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OPINION	:	No. 81-508
of	:	JULY 2, 1982
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THE HONORABLE JOHN B. CLAUSEN, COUNTY COUNSEL OF CONTRA COSTA COUNTY, has requested an opinion on the following question:

Does the Probate Court in California have the jurisdiction and power to order or approve the withholding or withdrawal of extraordinary life support systems or procedures from a ward or conservatee?

CONCLUSION

A California superior court lacks jurisdiction to order or approve the withholding or withdrawal of extraordinary life support systems or procedures from a person made a ward or conservatee pursuant to the Probate Code.

ANALYSIS

Some definition of the terms used in the question is needed to focus upon the legal issues involved. The question concerns the jurisdiction of the "probate court." Strictly speaking there is no probate court as such in California. (*Schlyen* v. *Schlyen* (1954) 43 Cal.2d 361, 371.) Article VI, section 10 of the California Constitution places the "original jurisdiction in all causes" except those given by law to municipal and justice courts in the superior court. Probate matters are civil cases and proceedings within the original jurisdiction of the superior court. (*Schlyen* v. *Schlyen*, *supra*.) Thus we understand the question to refer to the superior court exercising its original jurisdiction in probate matters and specifically to guardianship and conservatorship proceedings. (See Probate Code, § 2200.)[1]

The words "jurisdiction and power" in the question need some clarification. The term "jurisdiction" has so many meanings that no single statement can be entirely satisfactory as a definition. (*Abelleira* v. *District Court of Appeal* (1941) 17 Cal.2d 280, 287.) Lack of jurisdiction in its most fundamental or strict sense means an entire absence of power to hear or determine the case, an absence of authority over the subject matter or the parties. (*Id.*, p. 288.) As we have noted the constitution gives the superior court jurisdiction over all probate matters in this fundamental sense. The court's fundamental probate jurisdiction in guardianship matters is a continuing one which is not concluded until the guardian is discharged. (*Guardianship of Reynolds* (1943) 60 Cal.App.2d 669, 677.) The word jurisdiction is sometimes used to mean "simply authority over the subject matter or question presented," the "authority to do the particular thing done, or putting it conversely, a want of jurisdiction frequently means a want of authority to exercise in a particular manner a power which the board or tribunal has, the doing of something in excess of the authority possessed." (*Abelleira* v. *District Court of Appeal*, *supra*, at 290.) Since the "probate court" undoubtedly has fundamental jurisdiction over the guardian appointed by it and the ward we understand the words "jurisdiction and power" in the question to refer to the court's jurisdiction in the sense of its authority to make the particular order referred to in the question. It is in this latter sense that we use the word "jurisdiction" in this opinion.

The question concerns the extent of the court's jurisdiction over a "ward or conservatee." California statutes create more than one kind of guardianship and conservatorship. Division 4 of the Probate Code governs the guardianships of minors generally and the conservatorship of the person and estate of incompetent adults generally. The Juvenile Court Law governs wards of the Juvenile Court. (Welf. & Inst. Code, § 601 et seq.) Under the Lanterman-Petris-Short Act a person committed to a state mental

[1] Section references are to the Probate Code unless otherwise indicated.

institution who is gravely disabled is subject to conservatorship proceedings under that law. (Welf. & Inst. Code, § 5350 et seq.) Since the question is concerned only with the court's probate jurisdiction we are here concerned only with those guardianships and conservatorships created pursuant to division 4 of the Probate Code. The question further limits the analysis to guardianships and conservatorships of the person as distinguished from those created solely to safeguard the estate of the ward or conservatee.

The question concerns "extraordinary life support systems or procedures." We understand life support systems or procedures to refer to those measures applied to a person's body which sustain some bodily function artificially and without which the person would be expected to die.[2] We further understand the word "extraordinary" to distinguish those systems or procedures which are utilized on a continuing basis as necessary to the person's health. Thus we are not here concerned with those treatment measures employed to replace or assist a vital function on a continuing basis such as a heart transplant, a pacemaker, kidney dialysis and the like. On the other hand we understand the systems and procedures referred to to be limited to those of a medical nature.

