



STATE OF CONNECTICUT

DEPARTMENT OF MENTAL HEALTH
AND ADDICTION SERVICES
A HEALTHCARE SERVICE AGENCY

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**Testimony of Michael Norko, M.D.,
Director of Forensic Services
Department of Mental Health and Addiction Services
Before the Judiciary Committee
March 9, 2009**

Good morning, Sen. McDonald, Rep. Lawlor, and distinguished members of the Judiciary Committee. I am Dr. Michael Norko, Director of Forensic Services for the Department of Mental Health and Addiction Services, and I am here today to speak in opposition to **H.B. 6626, An Act Transferring Jurisdiction of Contested Probate Matters to the Superior Court.**

The Department has significant concerns about **H.B. 6626**. According to the definition of “contested probate matters” included in this bill, each of the matters that DMHAS facilities and other psychiatric hospitals now bring to the probate court would have to go to superior court instead. By definition, each of these matters – which represent the balancing of society’s concern for the welfare and safety of individuals with psychiatric disabilities with the rights of individuals with psychiatric disabilities – is a “contested matter.”

The current network of probate courts performs a vital function for our state treatment facilities by providing due process and judicial resolution of multiple types of contested matters *at the hospitals in which individuals are receiving care*. Moving the hearing of these matters to superior court means that acutely ill patients would have to be brought to the superior courts, where there is no capacity for maintaining them in secure and safe areas. Each appearance would entail not only stress for the patient as a result of transport to and from the courthouse and waiting in the public setting of superior court, but also would require multiple staff persons to accompany the patient in order to provide support, safety and often custody. It would be very difficult — and, for some patients, impossible— to provide an appropriate level of care and support in such settings.

Our agency brings multiple types of matters to probate court – for which probate judges currently come to our facilities to hold hearings. These include: **probable cause hearings** in which patients may contest their involuntary 15-day commitment under a Physician’s Emergency Certificate (CGS 17a-502); **civil commitment hearings**, in which patients may contest our request to have them hospitalized involuntarily because of danger to self or others or grave disability (CGS 17a-495 to 501); **hearings to appoint conservators of person and/or**

estate when patients are unable to manage their finances or personal affairs, including medical care decisions (CGS 45a-644 et seq.) and to appoint temporary conservators (CGS 45a-654 et seq.) when needed for urgent medical care decisions; **hearings for authority to administer psychiatric medications involuntarily** when a patient is refusing those medications and our physicians determine that such medication is necessary to prevent harm or serious deterioration of the patient's condition (CGS 17a-543 and 17a-543a), which are in turn dependent upon the appointment of a conservator as in CGS 45a-644 et seq. noted above; and **hearings to seek an order of probate court for the involuntary medication of a competent patient** whose refusal of psychiatric medication places others in direct threat of harm (CGS 17a-543(f)).

The Connecticut General Assembly has given to physicians, hospitals for the treatment of psychiatric disabilities, and the Department of Mental Health and Addiction Services specific responsibility to utilize these statutes appropriately in order to provide effective care to individuals with psychiatric disabilities and to prevent harm to such individuals or others because of acute manifestations of such disabilities. In the exercise of those responsibilities, we depend on our local probate courts to respond in a timely manner sensitive to the needs of our patients. Probate judges are expected to come to our facilities within 72 hours for some of these hearings, and they come to our facilities for all of these hearings on a regular basis. This allows us to minimize the transport of patients outside the treatment units and to minimize the risk of elopement and harm to our patients and others.

If we were forced to attempt to provide similar protections for transport to superior courts, we would face enormous challenges, and the risk of adverse events would increase substantially. It would also increase significantly the use of overtime for clinical and security staff to accommodate such transports. The superior courts are simply not designed to deliver these instruments of due process to individuals with psychiatric disabilities, particularly those who are acutely in need of hospital-level care.

In addition, it should be noted that superior courts have no experience dealing with these often complex psychiatric issues of civil law. The psychiatric issues related to criminal law that are handled by superior courts (e.g., competency to stand trial and criminal responsibility) are very different from matters of civil law. The probate judges who serve our inpatient treatment facilities possess a wealth of experience and knowledge in these matters, which facilitates the effective and responsible handling of the significant due process issues entrusted to their deliberation.

Thank you for the opportunity to comment on H.B. 6026. I would be happy to take any questions you may have at this time.