

In The Public Health Committee

Raised Bill 1068
February, 14th, 2007

Testimony of Mr. Robert Kalman, Advocacy Unlimited Board Member
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Good morning Madam Chair and Honorable Members of the Committee. I am an individual with psychiatric disabilities in recovery, a Board Member of Advocacy Unlimited, residing at the Whiting Forensic Division. I am opposing the legislation before you in Raised Bill 1068.

The legislation before you is **Chiefly State Law** belonging as an integral part of **THE CONNECTICUT PATIENT BILL OF RIGHTS**, §§s 17a-540 through 17a-550. I find support, in the history attending the enactment of the **PATIENT'S BILL OF RIGHTS, Public Acts 1971, No. 834**, having been passed in both houses **by unanimous consent. See, 14 S. Proc., Pt. 7, 1971 Sess., p. 2966; 14H.R. Proc., Pt. 13, 1971 Sess., pp. 5899-5900/The Principal Testimony was that of Walter Voight:**

"my employment experience in Connecticut's Mental Hospitals consistently lend[s] credence to the notion that mental hospitals patients **are regularly exposed to various institutional policies and practices which deprive them of their basic human rights and which have a demoralizing and dehumanizing effect on the individual.**" Voight then articulated the nexus between **"these [the state's] practices and procedures... [and] those which [Senate Bill No.] 592 seeks to modify and control."** Conn. Joint Standing Committee Hearings, Judiciary, Pt. 2, 1971 Sess., p. 673. The most interesting revelation in Voight's testimony, however, is his reference to a Report concerning an investigation at Fairfield Hills Hospital. (This is Preserved in the Conn., State Library, Box 11 of Governor John N. Dempsey's files labeled "State Departments and Agencies" in the folder Fairfield Hills Hospital). The Report of the Task Force and Study was issued on May 15, 1970. It detailed, the extent to which then practices departed from the standards of American Psychiatric Association, and described the factors that it found to have contributed to **"the development and maintenance of a system which inherently must result in violations and limitations of both human and civil rights."** Found in § I of the Report "Rights of Patients". The Task Force Study and Report recommended that the Legislature enact a Patient Bill Of Rights to resolve problems that **"may be generic to all the State hospitals in Connecticut."** Id., p.22; see generally comment, **"THE MENTALLY ILL IN CONNECTICUT—A SURVEY,"** 6 Conn. L. Rev. 303, 340-48 (1973-74); recommendation for remedial Legislation, Ernest A. Shepherd, then acting commissioner of mental health, announced that **"his department is in the process of drafting a 'bill of patients' rights' for the next legislature to firm up the whole area."** D. Rhinelander, **HARTFORD COURANT**, May 28, 1970, p.12, col. 2.

We are all painfully aware, that governments which systematically disregard the rights of their own people are not likely to respect the rights of other nations and people with psychiatric disabilities. The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness.

They recognized the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure, and satisfactions of life are to be found in material things.

They sought to protect Americans in their beliefs, their thoughts, their emotions, and their sensations.

They conferred, as against the Government, the right to be left alone—the most comprehensive of rights and the rights most valued by civilized man. Our whole Constitutional heritage rebels at the thought of

giving a Division Director the power to change § 17a-548 of the Patient Bill of Rights, (DMHAS 0715). Proper Legislative scrutiny and consideration in the above referenced DMHAS proposal must begin with an examination of Conn. Gen. Stat., § 17a-541 (formally §17-206b), its text, which states, in relevant part, that:

"[n]o patient hospitalized or treated in [any] *public* or *private* facility for the treatment of psychiatric disabilities shall be deprived of any personal, property or civil rights, [including] the right to vote, hold or convey property, and contract, except in accordance with due process of law...."

Furthermore, an expansive construction of "personal property or civil rights" is consistent with the usage and interpretation of similar phrased rights guaranteed by the 42 U.S.C., § 1983. The scope of 42 U.S.C. § 1983 is derived, in turn from the mandates of the Due Process Clause of our United States Constitution and includes not only those rights recognized by the Courts of this state that a patient holds absent hospitalization, but more expansive encompasses Constitutional rights.

We the consumers of psychiatric services are therefore persuaded that the freedom from deprivation of "any personal property or civil rights provided in" §§'s 17a-541 and 17a-548 includes not those statutory rights expressly enumerated, but necessarily incorporates as well the freedom from deprivation of "any rights, privileges or immunities secured by the Constitution" as guaranteed under 42 U.S.C., § 1983. (Please compare §1983 with §17a-541) Equal protection is enshrined in the Patient Bill of Rights, as "patient" is defined expansively as "**any person treated in a facility....**" This definition necessarily includes both the involuntary "patient" hospitalized pursuant to an order of a judge...".

In the years of 1967, 1968, 1969, 1970 and 1971, citizens with psychiatric disabilities involuntarily confined in State facilities cried out for **Fairness** and Civil Rights –The Honorable Legislature Agreed, handing down to the patient, **THE PATIENT BILL OF RIGHTS**. In 2007 once gain we Beg for **Fairness**, advancing the same argument as articulated by Legislative history and asking for the same, **Fairness**, the same thing.

Yours, is an easy task. As Justice Potter Stewart of the United States Supreme Court said simply, "**Fairness is what justice really is.**" 10/20/1958.

In closing I like to reflect the words of Abraham Lincoln as he said it a bit more eloquently, "**These men ask for just the same thing– Fairness and Fairness only. This, so far is in my power, they, and all others, shall have.**" *

Thanking you for your kind attention.

* Abraham Lincoln (1809 – 1865), U.S., President. Letter to Leonard Sweet, May 30th, 1860. Collected Works of Abraham Lincoln, Vol. 4, p.#57, Rutgers University Press (1953, 19990).