We understand the thrust of the question to be limited to those situations where the anticipated result of the withholding or withdrawal of extraordinary life support systems or procedures is the death of the ward or conservatee. Thus we do not consider in this opinion those situations where withholding or withdrawal of extraordinary life support systems or procedures is done for the purpose of sustaining or improving the medical condition of the ward or conservatee.

A person of adult years and in sound mind has the right, in the exercise of control over his own body, to determine whether or not to submit to lawful medical treatment. (*Cobbs* v. *Grant* (1972) 8 Cal.3d 229, 242.) Thus in most cases the decision whether to undertake treatment is vested in the party most directly affected: the patient. (*Cobbs* v. *Grant*, *supra*, at 244.) Some authorities indicate that this right is included within the constitutionally protected right of privacy (see 58 Ops.Cal.Atty.Gen. 849 (1975)) but this is questionable since *People* v. *Privitera* (1979) 23 Cal.3d 697 held that the

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[2] Compare Health and Safety Code section 7187(c) in the Natural Death Act which reads:

"(c) 'Life-sustaining procedure' means any medical procedure or intervention which utilizes mechanical or other artificial means to sustain, restore, or supplant a vital function, which, when applied to a qualified patient, would serve only to artificially prolong the moment of death and where, in the judgment of the attending physician death is imminent whether or not such procedures are utilized. 'Life-sustaining procedure' shall not include the administration of medication or the performance of any medical procedure deemed necessary to alleviate pain."

constitutional right to privacy does not include medical treatment in a decision denying a person's right to take laetrile as a cure for cancer.

As new medical techniques have developed which artificially prolong vital body functions the decisions to employ them become more complex in particular situations. Even our traditional notions of life and death require more precise definition. When a person's circulation is maintained by a heart-lung machine and the person's brain has ceased functioning, can we say the person is still alive? When the patient is unable to decide whether such extraordinary life support measures are to be taken, who is to make such an awesome decision on his behalf?

As the questions have become more complex the laws governing their resolution have also become more complex. In 1974 Health and Safety Code section 7180 was enacted defining death as including total and irreversible cessation of brain function in addition to the customary procedures for determining death. In 1976 the Natural Death Act (Health & Saf. Code, § 7185 et seq.) was enacted declaring an adult's fundamental right to control the decisions regarding his or her own medical care and establishing procedures to implement a decision that measures to artificially prolong life not be taken in specified circumstances.

In 58 Ops.Cal.Atty.Gen. 849 (1975) we concluded that a conservator appointed under the Lanterman-Petris-Short Act had no authority to consent to medical treatment on behalf of the conservatee unless the conservatee was unable to give informed consent by reason of incompetence. Chapter 905, Statutes of 1976, amended Welfare and Institutions Code sections 5357, 5358 and 5358.2 in the Lanterman-Petris-Short Act to authorize a conservator appointed under that act to consent to medical treatment of a gravely disabled conservatee but requiring the conservatee's consent to any nonemergency surgery in the absence of a court order specifically authorizing such surgery. In 60 Ops.Cal.Atty.Gen. 375 (1977) we indicated our view that guardians and conservators appointed pursuant to the Probate Code may not have a like authority to consent to medical treatment and suggested that they obtain court authorization for any medical decisions respecting their wards and conservatees until the law was clarified.

The extent of the authority of the court to authorize medical treatment of wards and conservatees was similarly uncertain. In *Guardianship of Kemp* (1974) 43 Cal.App.3d 758 the father of an adult daughter who was capable of sex but mentally unable to understand its consequences was appointed the guardian of her person and estate. Doctors advised the father that the ward's pregnancy would probably result in her reconfinement in a state hospital, that other birth control measures were contraindicated and that her mental deficiencies might be transmitted to any child born to her. The father sought court approval to consent to the sterilization of his daughter. The superior court

made an order authorizing the guardian to consent to the sterilization finding authority for its order "in the exercise of its residual chancery powers under the provisions of California Probate Code section 1400."[3] On appeal the court stated the issue thus:

> "Assuming that under the reasoning of the *Reynolds*[4] case, the probate court in the exercise of its continuing jurisdiction over a guardianship has authority by virtue of Probate Code section 1400 to issue instructions providing for the mental and physical welfare of an incompetent person, it must be determined whether a judgment of a probate court ordering a sterilization operation to be performed upon the person of an incompetent is within the limits of such jurisdiction."

