

Mehdi M. Saeedi : Office of Public Hearings
v. : OPH/WBR No. 2008-090
Department of Mental Health & :
Addiction Services, et al. : November 4, 2009

Ruling re: petition to intervene

On October 20, 2009, the Connecticut Legal Rights Project, Inc. (CLRP) filed a petition to intervene (petition) in this administrative proceeding pursuant to General Statutes § 4-177a (b) and section 4-61dd-10 of the Regulations of Connecticut State Agencies. In its petition, CLRP argues that on behalf of the residents of Connecticut Valley Hospital patients it “should be allowed to intervene on the issue of protection of the privacy and confidentiality of their inpatient psychiatric and substance abuse records.” Petition, at 5. On October 22, 2009, the complainant filed his objection to the petition.

For the reasons sets forth herein, the petition is denied.

Section 4-177a (b) provides that: “The presiding officer may grant any person status as an intervenor in a contested case if that officer finds that: (1) Such person has submitted a written petition to the agency and mailed copies to all parties, at least five days before the date of hearing; and (2) the petition states facts that demonstrate that the petition’s participation is in the interests of justice and will not impair the orderly conduct of the proceedings.” In this case, the interests of justice do not require the participation of CLRP as an intervenor for at least three reasons. First, the respondents did not produce and the complainant is no longer seeking the documents of concern to CLRP. Thus, the matter is moot.

Second, the complainant and the respondents have already exchanged their proposed exhibits, and neither party has indicated that inpatient psychiatric or substance abuse records are proposed exhibits. The parties have also exchanged proposed witness lists, and neither party has indicated that a patient is a proposed witness.

Third, “as a result of the findings and order issued on March 19, 2009 granting the complainant’s motion for order and sanctions, it is established for purposes of the public hearing that the complainant had protected information which he whistleblaw to a

regulated agency.” Prehearing conference summary and order, at 4 (May 26, 2009). In other words, the issue in this hearing is not inpatient records or patient care; the issue and focus of this hearing are whether the respondents took or threatened to take personnel action against the complainant in violation of General Statutes § 4-61dd.

The complainant and the respondents are reminded of their obligation to redact and de-identify patient records in accordance with applicable federal and state law. CLRP is reminded that the hearing is open to the public and that its representative may attend to observe.

Hon. Jon P. FitzGerald
Presiding Human Rights Referee

C:
Kathleen Eldergill, Esq.
Nancy A. Brouillet, Esq.
Kirk W. Lowry, Esq.