



PUBLIC POLICY STATEMENT

LIEN LEGISLATION

INTRODUCTION

A patient at a state or county psychiatric hospital is personally liable for all costs of their maintenance and necessary expenses incurred while in the institution and will have a lien filed against them for the total amount of unpaid expenses. In some cases, family members, spouses up to the age of fifty-five and parents of children under the age of eighteen, may also be liable for the expense and have a lien filed against them. Today, 2,700 of the 3,700 patients admitted yearly to state and county psychiatric hospitals in New Jersey are not covered by third party insurance and can expect a bill of \$12,300 per month of stay. Some children are covered by Medicaid; seniors over sixty-five by Medicare and Medicaid. Patients admitted involuntarily to community hospitals with no insurance are covered by charity care. As people recover more successfully from mental illness, they are increasingly hampered in their normalization by liens placed against them.

BACKGROUND AND HISTORY

At the turn of the twentieth century, with the rapid population growth came a corresponding increase in the number of chronic cases of mental illness. Local entities such as almshouses became the exception rather than the rule and, as a result, the role of the state expanded. In addition to housing people with mental illness, state mental hospitals also housed the terminally ill and increasing numbers of the aged. In many cases, patients with terminal illness were sent to mental hospitals because they did not charge for services, which made them a better alternative than general hospitals. This was particularly true because an overwhelming majority of families were not covered by medical insurance plans prior to 1940. Though the aged were neither a threat to himself or herself nor the community nor in need of treatment, the mental hospital became a haven, having no other housing alternatives than this more expensive form of care.

During the nineteenth century most of the patient population in mental hospitals was composed of a large number of acute cases, institutionalized for less than twelve months. In the next century, according to the 1904 census, two-thirds of patients were institutionalized for one year or more, two-fifths for five years or more. Recovery for the bulk of chronic cases was largely beyond the realm of possibilities at this time and custodial care, rather than treatment, was the paramount function of the institution.

The state was faced with overcrowding, physical plant deterioration, and shrinking budgets for the state mental hospitals. It was in this environment that the state of New Jersey adopted the statute of 1918, which permitted the state to impose a lien on patients' property after their death for services rendered at a state or county mental hospital. Lien payment is received on a first come, first served basis. Though the state filed liens as the 1918 statute directed, it was often too late to actually collect any compensation since other claimants had filed first, prior to the persons death. With the advent of the Depression and the fact that between 1904 and 1940 the numbers of mentally ill patients in state hospitals had increased fourfold, the fiscal pressure and responsibility on the state expanded. And in 1938 the 1918 statute was amended to allow the state to impose a lien "attached to the estates of patients who are financially able and willing to defray said cost" before the death of the patient.

In the early to mid twentieth century, chronic patients in mental hospitals appeared to be destined to remain institutionalized until the end of their lives. The primary functions of the state hospital were utilitarian and humanitarian, protection of the community from harm and loss, relief for families, and primarily decent and humane care of patients whose physical and mental conditions precluded the possibility that they could care for themselves.

CURRENT STATUS

Today the prospects and possibilities for people with mental illness are significantly different. With the advances in psychopharmacology, neurology, psychiatry and psychology, most people with mental illness can and do recover. People are now admitted to state and county hospitals typically for a few months at a time where they are treated and stabilized on medications, with the goal of being discharged with community supports. Community rehabilitation services further help mental health consumers to recover from chronic and persistent mental illnesses. Recovery is not only a possibility, it is a reality.

Many mental health consumers have worked hard in their recovery and are now able to secure employment. In preparation for the new job they try to take out a loan to buy a car and find that they have a \$30,000 lien on their credit from their three-month institutionalization at a state mental hospital any number of years prior. Liens have not only proven to be demoralizing but also impediments to recovery for people with mental illness and may ultimately increase rather than decrease their dependence on the state for services.

According to research done by the National Mental Health Association for this policy paper, other states in the northeast either do not or rarely impose liens on property for services received at a state or county hospital by mental health consumers. While New Jersey appears to have the most aggressive policy toward placing liens on property, only \$2 million minus the administrative costs of running the program was collected last year.

