



CONNECTICUT
LEGAL
RIGHTS
PROJECT, INC.

TESTIMONY OF KATHLEEN FLAHERTY, ESQ.
EXECUTIVE DIRECTOR, CT LEGAL RIGHTS PROJECT, INC.
PUBLIC HEARING, GAE COMMITTEE, 3-7-16

IN OPPOSITION TO: HB 5499, AN ACT CONCERNING THE PRESERVATION OF HISTORICAL RECORDS AND ACCESS TO RESTRICTED RECORDS IN THE STATE ARCHIVES.

Senator Cassano, Representative Jutila, and members of the Government Administration and Elections Committee:

I am the Executive Director of the Connecticut Legal Rights Project, Inc., a statewide non-profit organization which provides legal services to low income adults with psychiatric disabilities on matters related to their treatment, recovery and civil rights. CLRP was established by the State specifically to protect the rights of persons eligible for services from the Department of Mental Health and Addiction Service. We have offices at hospitals, outpatient clinics and other community sites throughout Connecticut.

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We oppose the provision in Section 2(c) of HB 5499 which would eliminate the confidentiality protection of persons served by DMHAS, thereby allowing disclosure of their identity, fifty years after their death. It is my understanding that this change is intended to promote the interests of historical research. Although historical research is a laudable goal, we must question the need to disclose private information, which would not be disclosed for others receiving mental health services through private sources.

The state should apply a balancing test which considers the importance of the information to historical research and the confidentiality interests of individuals served by DMHAS and their families. The goals of valid historical research can be achieved utilizing materials that redact the individual names of persons receiving state services; the potential harm that would be caused by disclosure is potentially serious and immeasurable. Therefore, the goal of protecting the identity of persons served by DMHAS should be protected.

Some may say that confidentiality protections provided by HIPAA expire fifty years after a person's death, and that these proposed provisions simply mirror that law. However, what people may fail to recognize is that medical professionals in the private sector only have to retain records for a period of 7 years following the last date of treatment, or three years after the death of the patient. C.G.S. §19a-14-42. People who receive treatment in the private sector will not have to worry about their personal private records being exposed following their death because by the time the confidentiality protections expire, the records will have already been destroyed.

People who receive medical treatment from the state, by virtue of their impoverished circumstances, deserve no less protection.

We appreciate that this legislation may seem on its surface to be a reasonable compromise to those who do not believe they would be affected by its enactment. However, we believe this proposal is an unreasonable and unnecessary violation of the rights of vulnerable persons who have found it necessary to seek mental health services from the state. They have trusted the State to protect their identities and we should respect that trust.