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FILED
ALAMEDA COUNTY

JUL 16 2021

CLERK OF THE SUPERIOR COURT
By Pam Williams
Deputy

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

CALIFORNIA ADVOCATES FOR
NURSING HOME REFORM (CANHR), et al.

Petitioners,

vs.

SONIA ANGELL, as Director of the
California Department of Public Health,

Respondent.

Case No. RG13700100

~~[PROPOSED]~~ AMENDED JUDGMENT

Judge: Hon. Evelio M. Grillo
Date: _____
Time: _____
Dept.: 15

1 A Modified Judgment was entered in this matter on January 27, 2020.

2 On 6/7/2021, Intervenor California Association of Health Facilities
3 (“CAHF”) applied to this Court for entry of an amended judgment.

4 This Court considered the Application, and all admissible evidence submitted in its
5 support, and concluded that it was meritorious and should be granted.

6 Accordingly, **IT IS HEREBY ORDERED, ADJUDGED, and DECREED** that this
7 Court’s January 27, 2020 Modified Judgment is amended to read as follows:

8 The Modified Judgment of this Court entered January 27, 2020 is superseded by this
9 Amended Judgment.

10 Pursuant to the opinion and directions of the Court of Appeal, the judgment previously
11 entered by this Court on January 27, 2016 is vacated and modified, and the injunction issued in the
12 judgment, enjoining the enforcement and use of Health and Safety Code section 1418.8 is
13 dissolved.

14 Pursuant to the opinion and directions of the Court of Appeal, it is hereby ORDERED,
15 ADJUDGED AND DECREED that, to preserve the constitutionality of the statute, the court
16 interprets section 1418.8 to require nursing homes to adopt, and the Department of Public Health
17 and its director to enforce, the following procedural safeguards:

18 (1) Notice: Written and oral notice must be provided to every resident for whom section
19 1418.8 is invoked, of (a) any determination of the resident's incapacity; (b) any determination that
20 no surrogate decisionmaker for the resident is available; (c) any medical intervention proposed by
21 the attending physician; (d) the fact that a decision will be made by the Interdisciplinary team
22 [IDT] on a proposed medical intervention; (e) the resident's right to have a patient representative
23 participate in IDT decisionmaking; and (f) the resident's right to judicial review of IDT decisions
24 under section 1418.8, subdivision (j). All such written notifications must be made not only to the
25 resident, but also to at least one competent person whose interests are aligned with the resident. If
26 a competent person whose interests are aligned with the resident cannot with reasonable diligence
27 be located, then the IDT shall give such written notice to the local ombudsman for the county or
28 counties in which the facility is located, or to any such other person or entity as permitted by law.

1 (2) Opportunity to be Heard: Except in emergency circumstances, no medical treatment
2 decision by an IDT on behalf of a resident may be implemented until (a) after notice of the
3 decision has been provided to the resident and (b) the resident has been given a reasonable
4 opportunity to seek judicial review of the decision under section 1418.8, subdivision (j).
5 Treatment of residents of a facility who are receiving non-emergency treatment authorized by or
6 as a result of a decision of an IDT made prior to the date of the Modified Judgment may continue
7 such treatment without interruption. Such residents are to be provided with written notice (i) that
8 treatment previously authorized by the IDT shall continue and (ii) that the resident has the right to
9 seek judicial review of the decision under section 1418.8, subdivision (j). Such notice is also
10 required when a change in treatment occurs following periodic evaluation required by section
11 1418.8, subdivision (g).

12 (3) Composition of IDT: Except in emergency circumstances, (a) every IDT must include a
13 patient representative, and (b) where the resident has no family or friend willing to serve on the
14 IDT, someone unaffiliated with the nursing home must be found to serve as the patient
15 representative. If the nursing home is unable in the exercise of reasonable diligence to locate a
16 family member or friend willing to serve on the IDT, or someone unaffiliated with the nursing
17 home to serve in such capacity, the nursing home may apply to the superior court for appointment
18 of the public guardian pursuant to Probate Code section 2920 or for appointment of a conservator,
19 health care decision maker, or for an order authorizing health care under Probate Code section
20 3200 et seq. However, if there has been no resident representative selected by the facility within
21 30 months from the date of the Modified Judgment, then in order to continue caring for the
22 resident, the nursing home shall apply to the superior court for the appointment of the public
23 guardian, a conservator, a health care decision maker, or other qualified person, for an order
24 authorizing health care under Probate Code section 3200 et. seq.

25 It is further ORDERED, ADJUDGED, AND DECREED that the IDT process may be used
26 (1) to authorize the administration of antipsychotic medications in nursing homes to the extent


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1 authorized by state and federal law, and (2) for decisions to create or make a change to POLSTs,
2 DNRs or comfort care orders, and to elect hospice care.

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4 Dated: JUL 16 2021



HON. EVELIO M. GRILLO
JUDGE OF THE SUPERIOR COURT
COUNTY OF ALAMEDA

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CLERK'S CERTIFICATE OF SERVICE BY MAIL
CCP 1013a(3)

CASE NAME: CALIFORNIA ADVOCATES FOR NURSING HOME REFORM (CANHR),
Vs,
SONIA ANGELL, MD, PHD


I certify that the following is true and correct: I am the clerk in **Dept. 15** of the Superior Court of California, County of Alameda and not a party to this cause. I served **AMENDED JUDGMENT** by placing copies in envelopes addressed as shown below and then by sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on the date stated below, in the United States mail at Alameda County, California, following standard court practices.

Amitai Schwartz
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Deputy Attorney General
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San Francisco, CA 94102

Mark E. Ragan
Hooper, Lundy & Bookman, P.C.
101 Montgomery Street, 11th Floor
San Francisco, CA 94104

I declare under penalty of perjury that the following is true and correct
Executed on July 23, 2021 at Oakland, California.

Chad Finke
Executive Officer/Clerk of the Superior Court
by 
Pam Williams Deputy Clerk