

1 Name, Address and Telephone Number

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6 Attorney for Petitioner

7 Petitioner Self-Represented

8
9 SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____

10
11
12 In re the Matter of) Case No. _____
13)
14 _____,) PETITION TO AUTHORIZE MEDICAL
15 Patient) TREATMENT AND TO AUTHORIZE
16) PETITIONER TO CONSENT TO MEDICAL
17) TREATMENT ON BEHALF OF THE PATIENT
18) (Probate Code §§ [3200-3209](#))
19) Hearing Date _____
20) Time _____
21) Department: _____
22) Presented Ex Parte

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1 3. The patient is _____ years of age and resides at this address:

2 _____ .
3 4. The patient has been cared for by [name:] _____ ,
4 who resides at this address:
5 _____ .

6 5. The following are the names and addresses of the patient's
7 relatives within the second degree, as defined in Probate Code
8 §1821(b):
9

10 _____
11 _____
12 _____
13 _____
14 Relationship to Patient _____ Relationship to Patient _____

15 _____
16 _____
17 _____
18 _____
19 Relationship to Patient _____ Relationship to Patient _____

20 _____
21 _____
22 _____
23 _____
24 _____
25 Relationship to Patient _____ Relationship to Patient _____

1 6. The patient's physician is Dr. [name:] _____,
2 who has submitted the attached affidavit and who has treated the
3 patient for the last ____ (check one:) days weeks months years.

4 7. The patient needs medical treatment and is unable to give an
5 informed consent.

6 8. The affidavit of Dr. [name:] _____, which is
7 attached hereto as Exhibit A, contains the following information:
8

9 a. The nature of the patient's medical condition requiring
10 treatment;

11 b. The recommended course of treatment considered medically
12 appropriate;

13 c. The threat to the patient's health if authorization for treatment
14 is delayed;

15 d. The predictable or probable outcome of the recommended treatment;

16 e. The medically available alternatives, if any, to the treatment
17 recommended;

18 f. The efforts made to obtain an informed consent from the patient;

19 g. The deficit(s) in the patient's impaired mental functions; and
20 the correlation between the mental function deficit(s) and the
21 patient's inability to respond knowingly and intelligently to queries
22 about the recommended medical treatment or inability to participate
23 in a treatment decision about the recommended medical treatment by
24 means of a rational thought process.
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27 9. As far as is known to Petitioner, all the facts set forth in the
28 medical affidavit of Dr. [name:] _____, are true.

1 10. Petitioner has no knowledge of a valid and effective power of
2 attorney for health care or surrogate designation by [name of patient]

3 _____.

4 WHEREFORE, Petitioner requests an order authorizing the medical
5 treatment recommended by Dr. [name:] _____, namely,
6 [describe treatment recommended] _____

7 _____
8 _____
9 _____, and for
10 authority for Petitioner to give consent to the treatment on behalf
11 of the patient, and for such other relief as the Court considers
12 proper.

13 Dated: _____, 2019

14 Respectfully submitted:

15 _____
16 Petitioner's Signature

17 _____
18 Name (Please Print)

19 **VERIFICATION**

20 I have read the foregoing and know the contents thereof. I
21 declare under penalty of perjury under the laws of the State of
22 California that all of the foregoing, including any attachments, is
23 true and correct of my own personal knowledge, except as to those
24 matters declared on information and belief, and as to those matters,
25 I am informed and believe them to be true.

26 Dated: _____, 2019

27 _____
28 Petitioner's Signature

1 Name, Address and Telephone Number

2 _____
3 _____
4 _____
5 _____

6 Attorney for Petitioner

7 Petitioner Self-Represented

8
9 SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____

10
11
12 In re the Matter of) Case No. _____
13)
14 _____,) ORDER AUTHORIZING MEDICAL
15 Patient) TREATMENT AND AUTHORIZING
16) PETITIONER TO CONSENT TO MEDICAL
17) TREATMENT ON BEHALF OF THE PATIENT
18) (Probate Code §§ [3200-3209](#))
19) Hearing Date _____
20) Time _____
21) Department: _____
22) Granted Ex Parte

23 The petition of [name:] _____ for an
24 order authorizing medical treatment and authorizing petitioner to
25 consent to medical treatment on behalf of [name of patient:]
26 _____ [either:] came on regularly or was
27 presented ex parte for a hearing by the court on [date of hearing:]
28 _____, 2019.

29 Petitioner present not present

30 Objector(s) present not present

1 THE COURT FINDS, after examining the petition and objections of
2 objectors, if any, and hearing and examining the evidence, that all
3 notices have been given as required by law, that all the allegations
4 are true, that the existing or continuing medical condition of the
5 patient requires the recommended course of medical treatment, that,
6 if untreated, there is a probability that the condition will become
7 life-endangering or result in a serious threat to the physical or
8 mental health of the patient, and that the patient is unable to give
9 an informed consent to the recommended treatment.

