

Sec. 17a-543a. Administration of medication to criminal defendant placed in custody of Commissioner of Mental Health and Addiction Services. Special limited conservator. (a)(1)(A) If it is determined by the head of the hospital and two qualified physicians that a patient who is a defendant placed in the custody of the Commissioner of Mental Health and Addiction Services pursuant to section 54-56d is incapable of giving informed consent to medication for the treatment of the patient's psychiatric disabilities and such medication is deemed to be necessary for the patient's treatment, the facility in which the patient is placed may petition the probate court for the district in which such facility is located for appointment of a special limited conservator with specific authority to consent to the administration of medication, provided an employee of such facility shall not be appointed or serve as the special limited conservator. The provisions of section 45a-649 concerning issuance of a citation and notice, personal service and representation by, appointment of, and compensation of an attorney shall apply to any petition filed under this subsection as if such patient were a respondent under section 45a-649, except that (i) the court shall only be required to issue such citation and notice to the patient, the patient's attorney and any conservator appointed for the patient, and (ii) the court, in its discretion, may order notice as it directs to other persons having an interest in the patient and to such persons the patient requests to be notified. The Probate Court may appoint a special limited conservator with such specific authority pursuant to this subparagraph if the court finds by clear and convincing evidence that the patient is incapable of giving informed consent to medication for the treatment of the patient's psychiatric disabilities and such medication is necessary for the patient's treatment. The Probate Court may grant the special limited conservator specific authority to consent to the release of the patient's medical records to such facility if the court finds by clear and convincing evidence that the patient is unwilling or unable to release such records and such records are necessary to make decisions concerning the patient's treatment.

(B) The special limited conservator shall meet with the patient and the physician, review the patient's written record and consider the risks and benefits from the medication, the likelihood and seriousness of adverse side effects, the preferences of the patient, the patient's religious views, and the prognosis with and without medication. After consideration of such information, the special limited conservator shall either consent to the patient receiving medication for the treatment of the patient's psychiatric disabilities or refuse to consent to the patient receiving such medication.

(2) The authority of a special limited conservator to consent to the administration of medication under subdivision (1) of this subsection shall be effective for not more than one hundred twenty days. In the case of continuous hospitalization of the patient beyond such one hundred twenty days, if the head of the hospital and two qualified physicians determine that the patient continues to be incapable of giving informed consent to medication for the treatment of the patient's psychiatric disabilities and such medication is deemed to be necessary for the patient's treatment, the authority of the special limited conservator to consent to the administration of medication may be extended for a period not to exceed one hundred twenty days by order of the Probate Court without a hearing upon application by the head of the hospital. Prompt notice of the order shall be given to the patient, special limited conservator and facility.

(3) The reasonable compensation of a special limited conservator appointed under this subsection shall be established by the Probate Court Administrator and paid from the Probate Court Administration Fund.

(b) (1) If it is determined by the head of the hospital and two qualified physicians that (A) a patient who is a defendant placed in the custody of the Commissioner of Mental Health and Addiction Services pursuant to section 54-56d is capable of giving informed consent but refuses to consent to medication for treatment of the patient's psychiatric disabilities, (B) there is no less intrusive beneficial treatment, and (C) without medication, the psychiatric disabilities with which the patient has been diagnosed will continue unabated and place the patient or others in direct threat of harm, the facility in which the patient is placed may petition the probate court for the district in which such facility is located to authorize the administration to the patient of medication for the treatment of the patient's psychiatric disabilities, despite the refusal of the patient to consent to such medication. The provisions of section 45a-649 concerning issuance of a citation and notice, personal service and representation by, appointment of, and compensation of an attorney shall apply to any petition filed under this subsection as if such patient were a respondent under section 45a-649, except that (i) the court shall only be required to issue such citation and notice to the patient, the patient's attorney and any conservator appointed for the patient, and (ii) the court, in its discretion, may order notice as it directs to other persons having an interest in the patient and to such persons the patient requests to be notified. The Probate Court may authorize the administration of medication to the patient if the court finds by clear and convincing evidence that (I) the patient is capable of giving informed consent but refuses to consent to medication for treatment of the patient's psychiatric disabilities, (II) there is no less intrusive beneficial treatment, and (III) without medication, the psychiatric disabilities with which the patient has been diagnosed will continue unabated and place the patient or others in direct threat of harm.

(2) An order authorizing the administration of medication under subdivision (1) of this subsection shall be effective for not more than one hundred twenty days. In the case of continuous hospitalization of the patient beyond such one hundred twenty days, if the head of the hospital and two qualified physicians determine that (A) the patient continues to be capable of giving informed consent but refuses to consent to medication for treatment of the patient's psychiatric disabilities, (B) there is no less intrusive beneficial treatment, and (C) without medication, the psychiatric disabilities with which the patient has been diagnosed will continue unabated and place the patient or others in direct threat of harm, the order may be extended for a period not to exceed one hundred twenty days by order of the Probate Court without a hearing. Prompt notice of the order shall be given to the patient and facility.

(c) Unless there is a serious risk of harm to the patient or others, based upon the patient's past history or current condition, nothing in this section authorizes any form of involuntary medical, psychological or psychiatric treatment of any patient who in the sincere practice of his or her religious beliefs is being treated by prayer alone in

accordance with the principles and practices of a church or religious denomination by a duly accredited practitioner or ordained minister, priest or rabbi thereof.

(d) Nothing in this section shall be construed to limit the application of sections 45a-644 to 45a-663, inclusive, except as specifically provided in this section.

(P.A. 04-160, S. 3; P.A. 07-117, S. 2.)

History: P.A. 07-117 inserted Subpara. (A) and (B) designators in Subsec. (a)(1), inserted in Subsecs. (a)(1)(A) and (b)(1) provisions re notice pursuant to Sec. 45a-649, with enumerated exceptions, and findings by clear and convincing evidence, and made technical changes throughout.