

RESOLUTION NO. .

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

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RESOLUTION IN SUPPORT OF SENATE BILL 965 (EGGMAN) CONSERVATORSHIPS: MEDICAL RECORD: HEARSAY RULE

WHEREAS, the Lanterman-Petris-Short (LPS) Act of 1967 (LPS) establishes the rights, protections, and process for the establishment of a conservatorship for someone who is “gravely disabled” as a result of a mental health disorder and is unable to provide for his or her basic personal needs for food, clothing, or shelter; and

WHEREAS, to establish a conservatorship, the County must conduct an investigation and present evidence to the court to determine whether an individual is gravely disabled; and

WHEREAS, in 2016, the California Supreme Court held in *People v. Sanchez* (*Sanchez*), that when any expert witness relates to the jury case-specific out-of-court statements and treats those statements as true and accurate to support the expert witness’ opinion, those statements may constitute hearsay unless they fall under an existing hearsay exemption; and

WHEREAS, the *Sanchez* decision significantly limits the usefulness of expert testimony in an LPS trial and makes it more difficult to establish grave disability for individuals who are a danger to themselves or others; and

WHEREAS, if SB 965 is adopted, the statements of specified health practitioners or a licensed clinical social worker included in the medical record would not be hearsay for purposes of an expert witness in any proceeding relating to the appointment or reappointment of a conservator; and

WHEREAS, SB 965 will make it much easier for the County Attorney's Office to present key evidence in contested LPS conservatorship trials, which will in turn increase the success rate of establishing and re-establishing LPS conservatorships; and

WHEREAS, SB 965 would reduce the instances of conservatees cycling in and out of the system, and would reduce the need for delivery of services by SMMC Psychiatric Emergency Services, the acute psychiatric ward, the Sheriff's Office, and potentially other social services providers within the County; and

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Board of Supervisors of San Mateo County expresses support for SB 965 to ensure that courts are able to consider relevant testimony related to medical history in the medical record during conservatorship proceedings by creating a hearsay exception for medical history contained in the medical record.

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