10 IT IS ORDERED that the recommended medical treatment stated in
11 Exhibit "A" to the petition is authorized to be given to [name of
12 patient:] _____ and that [petitioner name]
13 _____ is authorized to give consent to that
14 treatment on behalf of the patient.
15

16 Dated: _____, 2019
17

18 _____
19 Judge of the Superior Court
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1 THE LAW - CALIFORNIA PROBATE CODE

2 [HTTP://LEGINFO.LEGISLATURE.CA.GOV/FACES/CODES.XHTML](http://leginfo.ca.gov/faces/codes.xhtml)

3 DIVISION 4. GUARDIANSHIP, CONSERVATORSHIP, AND OTHER PROTECTIVE
4 PROCEEDINGS [1400 - 3925]

5 (Division 4 enacted by Stats. 1990, Ch. 79.)

6
7 PART 7. CAPACITY DETERMINATIONS AND HEALTH CARE DECISIONS FOR ADULT
8 WITHOUT CONSERVATOR [3200 - 3212]

9 (Heading of Part 7 amended by Stats. 1999, Ch. 658, Sec. 14.)

10
11 3200.

12 As used in this part:

13 (a) "Health care" means any care, treatment, service, or procedure to
14 maintain, diagnose, or otherwise affect a patient's physical or
15 mental condition.

16 (b) "Health care decision" means a decision regarding the patient's
17 health care, including the following:

18 (1) Selection and discharge of health care providers and
19 institutions.

20 (2) Approval or disapproval of diagnostic tests, surgical procedures,
21 programs of medication.

22 (3) Directions to provide, withhold, or withdraw artificial nutrition
23 and hydration and all other forms of health care, including
24 cardiopulmonary resuscitation.

25 (c) "Health care institution" means an institution, facility, or
26 agency licensed, certified, or otherwise authorized or permitted by
27 law to provide health care in the ordinary course of business.

28 (d) "Patient" means an adult who does not have a conservator of the
person and for whom a health care decision needs to be made.

(Amended by Stats. 1999, Ch. 658, Sec. 15. Effective January 1, 2000.
Operative July 1, 2000, by Sec. 43 of Ch. 658.)

3201.

(a) A petition may be filed to determine that a patient has the
capacity to make a health care decision concerning an existing or
continuing condition.

(b) A petition may be filed to determine that a patient lacks the
capacity to make a health care decision concerning specified
treatment for an existing or continuing condition, and further for an

1 order authorizing a designated person to make a health care decision
2 on behalf of the patient.

3 (c) One proceeding may be brought under this part under both
4 subdivisions (a) and (b).

5 *(Amended by Stats. 1999, Ch. 658, Sec. 16. Effective January 1, 2000.
6 Operative July 1, 2000, by Sec. 43 of Ch. 658.)*

7 3202.

8 The petition may be filed in the superior court of any of the
9 following counties:

10 (a) The county in which the patient resides.

11 (b) The county in which the patient is temporarily living.

12 (c) Such other county as may be in the best interests of the patient.

13 *(Enacted by Stats. 1990, Ch. 79.)*

14 3203.

15 A petition may be filed by any of the following:

16 (a) The patient.

17 (b) The patient's spouse.

18 (c) A relative or friend of the patient, or other interested person,
19 including the patient's agent under a power of attorney for health
20 care.

21 (d) The patient's physician.

22 (e) A person acting on behalf of the health care institution in which
23 the patient is located if the patient is in a health care
24 institution.

25 (f) The public guardian or other county officer designated by the
26 board of supervisors of the county in which the patient is located or
27 resides or is temporarily living.

28 *(Amended by Stats. 1999, Ch. 658, Sec. 17. Effective January 1, 2000.
Operative July 1, 2000, by Sec. 43 of Ch. 658.)*

3204.

The petition shall state, or set forth by a medical declaration
attached to the petition, all of the following known to the
petitioner at the time the petition is filed:

(a) The condition of the patient's health that requires treatment.

(b) The recommended health care that is considered to be medically
appropriate.

(c) The threat to the patient's condition if authorization for the
recommended health care is delayed or denied by the court.

(d) The predictable or probable outcome of the recommended health
care.

1 (e) The medically available alternatives, if any, to the recommended
2 health care.

3 (f) The efforts made to obtain consent from the patient.

4 (g) If the petition is filed by a person on behalf of a health care
5 institution, the name of the person to be designated to give consent
6 to the recommended health care on behalf of the patient.

