

Expanding the Role of Regional Centers in Limited Conservatorship Proceedings

by Thomas C. Coleman

Although Regional Centers play a major role in the life of people with developmental disabilities, they have a rather minor role in connection with the Limited Conservatorship System.

Regional Centers collectively administer more than \$1 billion in government contracts and grants annually. That money is used to pay salaries of Regional Center employees, overhead for buildings, and sub-contracts with various types of vendors who provide services for Regional Center clients.

The only role I have been able to determine that Regional Centers have in the limited conservatorship process is submitting a report to the Probate Court in which they recommend which of the “seven powers” should be granted to conservators and which rights should be retained by their clients. From what I have seen, that report often consists of three or four pages, with little analysis or explanation.

Assume that it takes a case worker less than two hours to prepare and write such a report. Perhaps it may take a supervisor 30 minutes to review a report before it goes to the court. If these assumptions are correct, a report would cost a Regional Center less than \$200, including staff time and overhead.

About 4,000 such reports are filed each year with courts in California. In total, these reports are costing Regional Centers about \$800,000 per year. That is a minuscule fraction of the annual expenditures of Regional Centers collectively in California.

The establishment of a limited conservatorship is a major event in the life of a Regional Center client. Once established, it will likely effect the client’s rights for the rest of his or her life.

Regional Centers are required to develop an Individ-

ual Program Plan (IPP) for clients and update them periodically. Often they are updated annually, at or near the date of the client’s birthday.

A Regional Center representative at a recent educational forum said that her center has a protocol that recommends a case worker to meet with the parents and the client when a limited conservatorship is contemplated. However, she added that this protocol is often not adhered to. She also emphasized that each Regional Center is independent and therefore may or may not have such a protocol in place.

Based on what this speaker said at this seminar, and based on what I have learned from other sources, I believe that a face-to-face meeting between a case worker and proposed conservators and conservatee is the exception to the rule. I believe that most Regional Center reports are based on a quick review of existing records and perhaps a brief discussion between the case worker and a supervisor.

My research also suggests that most Regional Center reports to the court recommend that five of the seven powers be given to the conservators and that decisions on marriage, sexual behavior, and social contacts remain exclusively with the conservatee. This is not recommended as a matter of individual evaluation of client capacities, but more as a matter of a principle of promoting independence.

My review of dozens of court files also shows that, in a significant number of cases, the conservatorship is granted without the court having read the Regional Center report. This is because in such cases the Regional Center did not file a timely report and the court did not want to delay the proceeding to wait for the report. This is another indicator that some judges consider the role of the Regional Center to be peripheral, not central, to the proceeding.

Regional Centers perform functions that are either required by statute or by their contract with the California Department of Developmental Services (DDS). Although they also may perform some fee-for-service functions, most activities are probably done under statutory or contractual mandate.

If statutes were to require Regional Centers to conduct a special IPP prior to the filing of a conservatorship petition, it would be done. Funding for this would have to be provided by the Legislature.

If the California Department of Developmental Services wanted Regional Centers to play a more significant role in the limited conservatorship process, the department would insert into their contract with Regional Centers various paragraphs and clauses specifying what that role should be.

I have been unable to find any regulations promulgated by DDS regarding limited conservatorships or the role of Regional Centers in that process. This suggests that the Department has not given any priority to limited conservatorships and their effect on the rights of people with developmental disabilities. It is almost as if this area is a blind spot in the regulatory and oversight functions of DDS.

Although Regional Centers are autonomous non-profit corporations, they have voluntarily formed an Association of Regional Center Agencies (ARCA). Presumably, ARCA exists for the mutual benefit of these independent agencies. It would be to their mutual benefit to have educational and training materials on how to conduct assessments of clients involved in limited conservatorship proceedings.

When I met recently with the staff and attorney for a Regional Center to discuss the limited conservatorship process, I stated that staff apparently have no criteria, guidelines, or training on each of the seven areas that are assessed for the report to the court. There was no objection to my statement. Rather, one staff member said that he would welcome guidelines and trainings in this regard.

What would a special IPP conservatorship meeting

look like? It should involve two meetings – one with the client to discuss his or her rights, and one with the client and the parents to discuss the duties of a conservator and the rights of a conservatee.

The meeting with the client would be part informative and part evaluation. The informative part would tell the client that if the conservator is given authority to make sexual decisions, for example, then he or she could be prevented from going on a date, kissing a boyfriend or girlfriend, or having sex with any person. If their social rights were taken away, then the conservator could decide who they socialize with and what type of recreation they engage in.

The case worker would ask if they want someone else to make sexual decisions for them or if they want to make their own choices. They would be asked if they want the right to say “no” to visiting someone, or if they want the conservator to be able to require them to visit with people they do not like.

The IPP could schedule a further evaluation of the client’s capacity to make decisions on matters that carry a risk of harm, such as decisions to have sexual intercourse with some else. Someone should inquire into their awareness of the “rules of sex” and the risks associated with protected and unprotected sex.

The IPP meeting should also explain that the client has a right to vote and determine if the client wishes to vote. This issue should be included in the report to the court, using federal voting rights standards as a guide to the Regional Center’s assessment.

A conservatorship is a milestone in a client’s life and should be treated more seriously by Regional Centers, the Legislature, and DDS. People with developmental disabilities deserve better. They deserve a special IPP, a more thorough evaluation of their capacities, and a greater understanding of their rights before a petition is even filed with a court.

The role of Regional Centers should be expanded in limited conservatorship proceedings. An industry with \$1 billion in annual revenue should be doing more to protect the rights of its clients.