The court noted that the only statute authorizing sterilization of a mentally incompetent person was Welfare and Institutions Code section 7254 which authorized sterilization of those committed to state mental hospitals under specified conditions. After reviewing California and out of state cases the court found no persuasive authority that a probate court had jurisdiction to authorize sterilization of a ward in the absence of a statute. The court reversed the superior court order authorizing the guardian to consent to the sterilization holding that the order was in excess of the court's jurisdiction.

In *Guardianship of Tulley* (1978) 83 Cal.App.3d 698 the court affirmed an order denying authorization for sterilization of a ward following the *Kemp* decision. The court in *Tulley* observed (at p. 701):

> "To begin with, it has been widely recognized that sterilization (even if medically and socially indicated) is an extreme remedy which irreversibly denies a human being the fundamental right to bear and beget a child. Accordingly, the overwhelming majority of courts hold that the jurisdiction to exercise such awesome power may not be inferred from the general principles of common law, but rather must derive from specific legislative authorization. The position of case law is thus clear that in the absence of specific statutory authority the courts may not order the sterilization of a mentally defective person. (Citations.)"

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[3] Probate Code section 1400 then provided:

"A guardian is a person appointed to take care of the person or property of another. The latter is called the ward of the guardian. The relation of guardian and ward is confidential, and is subject to the provisions of law relating to trusts. In the management and disposition of the person or property committed to him, a guardian may be regulated and controlled by the court."

[4] *Guardianship of Reynolds* (1943) 60 Cal.App.2d 669.

If the courts lack jurisdiction to authorize the sterilization of a ward in the absence of statutory authority, their jurisdiction to order or approve the withholding or withdrawal of extraordinary life support systems or procedures upon which the life of the ward or conservatee depends must also be doubtful in the absence of specific statutory authorization. We conclude that a superior court's jurisdiction to order or approve the withholding or withdrawal of extraordinary life support systems or procedures from wards or conservatees may not be found in common law principles but must be derived, if it exists, from specific statutory authorization. (*Guardianship of Tulley*, *supra*, and *Guardianship of Kemp*, *supra*.

Chapter 726, Statutes of 1979 (operative Jan. 1, 1981) provided clarification and statutory authorization for the medical treatment of wards and conservatees. It rewrote the whole of division 4 of the Probate Code relating to guardianships and conservatorships. Proceedings concerning unmarried minors are termed "guardianships" while those concerning married minors and adults are called "conservatorships." (See §§ 1485, 1490.) Part 4 of division 4 concerns provisions common to guardianships and conservatorships and chapter 5 of part 4 defines the powers and duties of the guardian or conservator of the person. The provisions concerning medical treatment of wards and conservatees are sections 2252, 2353, 2354, 2355, 2356 and 2357. These sections are set forth in full in the Appendix. Under section 2353(a) the guardian of a minor has the same right as a parent having legal custody of a child to give consent to medical treatment of the ward. The parent's rights are defined in Civil Code section 25.8 which reads:

> "Either parent if both parents have legal custody, or the parent or person having legal custody or the legal guardian, of a minor may authorize in writing any adult person into whose care the minor has been entrusted to consent to any X-ray examination, anesthetic, medical or surgical diagnosis or treatment and hospital care to be rendered to the minor under the general or special supervision and upon the advice of a physician and surgeon licensed under the provisions of the Medical Practice Act or to consent to an X-ray examination, anesthetic, dental or surgical diagnosis or treatment and hospital care to be rendered to the minor by a dentist licensed under the provisions of the Dental Practice Act."

