and **Santa Clara**) provide useful information about the process and explicitly list what documents they require. For all California courts, the necessary documents can be found **online**.

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Alexis Lynch is an attorney who handles conservatorship cases for special needs families throughout the Bay Area. She previously worked at an estate planning firm where many clients were special needs parents. She found the relationships she developed with these clients to be the most rewarding, so she launched her own practice to work exclusively with special needs families. Alexis partners with special needs schools and organizations to educate families about conservatorships and special needs trusts. She can be reached at [alexis@alexislynchlaw.com](mailto:alexis@alexislynchlaw.com), and you can learn more at [alexislynchlaw.com](http://alexislynchlaw.com).