COMMITTEE INFORMATION

Chair: Hon. John H. Sugiyama, Judge, Superior Court of California, County of Contra Costa
Lead Staff: Mr. Corby Sturges, Attorney, Center for Families, Children & the Courts

Committee’s Charge/ Membership:

Rule 10.44 of the California Rules of Court states the charge of the Probate and Mental Health Advisory Committee (PMHAC), which is to make recommendations to the council for improving the administration of justice in proceedings involving decedents’ estates, trusts, conservatorships, guardianships, and other probate matters, as well as mental health and developmental disability issues. The committee is also charged with coordinating activities and work with the Family and Juvenile Law Advisory Committee in areas of common concern and interest. PMHAC currently has 17 voting members and 1 advisory member.

Legal Capacity Working Group

Purpose: Study the relationship of clinical evaluations of mental and physical abilities and judicial determinations of legal capacity and need for assistance, including appointment of a conservator; develop recommendations for updated legal standards.

Summary: The Legal Capacity Working Group will study the relationship between clinical evaluations of a person’s mental and physical abilities and judicial determinations of the person’s legal capacity or need for assistance, including appointment of a conservator; solicit input from clinicians and lawyers to identify areas of misalignment between the relevant clinical and legal standards; develop recommendations to improve the alignment of clinical evaluations of ability to judicial determinations of legal capacity, including potential legislation, rules of court, and Judicial Council forms, including possible revisions of Capacity Declaration—Conservatorship (form GC-335) and Dementia Attachment to Capacity Declaration – Conservatorship (form GC-335A). Consider providing expressly for the confidentiality of capacity declarations filed in judicial proceedings.

Status / Timeline: Ongoing. Initial form revisions could take effect September 1, 2020, or January 1, 2021. Membership: As of March 25, 2019, members have not been assigned to the Working Group.

Note: The Capacity Assessment Workgroup of Spectrum Institute will monitor the activities of the Probate and Mental Health Advisory Committee as the committee evaluates capacity assessment issues. We will submit information to the advisory committee and will make recommendations for inclusion in its report. We also will submit our own report and recommendations to the Judicial Council, Legislature, and Health and Human Services Agency.