

SB 1439 March 30, 2007 Judiciary Committee

John Hubbard, of Torrington, CT & Voluntary Patient Advocate for Tony P.

Thank you for the opportunity to speak to the committee

The 31 page substitute SB 1439 will bring Connecticut's conservator law more into line with some of the more enlightened national models such as the "Uniform Guardianship & Protective Procedures Act" of 1997 and the Model Probate Code. A key element of the legislation is that conservatorship shall be guided by the principle of "least restrictive means of intervention" – that is, intervention sufficient to meet the individual's needs while permitting him or her to retain the maximum amount of independence and self-determination. A quote from an email from Peter B. Case President Stamford/Greenwich NAMI.

<http://www.law.upenn.edu/bll/ulc/fnact99/1990s/ugppa97.pdf> will allow you to print the **UNIFORM GUARDIANSHIP AND PROTECTIVE PROCEEDINGS ACT (1997)**

I, as the next friend to Tony P., would like to see Tony given in this year's legislation the following:

- 1. The right to access his home probate court of Torrington, CT. (This is extremely important. Currently he only has access to the probate court nearest the facility he is in. This is a violation of Due Process.)**
- 2. The right to choose his own conservator. (Under current law he has no right at all to choose his conservator.)(This a violation of Due Process and if the person is from his church, it is a violation of the Federal RUILPA Act, institutionalized persons provision.**
- 3. He should have the right to access the full spectrum of medical services including complementary medicine. This is a bigger problem when he is denied access to the conservator of his choice. It makes a difference who is the conservator.**
- 4. If Tony is unable to propose a conservator for himself, he needs to have the right to have the conservator manage only those affairs that he is unable to do for himself or have a friend or family member provide.**

The Story

I first want to thank the staff that has done the day to day work to care for Tony P.

When any link in a chain of events is broken then you may get a different outcome: If SB 1439 had been passed prior to 2004 most of the following sequence of events would probably not have occurred.

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Confidentiality cuts both ways, it can also protect the institution. Tony P. is a middle aged psychiatric patient in Connecticut with a common law wife of now 18 years. They did not marry due to fear of impoverishment by marriage. Tony P., A lifelong resident of Torrington, lived independently until he came into the system almost three years ago on a 15 day certificate primarily due to his homelessness and the effect that had on his medication. The name of the facility and the name of the probate judge will remain nameless. The issues are important not the players.

Tony P. came before the Probate Judge at the facility(Not neutral ground) for a conservator hearing in 2004. He was not allowed to have his hometown probate judge hear his case because he was deemed a citizen of the town of the facility on the day he entered the facility. The Judge appointed him an attorney for the day.

The judge ruled that it(the conservatorship) must be involuntary even though the patient wanted a conservator. The judge rejected a request from the patient to have his court appointed lawyer propose John Hubbard, from his hometown, as his conservator. The Judge said he would prepare the documents, if needed.

The Judge read a letter of recommendation for John Hubbard from the Mayor of Torrington. The judge threatened to subpoena the mayor. It seems that the Mayor was treated as meddling in the facilities town's affairs(Since Tony P. was no longer a citizen of the City of Torrington on the day he entered the facility).

The Pastor of Tony P., Rev. Micheal Ambrose from Torrington attended the hearing. When tried to speak, the Judge prevented him from speaking one word by saying "We do not need to hear from God". There was no transcript and therefore this is no official record.

The Attorney for Tony P. was only appointed for the day. There is no continuity of counsel. The counsel brought no witnesses to the hearing or provided resources to do so . The Attorney never scheduled an outside evaluation of the patient or provided resources to do so. The attorney was limited to asking some polite questions of the row of the facility staff.

The patient does not appear to have any legal standing to suggest his own conservator.

The Judge ruled that a Non-Torrington area Attorney that Tony P. had never met, and was proposed by the facility and located by the local mental health agency in Torrington be his involuntary conservator of his person and his estate. The local mental health agency that located the conservator had severely mismanaged Tony P.'s care in Torrington by never finding a suitable home (one that understood his condition).

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After the first Probate conservatorship hearing, CLRP prepared documents to give John Hubbard access to Tony P.'s medical records at the facility. The Facility at first denied that the signed documents had any legal bearing on the facility and refused to give Mr. Hubbard any information. Only after considerable negotiations between the facility and CLRP was any medical information released.

After Several months Tony P was put on a locked ward with TBI(Traumatic Brain Injuries) Patients even though the facility has never been able to provide any documentation that he ever suffered a TBI injury. He remains on this ward to this day.

A grievance was filed in late 2006 with the facility grievance officer on various issues. The letter came back claiming certain items were not grievable, others were more than 45 day old, and could not be acted on, etc. The facility other than the grievance officer has never contacted me about the grievance. The grievance window needs to be increased to 2 year to agree with most civil court requirements.

In 2005, at the request of the patient, The selection of conservator was reheard and no change was made. The attorney was asked to prepare an appeal to the Superior court but he refused. A pro se automatic appeal to the superior Court was sent to the probate Judge. The client has been unable to locate an attorney to follow up on the timely filed automatic appeal. Connecticut Legal Aid will not take the case until he reaches age 60.

In 2006 the patient developed an undiagnosed problem symtomized by a low white blood count. The facility refused to bring him to see a nutritionist even though they could not diagnose his problem and then suspended his discharge planning due to his illness. During an annual review with the probate Judge, it was requested that the Judge order the facility to have the patient see a nutritionist. The Judge refused to order the facility to take the patient to a nutritionist even though the facility was unable to diagnose the problem. The problem resolved itself in 2007 when the facility reduced his psychiatric meds from 10 to 3.