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April 15, 2015

Honorable Loni Hancock
Chair, Senate Public Safety Committee
California State Senate
Capitol Building, Room 2082
Sacramento, CA 95814

RE: SB 453 (PAN) – OPPOSE

Dear Senator Hancock:

Disability Rights California, a non-profit advocacy organization that advances and protects the rights of Californians with disabilities, opposes SB 453. This bill is scheduled to be heard in the Senate Public Safety Committee on April 21, 2015.

Existing law provides that if a defendant in a criminal proceeding is found mentally incompetent, the trial or judgment shall be suspended until the person becomes mentally competent. Existing law provides that the court shall order the defendant delivered to a state hospital for the care and treatment, to any other available public or private treatment facility approved by the community program director to promote the defendant's speedy restoration to mental competence, or placed on outpatient status. Existing law further specifies commitment proceedings to include circumstances for the voluntary and involuntary administration of antipsychotic medication.

Under existing law, if consent for antipsychotic medication is withdrawn or if the treating psychiatrist later determines that antipsychotic medication is

medically necessary and appropriate, the treating psychiatrist is required to make efforts to obtain consent for that medication. Existing law provides that if the treating psychiatrist certifies that antipsychotic medication has become medically necessary and appropriate for the defendant, antipsychotic medication may be administered to the defendant for a maximum of 21 days, provided, however, that, within 72 hours of the certification, the defendant is provided a medication review hearing before an administrative law judge.

This bill would authorize the treating psychiatrist, if he or she determines that there is a need, based on factors such as preserving rapport with the patient, to request that the facility medical director designate another psychiatrist to act in the place of the treating psychiatrist for purposes of involuntary medication. If the medical director of the facility designates another psychiatrist to act, this bill would require the treating psychiatrist to brief the acting psychiatrist of the relevant facts of the case.

This bill allows a designated psychiatrist ordering medication or determining incapacity to base their opinion on a paper review and briefing without examining the patient. Current law ensures the psychiatrist is the treating psychiatrist and thus has first-hand knowledge of the patient, and actually has contact with the patient such that risks, benefits and alternatives can be considered in a meaningful way and the patient can be properly advised of risks, benefits and alternatives so the patient can exercise informed consent if the patient has capacity to do so. Unfortunately, we have seen many situations where doctors make decisions without adequate knowledge about a patient. This change will allow for more of those situations. We need clear statutes to protect against such practices.

For these reasons, we oppose SB 453. Please contact me if you have any questions about our position on this bill.

Very truly yours,

A handwritten signature in black ink, appearing to read "Margaret", with a long horizontal flourish extending to the right.

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Margaret Johnson, Esq.
Advocacy Director
Disability Rights California

cc: Honorable Richard Pan, California State Senate
Elissa Ouchida, Legislative Aide, Office of Senator Pan
Honorable Members, Senate Public Safety Committee
Jessica Devencenzi, Counsel, Senate Public Safety Committee