



General Assembly

February Session, 2012

Raised Bill No. 452

LCO No. 2501

02501_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

AN ACT CONCERNING THE CARE AND TREATMENT OF PERSONS WITH PSYCHIATRIC DISABILITIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (c) of section 17a-498 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2012*):

4 (c) The court shall require the [certificates] certificate, signed under
5 penalty of false statement, of [at least two impartial physicians selected
6 by the court, one of whom shall be a practicing psychiatrist, both of
7 whom shall be licensed to practice medicine in the state of Connecticut
8 and shall have been practitioners] an impartial physician selected by
9 the court, who shall be a practicing psychiatrist, licensed to practice
10 medicine in the state of Connecticut, who has been a practitioner of
11 medicine for at least one year and who shall not be connected with the
12 hospital for psychiatric disabilities to which the application is being
13 made, or related by blood or marriage to the applicant, or to the
14 respondent. Such [certificates] certificate shall indicate that [they have]
15 such physician has personally examined such person within ten days
16 of such hearing. The court shall appoint such [physicians] physician

17 from a list of physicians and psychiatrists provided by the
18 Commissioner of Mental Health and Addiction Services and such
19 [appointments] appointment shall be made in accordance with
20 regulations [to be] promulgated by the Probate Court Administrator in
21 accordance with section 45a-77. [Each such] The physician shall make a
22 report on a separate form provided for that purpose by the
23 Department of Mental Health and Addiction Services and shall answer
24 such questions as may be set forth on such form as fully and
25 completely as reasonably possible. Such form shall include, but not be
26 limited to, questions relating to the specific psychiatric disabilities
27 alleged, whether or not the respondent is dangerous to himself or
28 herself or others, whether or not such illness has resulted or will result
29 in serious disruption of the respondent's mental and behavioral
30 functioning, whether or not hospital treatment is both necessary and
31 available, whether or not less restrictive placement is recommended
32 and available and whether or not respondent is incapable of
33 understanding the need to accept the recommended treatment on a
34 voluntary basis. [Any such] The physician shall state upon the form
35 the reasons for his or her opinions. Such respondent or his or her
36 counsel shall have the right to present evidence and cross-examine
37 witnesses who testify at any hearing on the application. If such
38 respondent notifies the court not less than three days before the
39 hearing that he or she wishes to cross-examine the examining
40 [physicians] physician, the court shall order such [physicians]
41 physician to appear. The court shall cause a recording of the testimony
42 of such hearing to be made, to be transcribed only in the event of an
43 appeal from the decree rendered hereunder. A copy of such transcript
44 shall be furnished without charge to any appellant whom the Court of
45 Probate finds unable to pay for the same. The cost of such transcript
46 shall be paid from funds appropriated to the Judicial Department. If,
47 on such hearing, the court finds by clear and convincing evidence that
48 the person complained of has psychiatric disabilities and is dangerous
49 to himself or herself or others or gravely disabled, it shall make an
50 order for his or her commitment, considering whether or not a less

51 restrictive placement is available, to a hospital for psychiatric
52 disabilities to be named in such order, there to be confined for the
53 period of the duration of such psychiatric disabilities or until he or she
54 is discharged or converted to voluntary status pursuant to section
55 17a-506 in due course of law. Such court order shall further command
56 some suitable person to convey such person to such hospital for
57 psychiatric disabilities and deliver him or her, with a copy of such
58 order and of such [certificates] certificate, to the keeper thereof. In
59 appointing a person to execute such order, the court shall give
60 preference to a near relative or friend of the person with psychiatric
61 disabilities, so far as it deems it practicable and judicious. Notice of
62 any action taken by the court shall be given to the respondent and his
63 or her attorney, if any, in such manner as the court concludes would be
64 appropriate under the circumstances.

65 Sec. 2. Subsection (c) of section 17a-506 of the general statutes is
66 repealed and the following is substituted in lieu thereof (*Effective*
67 *October 1, 2012*):

68 (c) Any person for whom a conservator of the person has been
69 appointed in accordance with sections 45a-644 to 45a-662, inclusive,
70 may request admission to a hospital for psychiatric disabilities and
71 such hospital may admit such person. The hospital shall notify the
72 conservator and the probate court which appointed the conservator of
73 the admission not later than five business days after such admission.
74 The probate court shall, not later than ten business days after such
75 notice, appoint a physician who is a psychiatrist from the list provided
76 by the Commissioner of Mental Health and Addiction Services as set
77 forth in subsection (c) of section 17a-498, as amended by this act. The
78 physician shall examine the patient [within ten business days of his]
79 not later than ten days after the date of his or her appointment to
80 determine if the patient has given informed consent to his or her
81 hospitalization. The physician shall make a report forthwith to the
82 court. If the court concludes that the patient did not give informed
83 consent to the hospitalization, the court, on its own motion, may

84 proceed in the manner provided in subsections (a), (b), (c) and (f) of
85 section 17a-498, as amended by this act. All costs and expenses,
86 including Probate Court entry fees, shall be paid [by the patient or, if
87 he has a conservator of the estate, by such conservator] from funds
88 appropriated to the Judicial Department.