These new statutes provide a comprehensive legislative scheme to determine who is to authorize medical treatment for wards and conservatees. The guardian of a ward is given the same authority as a parent to consent to medical treatment of his minor child. (§ 2353.) The only exception is surgery for a ward 14 years of age or older in which case the consent of the ward as well as the guardian is required. The right to consent to medical treatment is not taken from a person who is made a conservatee unless it has been expressly found and adjudicated that he lacks the capacity to make an informed consent therefor,

though the conservator may consent to medical treatment for the conservatee in emergencies. (§ 2354.) Where the conservatee has been adjudicated to lack the capacity to make an informed consent to medical treatment, the conservator is authorized to provide such consent. (§ 2355(a).) A temporary guardian or conservator has the same powers as a permanent representative under sections 2353 and 2354 (not under § 2355) unless the court orders otherwise. (§ 2252.) Section 2357 authorizes the court to authorize medical treatment for wards and conservatees under specified circumstances. Our research has revealed no case construing these new statutes. Accordingly, we must resort to the applicable rules of statutory construction which were summarized in *Moyer* v. *Workmen's Comp. Appeals Bd.* (1973) 10 Cal.3d 222, 230, as follows:

> "We begin with the fundamental rule that a court should ascertain the intent of the Legislature so as to effectuate the purpose of the law. In determining such intent the court turns first to the words themselves for the answer. We are required to give effect to statutes according to the usual, ordinary import of the language employed in framing them. If possible, significance should be given to every word, phrase, sentence and part of an act in pursuance of the legislative purpose; a construction making some words surplusage is to be avoided. When used in a statute words must be construed in context, keeping in mind the nature and obvious purpose of the statute where they appear. Moreover, the various parts of a statutory enactment must be harmonized by considering the particular clause or section in the context of the statutory framework as a whole." (Citations and quotations omitted.)

Section 2357(b) provides:

> "If the ward or conservatee requires medical treatment for an existing or continuing medical treatment which is not authorized to be performed upon the ward or conservatee under section 2252, 2353, 2354 or 2355, and the ward or conservatee is unable to give an informed consent to such medical treatment, the guardian or conservator may petition the court under this section for an order authorizing such medical treatment and authorizing the guardian or conservator to consent on behalf of the ward or conservatee to such medical treatment."

Section 2252 gives a temporary guardian or conservator the powers specified in sections 2353 and 2354 unless the court orders otherwise. Section 2353(b) provides that surgery may not be performed on a ward 14 years of age or older without the consent of both the ward and the guardian or "a court order obtained pursuant to section 2357 specifically authorizing such treatment." Section 2354(b) provides:

> "The conservator may require the conservatee [who has not been adjudicated to lack the capacity to give informed consent for medical treatment] to receive medical treatment whether or not the conservatee consents to such treatment, if a court order specifically authorizing such medical treatment has been obtained pursuant to section 2357."

Section 2355(b) limits the authority of a conservator of a conservatee adjudicated to lack the capacity to give informed consent to medical treatment and was an adherent of a religion whose tenets and practices call for reliance on prayer alone for healing before the conservatorship was established to consent to treatment of such conservatee only by an accredited practitioner of that religion. The Law Revision Commission Comment to section 2355 notes that subdivision (b) "does not limit the authority of the court under Section 2357." Interpretive comments by the California Law Revision Commission are viewed as particularly well-accepted sources from which to ascertain legislative intent. (*Davis* v. *Cordova Recreation & Park Dist.* (1972) 24 Cal.App.3d 789, 796.) In the foregoing situations the guardian or conservator may petition the court for an order authorizing medical treatment of the ward or conservatee if the ward or conservatee is unable to give an informed consent therefor.

Section 2357(i) provides in part:

> "Upon petition of the ward or conservatee or other interested person, the court may order that the guardian or conservator obtain or consent to, or obtain and consent to, specified medical treatment to be performed upon the ward or conservatee . . . ."

