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# ARGUMENTS - GUARDIAN AD LITEM'S OBJECTION TO PSYCHOTROPIC MEDICATION

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Reasons for objecting to department's motion for administration of psychotropic medication:

§ 39.407(3)(c):

**No informed/express consent**

- a) The efforts made by the department to obtain the informed and express consent of the parents were inadequate. [This argument should properly be raised by the parent's attorney, not the guardian ad litem.]

**Other treatments not explored**

- a) The doctor's report does not describe any other treatments that may have been considered short of prescribing this serious psychotropic medication, as required by statute. § 39.407(3)(c). Research by the guardian ad litem has indicated that it is standard practice to attempt less invasive measures, such as play therapy, prior to resorting to this medication. It is in the child's best interests that such other therapies be employed.
- b) Although the doctor's report briefly mentions other treatments that may be pursued short of prescribing this serious medication, the doctor does not explain why these treatments were ruled out. These other treatments have not been utilized with this child in the past. The medication prescribed has many possible and highly undesirable side effects. It is in the child's best interests that prior to instituting a psychotropic medicine regime that the other options mentioned by the doctor be adequately pursued.

**Medical report not signed**

- a) The doctor's report is not signed by the doctor, as required by statute. § 39.407(3)(c). Without the doctor's signature, the guardian ad litem cannot be sure that this version of the report is the doctor's final version, intended as a recommendation for the court. The guardian ad litem has attempted to reach the doctor by telephone to confirm the content of the report, but has been unable to contact the doctor. Given the serious nature of the medication recommended by the doctor, it is in the child's best interests that the information relied upon be correct.

§ 39.407(c)(1):

**Dosage not described**

- a) Although the doctor's report recommends XYZ medication for this child, the doctor does not describe the dosage appropriate for this child as required by statute. § 39.407(c)(1). The guardian ad litem has researched this medication in the Physicians Desk Reference and found that the dosage required for treatment is very near the dosage that can be lethal. It is highly important, and in the child's best interests, that the prescribed dosage be clearly understood by all parties prior to the administration of this medication to the child.

**No diagnosis**

- a) The doctor's report must indicate that "there is a need to prescribe psychotropic medication to the child based upon a diagnosed condition for which such medication is being prescribed." § 39.407(c)(1). Nowhere in the doctor's report is there a diagnosis. Without a diagnosis, and an indication that in the doctor's medical opinion the medication prescribed will address this diagnosed condition, it appears that the medication is really just a stab in the dark. It is in the child's best interests that a diagnosis is obtained prior to administering any serious psychotropic medication.

§ 39.407(c)(2):

### **Medical history not considered**

- a) The child was previously prescribed the medication that is being suggested by the department. When the child was taking that medication, she suffered auditory and visual hallucinations, and had to be briefly hospitalized before being taken off the medication. Although the doctor's report indicates the doctor reviewed and considered all medical information provided by the department, the doctor does not explain why he believes the child will benefit from this medication when her past seems to indicate otherwise. Given the child's prior dangerous reaction to this medication, it is in her best interests that she not be prescribed this medication again without fully exploring other possible treatments.
- b) Although the child has not taken the medication prescribed by Dr. X, she has taken other medications in the benzodiazepine family in the past. According to an aunt who was the child's caretaker two years ago, the child has suffered severe reactions to other benzodiazepines. The child may suffer these same reactions if again taking a drug in the same drug family. The doctor's report contains one line stating that the doctor was provided the child's medical information by the department. However, the guardian ad litem is concerned that the full medical history may not have been provided, and the doctor may not have had access to this important information. Prior to the child receiving any medication that may cause her to suffer a severe reaction, it is in the child's best interests that this question be explored.
- c) The doctor's report does not state that the doctor was provided with any medical information concerning this child, as is required by statute. § 39.407(c)(2). It is in the child's best interests that the doctor prescribing such serious medication be provided with all available medical information and that the doctor actually review the information. Without some indication that the doctor had this information and reviewed it prior to preparing his report, the guardian ad litem cannot support the department's motion.

### § 39.407(c)(3):

### **No nexus between diagnosis and medication**

- a) The guardian ad litem has consulted the Physicians Desk Reference and the drug manufacturer's website. According to these two sources, although the drug prescribed is useful in treating a variety of psychiatric conditions, it is not indicated for use in treating the child's diagnosed condition. It has not been tested for treating children with this diagnosis. The guardian ad litem objects to such "off-label" use of this medication in treating the child.
- b) The doctor's report does not indicate that the psychotropic medication prescribed is appropriate for treating the child's diagnosed condition as required. § 39.407(c)(3). The doctor does not state what behaviors or symptoms the medication is expected to address. It is in the child's best interests that this information be provided to the court prior to the court authorizing the administration of this serious medication.

