



STATE OF CONNECTICUT
DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES
A Healthcare Service Agency

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Testimony of Michael Norko, MD
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Before the Judiciary Committee
March 9, 2011

Good afternoon, Senator Coleman, Representative Fox, 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 (DMHAS), and I am here today to speak **in support of H.B. 6538 An Act Concerning the Collection of Blood and Other Biological Samples For DNA Analysis.**

H.B. 6538 eliminates the requirement that insanity acquittees must submit to the taking of a DNA sample prior to “release from custody” of the Commissioner of DMHAS. Our decisions about offering patients therapeutic passes and privilege levels in their own custody are based on their clinical status and our assessment of current risk. If we are not permitted to grant a therapeutic privilege to a patient because a law enforcement task has not been accomplished, then our mission as a health care agency is compromised, and the credibility of our clinical judgment and our therapeutic alliance with the patient are jeopardized. It is the dual nature of forensic treatment services that we must consider the patient’s health and the public safety in our risk management practices related to the patient’s mental health, but the collection of a DNA sample is not an appropriate risk management activity for a hospital. It is a law enforcement task. It is not our job to engage in struggles with the patient over such law enforcement tasks, which only weakens our ability to provide appropriate treatment and risk management to the patient.

Therefore, we support the proposed amendment of subsection (c) of section 54-102g. This modified language requires an acquittee to give a DNA sample prior to the first hearing after the acquittal by reason of mental disease or defect, in accordance with subsection (d) of section 17a-582. At that hearing, the court reviews the report from Whiting after an initial 60 day inpatient evaluation, and makes its finding about committing the person to the Psychiatric Security Review Board (PSRB) and makes its order as to the level of security the person will be initially placed under. We would, however, also ask that the following sentence be added to the end of subsection (c) of section 54-102g: “The report of the examination which is filed with the court pursuant to subsection (b) of section 17a-582 shall indicate whether the person submitted or refused to submit to the taking of a blood or other biological sample pursuant to this subsection.” By adding this language, it makes it clear that the legislative intent is to have DMHAS make a report about the status of the DNA sample, so that the court can consider that information in making its findings about whether the person will be initially placed in a maximum security treatment setting from which patients are not given therapeutic passes or privileges in their own custody.

Subsequent decisions about movement of an insanity acquittee out of maximum security must be approved by the PSRB, after an adversarial hearing in which both the states attorney and defense counsel participate. At such a hearing, members of the PSRB or the states attorney may inquire about the status of the DNA sample, and the PSRB may include that information in its consideration of a patient's proposed movement out of maximum security.

These amendments would allow DMHAS to remain true to its clinical and risk management tasks, and allow other mechanisms for considering the status of the DNA sample and what effect that should have on decisions about an acquittee's placement.

Thank you for the opportunity to address the Committee on this important bill. I would be happy to take any questions you may have at this time.