

Gravely Disabled Nursing Home Patient: Court OKs Legal Proceedings For Psych Placement.

The nursing home patient already had a court-appointed legal guardian to manage her affairs due to the fact that she was not mentally competent to sign legal contracts and was not able to consent or refuse consent to medical treatments.

However, the existing court-appointed guardianship did not include legal authority to admit the patient against her expressed wishes to a psychiatric facility for mental-health treatment.

Patient Began Delusional Behavior Refused to Eat / Refused Medications

Tried to Elope / Attempted Suicide

Staff at the nursing home became concerned about the patient's delusional behavior. The nursing home did not have a psychiatrist on its medical staff and its care-giving personnel were not trained to handle psychiatric patients. The patient's behavior became a major disruptive factor affecting other patients. The patient's own personal care and mental-health needs were not being met and could not be fulfilled.

At the nursing home's urging the public guardian associated with the probate arm of the local county superior court filed a legal proceeding to be appointed the patient's conservator with specific authority to find an appropriate psychiatric placement and admit the patient, even against her expressed wishes.

LEGAL EAGLE EYE NEWSLETTER
For the Nursing Profession
ISSN 1085-4924

© 2012 Legal Eagle Eye Newsletter

Indexed in

Cumulative Index to Nursing & Allied Health Literature™

Published monthly, twelve times per year.
Mailed First Class Mail at Seattle, WA.

E. Kenneth Snyder, BSN, RN, JD
Editor/Publisher
PO Box 4592
Seattle, WA 98194-0592
Phone (206) 440-5860
Fax (206) 440-5862
kensnyder@nursinglaw.com
www.nursinglaw.com

Because the nursing facility was unable to manage the patient's mental-health needs and her needs were not being met at the nursing home, she needed a higher level of care.

The public guardian filed a court proceeding to be appointed her conservator, which would give him authority to place her in a psychiatric facility that could meet her needs.

The legal standard is whether the patient is gravely disabled.

Gravely disabled means that due to a mental disorder the person is unable to provide for his or her basic personal needs for food, clothing or shelter.

The psychiatrist testified that due to psychotic delusions the patient persistently refused to eat, frequently tried to elope and had attempted suicide.

CALIFORNIA COURT OF APPEAL
September 12, 2012

Patient Was Gravely Disabled

The county prosecuting attorney and the patient's own court-appointed public defender agreed to accept the credentials of the senior psychiatrist with the county mental health services as an expert witness.

His review of the history revealed the patient had a long-standing pattern of not being able to care for herself. She had been in psychiatric hospitals and had been diagnosed with bipolar disorder with psychotic features and was supposed to be taking psychotropic medications.

Currently the patient was having bizarre psychotic delusions that made her refuse to eat, refuse to take her psych medications and try to elope from the nursing facility several times. She had also attempted suicide in the facility.

The California Court of Appeal agreed with the psychiatric expert that the patient was gravely disabled as a result of a mental disorder and required a higher level of care than that available at the nursing home. The legal vehicle for seeing that her needs were met was for the public guardian as her conservator to remove her from the nursing home in favor of a secure psychiatric placement.

A nursing home placement was a less restrictive alternative to a locked psychiatric facility, but it was not appropriate to meet her safety needs in view of her history of repeated elopement attempts. It was also not appropriate to return her to her family's care as they had originally been forced to place her in the nursing home. Conservatorship of Marjorie F., 2012 WL 3898891 (Cal. App., September 12, 2012).

Clip and mail this form. Or if you prefer, order online at www.nursinglaw.com.

Print \$155/year Online \$95/year Phone 1-877-985-0977

Check enclosed Bill me Credit card Fax (206) 440-5862

Visa/MC/AmEx/Disc No. _____

Signature _____ Expiration Date _____

Name _____

Organization _____

Address _____

City/State/Zip _____

Email (If you want Online Edition*) _____

*Print subscribers also entitled to Online Edition at no extra charge.

Mail to: Legal Eagle Eye PO Box 4592 Seattle WA 98194-0592