### § 39.407(c)(4):

### **Inadequate explanation of treatment**

- a) The doctor's report does not explain the nature or purpose of the proposed treatment as required. § 39.407(c)(4).

### **Inadequate explanation of the risks of the treatment**

- a) The doctor's report does not list the recognized side effects of this medication as required. § 39.407(c)(4). The Physicians' Desk Reference and the manufacturer's website both list several possible side effects, such as slurred speech, inability to concentrate, drowsiness, and facial tics which may not go away even after the discontinuation of the medication. In order to weigh the risks of the medication against any possible benefits, it is in the child's best interests that a hearing be held wherein this information is made available to the court.

- b) The guardian ad litem discussed the possible side effects of this medication with the child, and the child has indicated a strong desire not to take this medication because of some of these serious risks. The child also expressed to the guardian ad litem that she was not informed of these risks when discussing the medication with her doctor.
- c) The child is on several other medications. The doctor's report does not discuss the possible interactions of these medications with the newly prescribed psychotropic medication as required. § 39.407(c)(4). It is in the child's best interests that any possible drug interactions be explored prior to the child being administered this new drug.
- d) This child has a long history of refusing to take other medications and of runaway episodes. According to the manufacturer's website, the drug prescribed by Dr. X is only effective after at least three continuous weeks of taking the drug, and the prescribed dosage is four pills taken throughout the day. Given the child's history, it is difficult to imagine that she will comply with this regimen. Moreover, the manufacturer warns against stopping the medication without being closely monitored due to the increased risk of suicidal ideation. Should the child run away again and discontinue her medication, the results could be tragic. It is in the child's best interests that other drug options be explored that do not require such rigid adherence to a schedule and do not have such serious side effects if discontinued.
- e) This child has a long history of street drug usage. The doctor's report does not discuss any possible interactions between the prescribed drug and the street drugs the child has been known to use. It is in the child's best interests that the issue of drug interaction be explored and explained to the child prior to the drug being administered.

#### **Inadequate monitoring**

- a) Given the seriousness of the possible side effects of this medication, it is extremely important that the child be closely monitored. The doctor's report explains that the child will be monitored at the psychiatrist's office once every three months for medication reviews. This is inadequate, especially at the onset.
- b) The doctor's report does not explain how the proposed treatment will be monitored, as required by statute. § 39.407(c)(4). The guardian ad litem knows of no follow-up visits currently scheduled. Given the seriousness of the possible side effects of this drug, and the seriousness of the child's behavior that led to this drug being prescribed, it is in the child's best interests that the court have information about the proposed monitoring to determine if it is adequate before authorizing the administration of this drug.
- c) The caregiver will not be able to adequately monitor the child for the child's first two weeks on this drug. The manufacturer's website states that for the first two weeks the patient should be closely monitored, as there is an unusually high risk of visual hallucinations and suicidal ideation during this time. This child has attempted suicide twice in the last year. The caretaker works full time, and will not be able to closely monitor the child as advised. It is not in the child's best interests to be given this drug without adequate assurances of her safety.

#### **Inadequate information**

- a) The guardian ad litem visited the child at the home of her caretaker after receiving the department's motion requesting the psychotropic drugs for the child. The child told the guardian ad litem that she was unaware of a new drug being prescribed for her, and that nobody had discussed any possible side effects with her. The child is 17 years old, and has demonstrated her maturity in the past. The guardian ad litem then spoke to the caretaker, who stated that although she'd been told of the change in medication, she could not remember the name of the new drug, nor had she been told very much about it. The doctor's report does not state that an explanation of the drug was provided to the caretaker and the child, if age-appropriate, as required. § 39.407(c)(4).

§ 39.407(c)(5):

**Inadequate information**

- a) Neither the department's motion nor the doctor's report explain whether the child is expected to continue taking other drugs she is currently prescribed for the same behaviors. It is unclear if the child should wait to take the new drug until the old drugs are out of her system, and if so, what amount of time that should be. Additionally, there is no statement regarding the length of time the child is expected to be taking this medication, as is required by statute. § 39.407(c)(5).

§ 39.407(d):

**Child's doctor objects**

- a) The child's treating physician, Dr. Y, has stated that the proposed psychotropic medication will cause significant harm to the child due to her diagnosed liver condition. *See* attached letter from Dr. Y.