The Law Revision Commission Comment to section 2357 states:

> "This subdivision covers the situation where the ward or conservatee or some interested person believes the ward or conservatee needs medical treatment which the guardian or conservator is unwilling to obtain or has failed to obtain."

Except for special notice requirements specified in the last sentence of subdivision (i) we believe the Legislature intended the same procedural requirements for court orders authorizing medical treatment of wards or conservatees upon the petition of the ward, conservatee or other interested persons under subdivision (i) as those sought by petition of the guardian or conservator under subdivision (b), namely those required by section 2357.

A procedural requirement of particular significance on the question presented is section 2357(h) which provides:

"(h) The court may make an order authorizing the recommended course of medical treatment of the ward or conservatee and authorizing the guardian or conservator to consent on behalf of the ward or conservatee to the recommended course of medical treatment for the ward or conservatee if the court determines from the evidence all of the following:

"(1) The existing or continuing medical condition of the ward or conservatee requires the recommended course of medical treatment.

"(2) If untreated, there is a probability that the condition will become life-endangering or result in a serious threat to the physical health of the ward or conservatee.

"(3) The ward or conservatee is unable to give an informed consent to the recommended course of treatment.

We note first that the courts' authority under section 2357(h) is to "make an order authorizing the recommended course of medical treatment of the ward or conservatee." What is the "recommended course of medical treatment"? Section 2357(c) provides that the petition shall state or set forth by medical affidavit:

"(1) The nature of the medical condition of the ward or conservatee which requires treatment.

"(2) The recommended course of medical treatment which is considered to be medically appropriate.

"(3) The threat to the health of the ward or conservatee if authorization to consent to the recommended course of treatment is delayed or denied by the court.

"(4) The predictable or probable outcome of the recommended course of treatment.

"(5) The medically available alternatives, if any, to the course of treatment recommended.

"(6) The effort made to obtain an informed consent from the ward or conservatee."

The information required, at least as to the first five items, would appear to be matters within the special knowledge of the doctor or doctors in charge of the medical treatment of the ward or conservatee. We think it is the recommendation of those medical practitioners which the Legislature had in mind when it required the petition to state "The recommended course of medical treatment which is considered to be medically appropriate." It is that statement and the evidence which supports it that constitutes the "recommended course of medical treatment" which the court may authorize under section 2357(h).

Next we note that section 2357(h) requires that the court must make three findings before it may make an order authorizing the recommended course of medical treatment, namely:

> "(1) The existing or continuing medical condition of the ward or conservatee requires the recommended course of medical treatment.
>
> "(2) If untreated, there is a probability that the condition will become life-endangering or result in a serious threat to the physical health of the ward or conservatee.
>
> "(3) The ward or conservatee is unable to give an informed consent to the recommended course of treatment.

We noted previously our understanding that the question was directed at those situations in which the anticipated result of the withholding or withdrawal of extraordinary life support systems or procedures is the death of the ward or conservatee. Neither of the findings required by paragraphs (1) or (2) of section 2357(h) could be made in such situations. Accordingly, we conclude that a California superior court lacks the jurisdiction to order or approve the withholding or withdrawing of extraordinary life support systems or procedures from a person made a ward or conservatee pursuant to the Probate Code.

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APPENDIX

(Text of Probate Code Sections)

"2252.

"(a) Except as otherwise provided in subdivisions (b) and (c), a temporary guardian or temporary conservator has only the power and authority, and only the duties, of a guardian or conservator that are necessary to provide for the temporary care, maintenance, and support of the ward or conservatee and that are necessary to conserve and protect the property of the ward or conservatee from loss or injury.

"(b) Unless the court otherwise orders:

"(1) A temporary guardian of the person has the powers and duties specified in Section 2353 (medical treatment).

"(2) A temporary conservator of the person has the powers and duties specified in Section 2354 (medical treatment).

"(c) The temporary guardian or temporary conservator has such additional powers and duties as may be ordered by the court (1) in the order of appointment or (2) by subsequent order made with or without notice as the court may require.

