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WRITTEN TESTIMONY IN OPPOSITION TO

SB 452: An Act Concerning the Treatment and Care of Persons with Psychiatric Disabilities

Good afternoon Senator Coleman, Representative Fox, and distinguished members of the judiciary committee. My name is David McGuire. I am the Staff Attorney at the American Civil Liberties Union of Connecticut and I urge you to vote against SB 452: An Act Concerning the Treatment and Care of Persons with Psychiatric Disabilities. The ACLU-CT opposes SB 452 on the grounds that it would severely curtail the privacy rights and liberty interests of individuals with psychiatric disabilities.

SB 452 infringes on patients' privacy rights by dramatically expanding who can medicate individuals without their consent. Under current law, individuals in Connecticut with psychiatric disabilities may not be medicated without their consent unless they are being treated at a mental health facility. This means that they must be an inpatient at a psychiatric hospital. Limiting the process by which an individual may be forcibly medicated provides important protections for people with psychiatric disabilities. It ensures that the decision to medicate against consent is made by the "head of the hospital" and in a controlled clinical setting. SB 452 expands the definition of facility to broadly include "any inpatient or outpatient hospital, clinic, skilled nursing facility or other facility for the diagnosis, observation or treatment of persons with psychiatric disabilities." This expansion will permit the medication of individuals without their consent in any facility and without consultation of their physicians.

SB 452 infringes on patients' privacy rights by granting unprecedented access to sensitive medical records. Under current state and federal law, patients are protected by a Bill of Rights that limits access to medical records without consent. SB 542 dramatically extends access without consent. If passed, it will allow any person involved with a patient's treatment plan or discharge plan to obtain records from inpatient and outpatient health care providers who have previously treated the patient without the patient's consent. Further, it will allow anyone involved with a patient's treatment or discharge plan to share these records with the patient's spouse, parents, siblings, children and any person with whom the patient has resided in the twelve-month period prior to being admitted to a facility, as broadly defined. This will encroach upon patient privacy rights in an unprecedented way.

Finally, SB 452 infringes upon individuals' liberty interests by reducing the number of physicians necessary to involuntarily commit an individual by half. Under current law, two impartial physicians must recommend that an individual with a psychiatric disability be

committed against his or her will. If passed, SB 452 will require the opinion of only one impartial physician. This eliminates an important procedural safeguard designed to protect individuals' fundamental liberty interests. Often, the only expert witness present at a civil commitment hearing is the hospital psychiatrist who is seeking commitment. Because the individual who is facing commitment is not entitled to his or her own expert witness, the independent opinion of two physicians provides an important due process safeguard. Additionally, this bill does not require the court make a finding that the person is dangerous or lacks decision-making capacity

For these reasons, the ACLU-CT urges you to vote against SB 452.