7 (h) The deficit or deficits in the patient's mental functions listed
8 in subdivision (a) of Section 811 that are impaired, and an
9 identification of a link between the deficit or deficits and the
10 patient's inability to respond knowingly and intelligently to queries
11 about the recommended health care or inability to participate in a
12 decision about the recommended health care by means of a rational
13 thought process.

14 (i) The names and addresses, so far as they are known to the
15 petitioner, of the persons specified in subdivision (b) of Section
16 1821.

17 *(Amended by Stats. 1999, Ch. 658, Sec. 18. Effective January 1, 2000.
18 Operative July 1, 2000, by Sec. 43 of Ch. 658.)*

19 3205.

20 Upon the filing of the petition, the court shall determine the name
21 of the attorney the patient has retained to represent the patient in
22 the proceeding under this part or the name of the attorney the
23 patient plans to retain for that purpose. If the patient has not
24 retained an attorney and does not plan to retain one, the court shall
25 appoint the public defender or private counsel under Section 1471 to
26 consult with and represent the patient at the hearing on the petition
27 and, if such appointment is made, Section 1472 applies.

28 *(Enacted by Stats. 1990, Ch. 79.)*

3206.

(a) Not less than 15 days before the hearing, notice of the time and
place of the hearing and a copy of the petition shall be personally
served on the patient, the patient's attorney, and the agent under
the patient's power of attorney for health care, if any.

(b) Not less than 15 days before the hearing, notice of the time and
place of the hearing and a copy of the petition shall be mailed to
the following persons:

(1) The patient's spouse, if any, at the address stated in the
petition.

(2) The patient's relatives named in the petition at their addresses
stated in the petition.

(c) For good cause, the court may shorten or waive notice of the
hearing as provided by this section. In determining the period of

1 notice to be required, the court shall take into account both of the
2 following:

3 (1) The existing medical facts and circumstances set forth in the
4 petition or in a medical declaration attached to the petition or in a
5 medical declaration presented to the court.

6 (2) The desirability, where the condition of the patient permits, of
7 giving adequate notice to all interested persons.

8 *(Amended by Stats. 1999, Ch. 658, Sec. 19. Effective January 1, 2000.
9 Operative July 1, 2000, by Sec. 43 of Ch. 658.)*

10 3207.

11 Notwithstanding Section 3206, the matter presented by the petition
12 may be submitted for the determination of the court upon proper and
13 sufficient medical declarations if the attorney for the petitioner
14 and the attorney for the patient so stipulate and further stipulate
15 that there remains no issue of fact to be determined.

16 *(Amended by Stats. 1999, Ch. 658, Sec. 20. Effective January 1, 2000.
17 Operative July 1, 2000, by Sec. 43 of Ch. 658.)*

18 3208.

19 (a) Except as provided in subdivision (b), the court may make an
20 order authorizing the recommended health care for the patient and
21 designating a person to give consent to the recommended health care
22 on behalf of the patient if the court determines from the evidence
23 all of the following:

24 (1) The existing or continuing condition of the patient's health
25 requires the recommended health care.

26 (2) If untreated, there is a probability that the condition will
27 become life-endangering or result in a serious threat to the physical
28 or mental health of the patient.

29 (3) The patient is unable to consent to the recommended health care.

30 (b) In determining whether the patient's mental functioning is so
31 severely impaired that the patient lacks the capacity to make any
32 health care decision, the court may take into consideration the
33 frequency, severity, and duration of periods of impairment.

34 (c) The court may make an order authorizing withholding or
35 withdrawing artificial nutrition and hydration and all other forms of
36 health care and designating a person to give or withhold consent to
37 the recommended health care on behalf of the patient if the court
38 determines from the evidence all of the following:

39 (1) The recommended health care is in accordance with the patient's
40 best interest, taking into consideration the patient's personal
41 values to the extent known to the petitioner.

42 (2) The patient is unable to consent to the recommended health care.

1 (Amended by Stats. 1999, Ch. 658, Sec. 21. Effective January 1, 2000.
2 Operative July 1, 2000, by Sec. 43 of Ch. 658.)

3 **3208.5.**

4 In a proceeding under this part:

5 (a) Where the patient has the capacity to consent to the recommended
6 health care, the court shall so find in its order.

7 (b) Where the court has determined that the patient has the capacity
8 to consent to the recommended health care, the court shall, if
9 requested, determine whether the patient has accepted or refused the
10 recommended health care, and whether the patient's consent to the
11 recommended health care is an informed consent.

