CONNECTICUT LEGAL RIGHTS PROJECT, INC.
P.O. Box 351, Silver Street • Middletown, CT 06457
(860) 262-5030 • Fax: (860) 262-5035

PUBLIC HEALTH COMMITTEE

Testimony of Thomas Behrendt
Regarding Raised Senate Bill No. 262,
An Act Requiring Notice by Psychiatrists Concerning Patients that May Pose a Threat to Themselves or Others

March 8, 2013

Senator Gerratana, Representative Johnson, and distinguished members of the Public Health Committee:

I am Tom Behrendt, Counsel Emeritus with the Connecticut Legal Rights Project (CLRP). CLRP is a statewide organization that provides free legal services to low income adults who have, or are regarded as having, psychiatric disabilities on matters related to their treatment and civil rights. We work predominantly with DMHAS clients.

I am here to testify regarding Senate Bill 262, which would require notice concerning patients who may pose a threat to themselves of others. We, along with clinicians, various professional organizations, clients and advocates from various groups are concerned about this proposal. Most of us believe that such legislation would have a chilling effect on patients seeking help and on patients' willingness to be frank and forthcoming with their treaters. In addition, it could well give rise to another unintended consequence: clinicians reluctant to take on clients they regard as being potentially problematic.

The statutes allow psychologists, psychiatrists, marital and family therapists, social workers, and licensed professional counselors to disclose otherwise confidential information if they deem that there is a serious risk of imminent physical or personal injury[1] to the patient or a third party. Case law in Connecticut has gone further, finding that there is a duty to warn or take protective action where there is “an imminent risk of serious personal injury to identifiable victims.” The court emphasized that the threat must be of

[1] The statutory provisions differ somewhat with regard to the various disciplines. For example, psychologists may disclose without the patient's consent if they believe in good faith that there is a risk of imminent personal injury (Conn. Gen. Stat. § 52-146c); psychiatrists may so disclose if they determine that there is a substantial risk of imminent physical injury by the patient to himself or others (Conn. Gen. Stat. § 52-146f); Still other distinct provisions are addressed to marital or family therapists (Conn. Gen. Stat. § 52-146p(c)(2)), social workers (Conn. Gen. Stat. § 52-146q(c)(2)), and licensed professional counselors (Conn. Gen. Stat. § 52-146s(c)(4) and (5)).

physical violence.[2]

We at CLRP have been working with representatives of clinical organizations -- social workers, psychologists, psychiatrists, and others -- on this issue. Together, we have been trying to identify language that would merge existing statutes and also codify the relevant case law. Care must be taken in order to assure that needed disclosures be kept narrow --- mindful that individuals who may need assistance most could might be driven to withhold crucial information from their therapists and treaters or steer clear of help entirely.

Draft language has been circulating, and I anticipate we should be in a position to share it with the Committee very soon.

Thank you for the opportunity to testify.

---

[2] *Jacoby v. Brinkerhoff*, 250 Conn. 86, 96 (1999); see also, *Fraser v. United States,* 236 Conn. 625 (1996).