89 Sec. 3. Section 17a-542 of the general statutes is repealed and the
90 following is substituted in lieu thereof (*Effective October 1, 2012*):

91 Every patient treated in any facility for treatment of persons with
92 psychiatric disabilities shall receive humane and dignified treatment at
93 all times, with full respect for his personal dignity and right to privacy.
94 Each patient shall be treated in accordance with a specialized
95 treatment plan suited to his disorder. Such treatment plan shall include
96 a discharge plan which shall include, but not be limited to, (1)
97 reasonable notice to the patient of his impending discharge, (2) active
98 participation by the patient in planning for his discharge, and (3)
99 planning for appropriate aftercare to the patient upon his discharge.
100 Subject to the privacy protections afforded a patient under federal law,
101 including, but not limited to, the Health Insurance Portability and
102 Accountability Act of 1996 (P.L. 104-191) (HIPAA), as amended from
103 time to time, the head of a facility may direct that any person involved
104 in the formulation of the patient's treatment plan or discharge plan
105 communicate with, and obtain medical records from inpatient and
106 outpatient health care providers who have previously treated the
107 patient. In addition, when formulating such treatment plan or
108 discharge plan, persons involved in the formulation of such plans may
109 also communicate with any person with whom the patient has resided
110 in the twelve-month period prior to being admitted to the facility and
111 with the patient's spouse, parents, siblings or children in order to
112 better understand the patient's medical needs.

113 Sec. 4. Subdivision (1) of section 17a-540 of the general statutes is
114 repealed and the following is substituted in lieu thereof (*Effective*
115 *October 1, 2012*):

116 (1) "Facility" means any inpatient or outpatient hospital, clinic,
117 skilled nursing facility or other facility for the diagnosis, observation or
118 treatment of persons with psychiatric disabilities;

119 Sec. 5. (NEW) (*Effective October 1, 2012*) (a) As used in this section:

120 (1) "Facility" means any inpatient or outpatient hospital, clinic,
121 skilled nursing facility or other facility for the diagnosis, observation or
122 treatment of persons with psychiatric disabilities;

123 (2) "Patient" means any person being treated in a facility;

124 (3) "Head of the facility" means the superintendent or medical
125 director of a facility, or his or her designated delegate;

126 (4) "Informed consent" means permission given competently and
127 voluntarily after a patient has been informed of the reason for
128 treatment, the nature of the proposed treatment, the advantages or
129 disadvantages of the treatment, medically acceptable alternative
130 treatment, the risks associated with receiving the proposed treatment
131 and the risk of no treatment; and

132 (5) "Direct threat of harm" means the patient's clinical history
133 demonstrates a pattern of serious physical injury or life-threatening
134 injury to self or to others which is caused by the psychiatric disabilities
135 with which the patient has been diagnosed and is documented by
136 objective medical and other factual evidence. Such evidence of past
137 pattern of dangerous behavior shall be manifested in the patient's
138 medical history and there shall exist a high probability that the patient
139 will inflict substantial harm on himself, herself or others.

140 (b) Prior to discharging a patient from a facility, if it is determined
141 by the head of the facility and two qualified physicians that (1) (A) a
142 patient who is to be discharged from the facility is capable of giving
143 informed consent but refuses to consent to take medication for
144 treatment of the patient's psychiatric disabilities, or (B) a patient has a
145 demonstrated history of failure to take medications prescribed for the

146 treatment of his or her psychiatric disabilities, (2) there is no less
147 intrusive beneficial treatment, and (3) without medication, the
148 psychiatric disabilities with which the patient has been diagnosed will
149 continue unabated and place the patient or others in direct threat of
150 harm, the head of the facility may apply to the Probate Court for
151 appointment of a conservator of the person with specific authority to
152 consent to the administration of medication after discharge from the
153 facility or, in a case where a conservator of the person has previously
154 been appointed under section 45a-650 of the general statutes, the head
155 of the facility or the conservator may petition the Probate Court to
156 grant such specific authority to the conservator. Pursuant to this
157 subsection, the Probate Court may appoint a conservator with such
158 specific authority if the court finds by clear and convincing evidence
159 that the patient refuses to consent to medication for the treatment of
160 the patient's psychiatric disability or has a demonstrated history of
161 failure to take medications prescribed for the treatment of his or her
162 psychiatric disabilities and such medication is necessary for the
163 patient's treatment. The authority of a conservator to consent to the
164 administration of medication under this subsection shall be effective
165 for not more than one hundred twenty days following the date of the
166 patient's discharge from the facility.

167 (c) If, after being discharged from a facility, a patient fails or refuses
168 to take medication ordered by a prescribing practitioner and such
169 patient has a conservator of the person vested with the authority to
170 consent to the administration of medication pursuant to subsection (b)
171 of this section, such conservator may consent on behalf of the patient
172 to the administration of such medication and the patient may be
173 medicated over his or her objection. Such medication shall be
174 administered in a manner and place that, in the best judgment of the
175 prescribing practitioner, is clinically appropriate, safe and consistent
176 with the dignity and privacy of the patient. A conservator of the
177 person appointed pursuant to subsection (b) of this section may
178 request that state or local police or a licensed or certified ambulance
179 service assist in transporting the patient to a designated location for

180 purpose of administering the medication.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2012	17a-498(c)
Sec. 2	October 1, 2012	17a-506(c)
Sec. 3	October 1, 2012	17a-542
Sec. 4	October 1, 2012	17a-540(1)
Sec. 5	October 1, 2012	New section

Statement of Purpose:

To enhance the care and treatment of persons with psychiatric disabilities in both inpatient and outpatient settings.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]