

# The Connecticut Patients' Bill Of Rights (PBOR)

Presentation to the  
CVH-Whiting Task Force  
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# What is the Patients' Bill of Rights (PBOR)?

- First enacted in 1971
- Connecticut General Statutes §§ 17a-540 *et seq.*
- Establishes specific rights for people with mental health conditions receiving services at any “inpatient or outpatient hospital, clinic or other facility for the diagnosis, observation or treatment of persons with psychiatric disabilities”
- Applies to both privately-operated and state-operated facilities
- Includes Whiting Forensic Hospital (except when it doesn't)

Do people in inpatient psychiatric hospitals have different civil rights than people living in the community?

**NO!!!**

- People who are receiving treatment keep ALL of their rights, including the right to vote, the right to own or sell property, and the right to make contracts, EXCEPT if they have been found, through a legal process, to be incapable of exercising those rights

**IN OTHER WORDS**

- Being in a psychiatric hospital, in and of itself, does not result in the loss of any civil rights. However, as a result of conservatorship or other legal proceedings, people may lose their ability to exercise their rights, but only by a specific court order.

# What are some of the legal rights included in the PBOR?

- The right to humane and dignified treatment
- The right to be involved in treatment/recovery planning
- The right to a discharge plan
- The right to wear one's own clothes and keep & use one's possessions

These rights pertain to all patients  
at all facilities  
at all times.

# Legal Rights under PBOR, continued

- The right to send and receive mail without interference
- The right to communicate by phone
- The right to visitors

These communication rights are not absolute and may be restricted only under certain circumstances as enumerated in the statutes [mail/phone if obscene, threatening, harassing, plus documented in chart or if medically harmful; visitors only if medically harmful.]

There is no exception for Whiting Forensic Hospital in these statutes.

# Legal Rights Under PBOB, cont.

- The right to access one's records

Limitations can be placed on **access to records** while someone is inpatient in a facility or if it is medically harmful to the person to receive their records. Once a patient has been discharged from the hospital, access to records can only be limited if

(1) would create a substantial risk that the patient would inflict life-threatening injury to self or to others or experience a severe deterioration in mental state;

(2) would constitute an invasion of privacy of another person; or

(3) would violate an assurance of confidentiality furnished to another person, provided only such portion of the record the disclosure of which would not constitute an invasion of privacy of another person or violate an assurance of confidentiality furnished to another person shall be disclosed.

## Legal Rights under PBOR, cont.

- The right to refuse psychosurgery or shock treatment
- The right to be free of restraint and/or seclusion
- The right to refuse medication

These rights are not absolute and can be overridden in certain circumstances.

# Is forced treatment (medication, ECT) allowed under the PBOR?

- Yes, if certain circumstances exist.
- Patients have a constitutional and statutory right to refuse treatment if they have the capacity to make decisions.
- Psychiatric medication can only be imposed involuntarily if exceptions in § 17a-543 and/or § 17a-543a are strictly followed: emergency, internal hearing, conservator or probate court order after a full due process hearing.
- ECT can only be imposed involuntarily after a full due process hearing and finding of proof of lack of capacity to give informed consent to ECT and that there is no other less intrusive, beneficial treatment



# Do patients in Whiting Forensic Hospital have different rights than patients in other facilities?

- **Only** with regard to being present while their belongings are being searched.
- Patients in other facilities have the right to be present while their belongings are being searched, under C.G.S. § 17a-548 (a) Any patient shall be permitted to wear his or her own clothes; to keep and use personal possessions including toilet articles; **to be present during any search of his or her personal possessions, except a patient hospitalized in the maximum security service of Whiting Forensic Hospital**; to have access to individual storage space for such possessions; and in such manner as determined by the facility to spend a reasonable sum of his or her own money for canteen expenses and small purchases.

# One of the assigned tasks of this task force pursuant to P.A. 18-86, Section 1 (a)(4)

“assess the implications of a patient of Whiting Forensic Hospital being permitted to be present during a search of his or her possessions”

The exception in the current law that states that a patient in maximum security at Whiting does not have to be allowed to be present while his/her belongings are being searched does NOT appear to have been part of the PBOR when it was first enacted. Based on the annotations to the general statutes, it appears this language was added in 1993. I have not had an opportunity to research the legislative history of P.A. 93-119 but if offered the opportunity to present to this task force again about the legislative history of the PBOR, I can include that in my presentation.

# What else is prohibited by the PBOR?

Discrimination against people with psychiatric disabilities.

## CGS § 17a-549

(a) No person shall be denied employment, housing, civil service rank, any license or permit, including a professional license, or any other civil or legal right, solely because of a present or past history of mental disorder, except as so provided by the general statutes.

(b) The burden shall be on the person or agency denying any such right to prove that the person so denied is not suitable solely because of his present or past history of mental disorder.

# What are some of the rights that CLRP helps clients assert under the PBOR?

- Right to Fresh Air
- Right to treatment in the least restrictive environment
- Right to maximum liberty
- Right not to be punished or treated like a convicted prisoner
- Right to be discharged to the most integrated setting as soon as commitment standards no longer met
- Right to a due process judicial/probate court hearing to determine present mental status and whether discharge is required
- Right to a safe treatment environment
- Right to life

# How does someone protect their rights under the PBOR?

- **DMHAS Grievance process** – the Department of Mental Health and Addiction Services (DMHAS) has established an internal grievance procedure to review and resolve alleged violations of the PBOR

OR

- **Lawsuit** – a person may petition the superior court within whose jurisdiction the person is or resides for appropriate relief, including temporary and permanent injunctions, or may bring a civil action for damages. (C.G.S. § 17a-550)

Do people protected by the PBOR have the right to advocacy services to help them protect their rights?

**YES!!!**

People are entitled to receive notice of advocacy services and have the right to advocacy to assist them in enforcing their rights under the PBOR. These advocates must be allowed to participate in treatment team meetings as well as other meetings and proceedings to enforce the Patients' Bill of Rights

# Suggestions for further reading

- Statutes that comprise the PBOR: C.G.S. §§ 17a-540 through 17a-550
- Connecticut Supreme Court decisions regarding the PBOR:
  - Mahoney v. Lensink, 213 Conn. 548 (1990)
  - Wiseman v. Armstrong, 269 Conn. 802 (2004)
  - Phoebe G. v. Solnit, 252 Conn. 68 (1999)
- Doe v. Hogan and Roe v. Hogan consent decrees from federal court

# Questions?



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