"(d) The terms of any order made under subdivision (b) or (c) shall be included in the letters of temporary guardianship or conservatorship.

". . . . . ."

"2353.

"(a) Subject to subdivision (b), the guardian has the same right as a parent having legal custody of a child to give consent to medical treatment performed upon the ward and to require the ward to receive medical treatment.

"(b) Except as provided in subdivision (c), if the ward is 14 years of age or older, no surgery shall be performed upon the ward without either (1)

the consent of both the ward and the guardian or (2) a court order obtained pursuant to Section 2357 specifically authorizing such treatment.

"(c) The guardian may consent to surgery to be performed upon the ward, and may require the ward to receive such surgery, in any case where the guardian determines in good faith based upon medical advice that the case is an emergency case in which the ward faces loss of life or serious bodily injury if the surgery is not performed. In such a case, the consent of the guardian alone is sufficient and no person is liable because the surgery is performed upon the ward without the ward's consent.

"(d) Nothing in this section requires the consent of the guardian for medical or surgical treatment for the ward in any case where the ward alone may consent to such treatment under other provisions of law."

"2354.

"(a) If the conservatee has not been adjudicated to lack the capacity to give informed consent for medical treatment, the conservatee may consent to his or her medical treatment. The conservator may also give consent to such medical treatment, but the consent of the conservator is not required if the conservatee has the capacity to give informed consent to the medical treatment, and the consent of the conservator alone is not sufficient under this subdivision if the conservatee objects to the medical treatment.

"(b) The conservator may require the conservatee to receive medical treatment, whether or not the conservatee consents to such treatment, if a court order specifically authorizing such medical treatment has been obtained pursuant to Section 2357.

"(c) The conservator may consent to medical treatment to be performed upon the conservatee, and may require the conservatee to receive such medical treatment, in any case where the conservator determines in good faith based upon medical advice that the case is an emergency case in which the medical treatment is required because (1) such treatment is required for the alleviation of severe pain or (2) the conservatee has a medical condition which, if not immediately diagnosed and treated, will lead to serious disability or death. In such a case, the consent of the conservator alone is sufficient and no person is liable because the medical treatment is performed upon the conservatee without the conservatee's consent."

"2355.

"(a) If the conservatee has been adjudicated to lack the capacity to give informed consent for medical treatment, the conservator has the exclusive authority to give consent for such medical treatment to be performed on the conservatee as the conservator in good faith based on medical advice determines to be necessary and the conservator may require the conservatee to receive such medical treatment, whether or not the conservatee objects. In any such case, the consent of the conservator alone is sufficient and no person is liable because the medical treatment is performed upon the conservatee without the conservatee's consent.

"(b) If prior to the establishment of the conservatorship the conservatee was an adherent of a religion whose tenets and practices call for reliance on prayer alone for healing, the treatment required by the conservator under the provisions of this section shall be by an accredited practitioner of that religion."

"2356.

"(a) No ward or conservatee shall be placed in a mental health treatment facility under the provisions of this division against the will of the ward or conservatee. Involuntary civil mental health treatment for a ward or conservatee shall be obtained only pursuant to Chapter 2 (commencing with Section 5150) or Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code. Nothing in this subdivision precludes the placing of a ward in a state hospital under the provisions of Section 6000 of the Welfare and Institutions Code upon application of the guardian as provided in that section. The Director of Mental Health shall adopt and issue regulations defining 'mental health treatment facility' for the purposes of this subdivision.

"(b) No experimental drug as defined in Section 26668 of the Health and Safety Code may be prescribed for or administered to a ward or conservatee under the provisions of this division. Such an experimental drug may be prescribed for or administered to a ward or conservatee only as provided in Article 4 (commencing with Section 26668) of Chapter 6 of Division 21 of the Health and Safety Code.

"(c) No convulsive treatment as defined in Section 5325 of the Welfare and Institutions Code may be performed on a ward or conservatee

under the provisions of this division. Such convulsive treatment may be performed on a ward or conservatee only as provided in Article 7 (commencing with Section 5325) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code.

