

County of Santa Clara

Social Services Agency
Department of Aging & Adult Services
Office of the Public Administrator/Guardian/Conservator



P.O. Box 640790
San Jose, California 95164-0790
(408) 577-2500 FAX (Administration) 577-2523

Instructions to Physician or Psychologist for Completing the Medical Declaration

TO: Medical Professionals

FROM: Don Moody, Public Administrator/Guardian/Conservator of Santa Clara County

Please review the following instructions as you complete the attached Capacity Declaration. This form is intended to be filed with the court. In most cases, it will substitute for your testimony under oath as a witness. The form presents to the court and interested parties your professional medical opinion as to the capacity of the individual concerned. We ask that you respond completely to each question, and respect the formal nature of the document. The form itself has been approved for use in conservatorship matters by the Superior Court and cannot be changed by this office. We thank you for the time and effort necessary to complete this form, in support of an important legal proceeding.

Page One of the Declaration

Sections 1 and 2: state your (the doctor's) name, office address, and phone number clearly here.

Section 3 must be checked to indicate your qualifications.

Section 4: state the patient's name here, and in 4(a), **state the date the patient was last seen. This is critical.** Check the appropriate box in 4(b).

Section 5: Can your patient attend a court hearing? If the client cannot attend, it is very important to check these boxes and explain why, because otherwise the client has a constitutional right to attend court. If no explanation is given, then the client must be in court, and we must arrange transportation or postpone the hearing.

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Page Two of the Declaration

Section 6 – **very important** – the law states that the proposed conservatee cannot be found to lack capacity unless he or she has some functional deficits (PC 811). Therefore, if you reach the conclusion that the patient lacks capacity, some functional deficits must be found to support this conclusion. Please note: checking “a” means no impairment. **Checking “e” means “I have no opinion”**. Checking “d” means so impaired as to be incapable of assessment; b’s and c’s are moderate and major impairment.

Page Three of the Declaration

Section 6F is critical. This is where the client’s diagnosis is set forth. This must be provided in cases where dementia powers are being sought. It is important and helpful to know what disease or injury is causing the patient’s incapacity – stroke, head injury, Alzheimer’s dementia, mental illness, Parkinson’s, etc. This area is also where the level of care can be addressed. We would appreciate the physician’s recommendation here. For example: is the patient ready for discharge from an acute-care hospital? Should the patient go to a skilled nursing facility, a board and care home, or go home with in-home care?

Section 7 – **must be checked and initialed by the doctor**. This documents the doctor’s opinion as to **capacity to consent for medical treatment**. Check A for **has** the capacity, B for **lacks** the capacity.

Attached Page for Conservatorship of the Estate

Conservatorship of the Estate Attachment – **capacity to enter into financial transactions is now addressed in a separate attached page**. It states “Capacity Declaration – Conservatorship of the Estate Attachment” at the bottom of the page. Be sure to check the box at the top, and mark either “a” or “b”, as to whether the client either has or lacks the capacity to enter into financial transactions and contracts. If paragraph “b” applies, then initial in the space provided, and sign at the bottom.

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Attached Page for Dementia Powers

Dementia Powers are also addressed on a separate attachment - “Dementia Attachment to Capacity Declaration – Conservatorship.” If either placement or medication consent authority is to be sought, the box must be checked at the top declaring that the proposed conservatee does have a diagnosis of dementia.

Section 9a (1)-(5): Dementia powers for placement. We only need to seek this power if we want to confine the proposed conservatee in a locked or secured dementia facility. **Do not fill this out unless it is your recommendation that the client should be placed in a locked or secured dementia facility.** The client must be diagnosed with dementia in Section 6F, and the box checked above. All boxes in 9a must be addressed, and the doctor must address the specific placement issue in 9a (1) – **why do we need to house the person in a locked unit?** Typical reasons are: wandering, getting lost, or attempting to leave a facility, and placing their health or safety at risk. Section a(4) should be checked, and a(5) should be marked “is” the least restrictive environment appropriate.

Section 9b (1)-(5): Dementia powers for medications. If the doctor intends to prescribe, or has prescribed, any **psychotropic medications, including Aricept, for the treatment of dementia,** then these boxes must be checked and the blanks filled in. Otherwise, the conservator cannot consent to the administration of the medications.

Signature and Dates Required

There are four signature-and-date blocks – bottom of page one, bottom of page three, bottom of both attached pages. Please sign all four places - be sure to date, print name, and sign. The estate attachment must be completed – we cannot file for probate conservatorship without it. The dementia powers attachment must be signed, and must be completed before we can obtain dementia powers – again, date, print name, and sign.

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Conclusion

If there are any questions regarding the completion of this form, please call the Public Guardian's Office and ask for Victoria Fedor-Thurman, Supervising Deputy Public Guardian at (408) 577-2630. We will be happy to review your medical declaration in draft form before you submit the original. This may save time and avoid returning the form if there are any changes needed. Again, thank you for your cooperation.

Sincerely,

Don Moody
Public Administrator/Guardian of Santa Clara County