

THE CONNECTICUT PSYCHOLOGICAL ASSOCIATION, INC.

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March 8, 2013

Dear Members of the Public Health Committee:

My name is Traci Cipriano, and I am writing as Director of Professional Affairs for the Connecticut Psychological Association (CPA) and as a licensed clinical psychologist with a private practice in Woodbridge. Like everyone else in the state of Connecticut, the Members of CPA were deeply affected by the Newtown tragedy. While we would all like to find the perfect solution for preventing such a senseless tragedy, we must be careful not to act in haste. The focus needs to be on improving and increasing mental health services, rather than on measures that may appear helpful on their face, but would in fact have the unintended consequence of deterring patients from seeking treatment.

CPA is asking you to **resist supporting Proposed Bill No. 262** which would require psychiatrists to report to the local government and/or police any patient who might be a danger to themselves or others. Instead, we are asking you to consider adopting the attached proposed legislation, which codifies psychiatrist's (and other mental health professional's) existing common law duty to warn.

Currently, all mental health professionals (psychiatrists, psychologists, licensed clinical social workers, and advanced practice nurse practitioners) in Connecticut have statutory authority to have a patient transported to a hospital for psychiatric evaluation when the mental health professional believes the patient is dangerous to self or others, or "gravely disabled", and thus in need of immediate care and treatment. A psychiatrist can sign a Physician's Emergency Certificate ("PEC"), pursuant to CGS § 17a-502, which would not only involve involuntary transport, but also involuntary admission to the hospital, without a separate evaluation.¹ The authority to have a patient involuntarily transported to the hospital

¹ CGS § 17a-502(a). Any person who a physician concludes has psychiatric disabilities and is dangerous to himself or others or gravely disabled, and is in need of immediate care and treatment in a hospital for psychiatric disabilities, may be confined in such a hospital, either public or private, under an emergency certificate as hereinafter provided for not more than fifteen days without order of any court, unless a written application for commitment of such person has been filed in a probate court prior to the expiration of the fifteen days, in which event such commitment is continued under the emergency certificate for an additional fifteen days or until the completion of probate proceedings, whichever occurs first. In no event shall such person be admitted to or detained at any hospital, either public or private, for more than fifteen days after the execution of the original emergency certificate, on the basis of a new emergency certificate executed at any time during the person's

for an evaluation, as it pertains to psychologists, licensed clinical social workers, and advanced practice registered nurses, is set forth in CGS § 17a-503.^{2,3}

This authority is separate from a duty to warn. The Connecticut Supreme Court recognizes a common law duty to warn when there is a specific threat of imminent physical harm to a known victim.⁴ This means the psychiatrist or psychologist must notify local law enforcement of a known physical threat so that the identified potential victim may be notified. This requirement is very specific, and is applied under narrow circumstances.

There may be some confusion regarding a duty to warn, as compared to criteria which would allow a psychiatrist or psychologist to have a patient involuntarily transported to a hospital for a psychiatric evaluation, and potential involuntary inpatient commitment. While criteria for involuntary transport to a hospital and involuntary commitment do not require an imminent threat to an identified victim, the common law duty to warn does require such specific information. This is in order to protect the privacy of mental health patients and limit breaches of confidentiality.

As you are well aware, the New York legislature recently passed a law which requires mental health professionals to breach confidentiality and notify governmental authorities, who may in turn notify the police and revoke a patient's gun license, when the mental health professional believes the patient to be a danger to self or others. CPA believes this broad requirement stigmatizes and criminalizes mental

confinement pursuant to the original emergency certificate; and in no event shall more than one subsequent emergency certificate be issued within fifteen days of the execution of the original certificate. If at the expiration of the fifteen days a written application for commitment of such person has not been filed, such person shall be discharged from the hospital. At the time of delivery of such person to such hospital, there shall be left, with the person in charge thereof, a certificate, signed by a physician licensed to practice medicine or surgery in Connecticut and dated not more than three days prior to its delivery to the person in charge of the hospital. Such certificate shall state the date of personal examination of the person to be confined, which shall be not more than three days prior to the date of signature of the certificate, shall state the findings of the physician relative to the physical and mental condition of the person and the history of the case, if known, and shall state that it is the opinion of the physician that the person examined has psychiatric disabilities and is dangerous to himself or herself or others or gravely disabled and is in need of immediate care and treatment in a hospital for psychiatric disabilities. Such physician shall state on such certificate the reasons for his or her opinion.

² Regarding Psychologists: CGS §17a-503(c). Any psychologist licensed under chapter 383 who has reasonable cause to believe that a person has psychiatric disabilities and is dangerous to himself or herself or others or gravely disabled, and in need of immediate care and treatment, may issue an emergency certificate in writing that authorizes and directs that such person be taken to a general hospital for purposes of a medical examination. The person shall be examined within twenty-four hours and shall not be held for more than seventy-two hours unless committed under section 17a-502.

³ Regarding psychologists: Connecticut confidentiality statutes provide that a psychologist *may* breach confidentiality “[i]f the psychologist believes in good faith that there is risk of imminent personal injury to the person or to other individuals or risk of imminent injury to the property of other individuals.” CGS § 52-146c(c)(3).

⁴ *Fraser v. United States*, 236 Conn. 625, 674 A.2d. 811 (1996); *Jacoby v. Brinkerhoff*, 250 Conn. 86, 735 A.2d 347 (1999).

illness. It will also likely have the unintended consequence of deterring patients from seeking treatment. How can a patient openly discuss their feelings, urges, and impulses, when there is a threat of governmental and police notification? Those patients who most need treatment will be the least likely to seek it.

A statutory requirement that psychiatrists or psychologists must notify governmental agencies of a patient who is believed to be a danger to self or others is especially problematic for those cases falling in the “grey area”, those cases involving a patient who raises concern, but there is uncertainty as to the actual threat posed. While a psychiatrist or psychologist might feel comfortable sending such a patient to the hospital for further evaluation in order to ensure the safety of the patient, this same psychiatrist or psychologist might be more reluctant to do so if they must also notify the local government and/or police. It will put mental health professionals in an ethical and legal bind, which might also lead to decreased service options if psychiatrists or psychologists in private practice become reluctant to take on cases perceived to be more risky.

Please see our attached draft of proposed legislation which would codify psychiatrist’s duty to warn, along with that of other mental health professionals. This draft is supported by the Connecticut Psychiatric Society (CPS), the National Alliance on Mental Illness (NAMI), The Connecticut Legal Rights Project (CLRP), and the Connecticut Chapter of the National Association of Social Workers (NASW-CT). There is no need for separate statutory sections based on discipline. The attached proposed legislation would simplify the law, while ensuring the protections you are most concerned about.

Thank you for your consideration.



Traci Cipriano, JD, PhD

Director of Professional Affairs