"(d) No ward or conservatee may be sterilized under the provisions of this division. A ward or conservatee may be sterilized only as provided in Section 7254 of the Welfare and Institutions Code.

"(e) The provisions of this chapter are subject to any valid and effective directive of the conservatee under Chapter 3.9 (commencing with Section 7185) of Part 1 of Division 7 of the Health and Safety Code (Natural Death Act)."

"2357.

"(a) As used in this section:

"(1) 'Guardian of conservator' includes a temporary guardian of the person or a temporary conservator of the person.

"(2) 'Ward or conservatee' includes a person for whom a temporary guardian of the person or temporary conservator of the person has been appointed.

"(b) If the ward or conservatee requires medical treatment for an existing or continuing medical condition which is not authorized to be performed upon the ward or conservatee under Section 2252, 2353, 2354 or 2355, and the ward or conservatee is unable to give an informed consent to such medical treatment, the guardian or conservator may petition the court under this section for an order authorizing such medical treatment and authorizing the guardian or conservator to consent on behalf of the ward or conservatee to such medical treatment.

"(c) The petition shall state, or set forth by medical affidavit attached thereto, all of the following so far as is known to the petitioner at the time the petition is filed:

"(1) The nature of the medical condition of the ward or conservatee which requires treatment.

"(2) The recommended course of medical treatment which is considered to be medically appropriate.

"(3) The threat to the health of the ward or conservatee if authorization to consent to the recommended course of treatment is delayed or denied by the court.

"(4) The predictable or probable outcome of the recommended course of treatment.

"(5) The medically available alternatives, if any, to the course of treatment recommended.

"(6) The efforts made to obtain an informed consent from the ward or conservatee.

"(d) Upon the filing of the petition, the court shall notify the attorney of record for the ward or conservatee, if any, or shall appoint the public defender or private counsel under Section 1471, to consult with and represent the ward or conservatee at the hearing on the petition and, if such appointment is made, Section 1472 applies.

"(e) The hearing on the petition may be held pursuant to an order of the court prescribing the notice to be given of the hearing. The order shall specify the period of notice of the hearing and the period so fixed shall take into account (1) the existing medical facts and circumstances set forth in the petition or in a medical affidavit attached to the petition or in a medical affidavit presented to the court and (2) the desirability, where the condition of the ward or conservatee permits, of giving adequate notice to all interested persons.

"(f) A copy of the notice of hearing or of the order prescribing notice of hearing and a copy of the petition, shall be personally served or mailed, as prescribed in the order, on all of the following:

"(1) The ward or conservatee.

"(2) The attorney of record for the ward or conservatee, if any, or the attorney appointed by the court to represent the ward or conservatee at the hearing.

"(3) Such other persons, if any, as the court in its discretion may require in the order, which may include the spouse of the ward or conservatee and any known relatives of the ward or conservatee within the second degree.

"(g) Notwithstanding subdivisions (e) and (f), the matter may be submitted for the determination of the court upon proper and sufficient medical affidavits or declarations if the attorney for the petitioner and the attorney for the ward or conservatee so stipulate and further stipulate that there remains no issue of fact to be determined.

"(h) The court may make an order authorizing the recommended course of medical treatment of the ward or conservatee and authorizing the guardian or conservator to consent on behalf of the ward or conservatee to the recommended course of medical treatment for the ward or conservatee if the court determines from the evidence all of the following:

"(1) The existing or continuing medical condition of the ward or conservatee requires the recommended course of medical treatment.

"(2) If untreated, there is a probability that the condition will become life-endangering or result in a serious threat to the physical health of the ward or conservatee.

"(3) The ward or conservatee is unable to give an informed consent to the recommended course of treatment.

"(i) Upon petition of the ward or conservatee or other interested person, the court may order that the guardian or conservator obtain or consent to, or obtain and consent to, specified medical treatment to be performed upon the ward or conservatee. Notice of the hearing on the petition under this subdivision shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1."

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