12 (c) Where the court finds that the patient has the capacity to
13 consent to the recommended health care, but that the patient refuses
14 consent, the court shall not make an order authorizing the
15 recommended health care or designating a person to give consent to
16 the recommended health care. If an order has been made authorizing
17 the recommended health care and designating a person to give consent
18 to the recommended health care, the order shall be revoked if the
19 court determines that the patient has recovered the capacity to
20 consent to the recommended health care. Until revoked or modified,
21 the order is effective authorization for the recommended health care.
(Added by Stats. 1999, Ch. 658, Sec. 22. Effective January 1, 2000.
Operative July 1, 2000, by Sec. 43 of Ch. 658.)

17 **3209.**

18 The court in which the petition is filed has continuing jurisdiction
19 to revoke or modify an order made under this part upon a petition
20 filed, noticed, and heard in the same manner as an original petition
21 filed under this part.

(Enacted by Stats. 1990, Ch. 79.)

22 **3210.**

23 (a) This part is supplemental and alternative to other procedures or
24 methods for obtaining consent to health care or making health care
25 decisions, and is permissive and cumulative for the relief to which
26 it applies.

27 (b) Nothing in this part limits the providing of health care in an
28 emergency case in which the health care is required because (1) the
health care is required for the alleviation of severe pain or (2) the
patient has a medical condition that, if not immediately diagnosed
and treated, will lead to serious disability or death.

(c) Nothing in this part supersedes the right that any person may
have under existing law to make health care decisions on behalf of a

1 patient, or affects the decisionmaking process of a health care
2 institution.

3 *(Amended by Stats. 1999, Ch. 658, Sec. 23. Effective January 1, 2000.
4 Operative July 1, 2000, by Sec. 43 of Ch. 658.)*

5 **3211.**

6 (a) No person may be placed in a mental health treatment facility
7 under the provisions of this part.

8 (b) No experimental drug as defined in Section 111515 of the Health
9 and Safety Code may be prescribed for or administered to any person
10 under this part.

11 (c) No convulsive treatment as defined in Section 5325 of the Welfare
12 and Institutions Code may be performed on any person under this part.

13 (d) No person may be sterilized under this part.

14 (e) The provisions of this part are subject to a valid advance health
15 care directive under the Health Care Decisions Law, Division 4.7
16 (commencing with Section 4600).

17 *(Amended by Stats. 1999, Ch. 658, Sec. 24. Effective January 1, 2000.
18 Operative July 1, 2000, by Sec. 43 of Ch. 658.)*

19 **3212.**

20 Nothing in this part shall be construed to supersede or impair the
21 right of any individual to choose treatment by spiritual means in
22 lieu of medical treatment, nor shall any individual choosing
23 treatment by spiritual means, in accordance with the tenets and
24 practices of that individual's established religious tradition, be
25 required to submit to medical testing of any kind pursuant to a
26 determination of capacity.

27 *(Added by Stats. 1999, Ch. 658, Sec. 25. Effective January 1, 2000.
28 Operative July 1, 2000, by Sec. 43 of Ch. 658.)*

1 November 2014

2 U.S. Department of Health and Human Services,
3 Office for Civil Rights

4 BULLETIN: HIPAA Privacy in Emergency
5 Situations
6

7
8 [Disclosures to Family, Friends, and Others Involved in an Individual's Care
9 and for Notification.](#)

10 A covered entity may share protected health information with a patient's family
11 members, relatives, friends, or other persons identified by the patient as involved
12 in the patient's care. A covered entity also may share information about a patient
13 as necessary to identify, locate, and notify family members, guardians, or anyone
14 else responsible for the patient's care, of the patient's location, general condition,
15 or death. This may include, where necessary to notify family members and
16 others, the police, the press, or the public at large.

17 See 45 CFR 164.510(b).

- 18 • The covered entity should get verbal permission from individuals or
19 otherwise be able to reasonably infer that the patient does not object, when
20 possible; if the individual is incapacitated or not available, covered entities
21 may share information for these purposes if, in their professional judgment,
22 doing so is in the patient's best interest.
- 23 • In addition, a covered entity may share protected health information with
24 disaster relief organizations that, like the American Red Cross, are
25 authorized by law or by their charters to assist in disaster relief efforts, for
26 the purpose of coordinating the notification of family members or other
27 persons involved in the patient's care, of the patient's location, general
28 condition, or death. It is unnecessary to obtain a patient's permission to
share the information in this situation if doing so would interfere with the
organization's ability to respond to the emergency.

[https://www.hhs.gov/sites/default/files/ocr/privacy/hipaa/understandi
ng/special/emergency/hipaa-privacy-emergency-situations.pdf](https://www.hhs.gov/sites/default/files/ocr/privacy/hipaa/understanding/special/emergency/hipaa-privacy-emergency-situations.pdf)