

Senate Bill 938

Conservatorships: Psychotropic Drugs: Conservator Authorization

Senator Jackson

SUMMARY

SB 938 revises the existing physician or psychologist declaration filed in support of a conservator's petition for authorization to administer psychotropic medication to a conservatee with dementia to specify the need for the medication, the treatments utilized, and an explanation of how the medication is expected to improve the conservatee's symptoms. The bill requires the Judicial Counsel to promulgate rules and guidelines for courts to evaluate the request for authorization to administer psychotropic medication to the conservatee. The bill also updates the term "dementia" in the Probate Code to refer instead to major neurocognitive disorders (MNCDs), which incorporates the common forms of dementia, such as Alzheimer's disease.

BACKGROUND

Psychotropic drugs can be misused on patients with MNCDs to control behavior that conveys pain, distress, or discomfort. Existing law provides for judicial oversight of the administration of psychotropic medications to conservatees with dementia and requires conservators to petition the court for authorization to administer psychotropic drugs to conservatees with dementia.

The current law was written in 1996 to address abuses of the administration of psychotropic medications by caregivers to conservatees with dementia. Since conservatees lack the capacity to make their own medical decisions, the Legislature determined that judicial oversight was necessary to protect conservatees with dementia from being unnecessarily overmedicated.

Beginning in 2005, the Food and Drug Administration required all antipsychotic medications, which are a class of psychotropic drugs, to include a black box warning that these medications significantly increase the risk of death in elderly people with dementia. Further, recent studies have shown that antipsychotic drugs can worsen the cognitive ability of a person with dementia and may

have no effect on the symptoms of dementia, which may include severe behavioral problems.

Additionally, the definition of dementia in the Probate Code is outdated and should be revised to reflect the various dementia disorders that fall under a new, broader diagnostic category called major neurocognitive disorders (MNCDs). Common forms of MNCDs include Alzheimer's disease, vascular dementia, dementia with Lewy bodies, Parkinson dementia, frontotemporal dementia, and mixed dementia.

According to the Senior Care Industry, home health care is rapidly expanding due to the Baby Boomer generation reaching retirement age and the high cost of and increasing lack of space in nursing homes and hospitals that would otherwise care for seniors with serious medical concerns. This is important because more and more family and alternative caregivers are providing health care to seniors. In accordance with the original intent of existing law to protect conservatees with dementia from overmedication by caregivers, this bill better defines the criteria upon which a court would determine whether a conservator should be authorized to administer psychotropic medications to a conservatee with dementia.

SOLUTION -

To reflect the current understanding of the effects of the use of psychotropic medication on dementia patients and to provide better protection through judicial oversight of the administration of these medications, SB 938 requires additional information, as specified, to be provided in the declaration supporting a petition seeking authorization to approve the use of antipsychotic medications to treat a conservatee with an MNCD.

SUPPORT

California Advocates for Nursing Home Reform
(Sponsor)

OPPOSITION

None

STATUS

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CONTACT

Tara.Welch@sen.ca.gov (Senate Judiciary)
(916) 651-4113