In 1918 placing a lien on property did not impede the treatment goal of humane care for those who could not do so for themselves. Today liens are impeding the twenty-first century treatment goal of recovery and independence for people with mental illness. The state must have a goal for its citizens who have mental illness today, taking into consideration the progress in treatment that leads to recovery.

POSITION

The Mental Health Association in New Jersey is calling for the repeal of New Jersey's institutional lien laws as they apply to people with mental illness, which date back to 1918. These laws impose upon people with mental disabilities and certain members of their families, regardless of their ability to pay, liens for the entire cost of their care at state and county psychiatric hospitals.

The state's policy of recording institutional liens upon all persons discharged from these facilities creates an impediment to their ability to obtain credit and otherwise become financially self-supporting. An adult admitted to a state or county psychiatric hospital for a year can expect a lien in the amount of \$150,000.

The issue of parity between mental illness and other illnesses has become a focal point of advocacy for those concerned with justice and reduction of stigma surrounding mental illnesses. New Jersey adopted parity law in 1999, which guarantees equal insurance coverage for treatment of certain biologically based mental illnesses and treatment of physical illnesses. The existing lien law points to a parity issue which does not deal with insurance coverage but, rather, with those who do not have any form of insurance.

Currently, if someone with no insurance is admitted to a community psychiatric hospital unit, charity care will cover the cost. That same person, admitted to a county or state psychiatric hospital, will have a lien placed against them and carry that burden for the rest of their lives. The old system and the new need to be reconciled with a view to creating parity between how involuntary psychiatric treatment is paid for in our society.

In an era in which community integration of people with mental disabilities has been recognized as both an

important social policy and a constitutionally protected right, it is incumbent upon the state to eliminate these liens.

DOCUMENTED CONSUMER EXPERIENCES

Consumer #1

I have been a Mental Health Consumer-Survivor for twenty years, almost half of my life. In 1996, I was admitted to a psychiatric hospital for mania, and two weeks later, for depression. I was first admitted to Elizabeth General, now known as Trinitas Hospital, and then involuntarily committed to Runnels Hospital for further care.

So, I did my “time” at the joint--what felt like a jail complete with locked doors and a “key-keeper” warden (the doctor).

In 1996 my parents retired to Florida and I was left wondering where I would live. For almost a year I lived in an apartment with my boyfriend. In 1998, with the help of a gift of a \$10,000 down payment from my boyfriend's father, we purchased a duplex in Elizabeth, New Jersey. His father also helped us buy a refrigerator, washer and dryer. . With my boyfriend's and my social security, and my income, we can just about afford to pay our bills. My boyfriend's entire family continues to help us with money and food on a monthly basis, otherwise, we would have no food

In 1999 I applied for a Discover Credit Card and was declined due to a “poor credit history.” I thought, “How can this be? I had bought a car in 1996 and had had to finance part of it for three years with no problem. My credit has always been excellent.”

When I received my credit report, there was a lien for \$30,000 from Mercer County. I had no idea what this was about. It did not occur to me that it had anything to do with my hospitalization at Runnels Hospital in Union County, which after a phone call, I discovered it was. I called Runnels several times about the situation.

I do not have a spare \$30,000 lying around. I am presently below the poverty level. However, I do own a car and a house, which enable me to get to work and have shelter and warmth, respectively. Must I be denied these two simple pleasures in life? I have suffered and struggled with my mental illness for over twenty years.

Our house was purchased for \$69,000; minus the \$10,000 we will return to my boyfriend's dad, minus the \$30,000 lien, and divide by two (my boyfriend and I) and I am left with virtually nothing, if we are to sell it. Will they take away my home or half of its value?

This lien has been hanging over my head for quite some time causing me constant stress and a daily, on-going, migraine headache. I really need the stress and headaches to go away. With my illness, stress can land me in the hospital. I am doing well and do not want to ruin things by going “one step forward and two steps back” by revisiting a psychiatric hospital again. Please help me.

Thank you.

Consumer #2

I am 40 years old. I have a very expensive psychiatric history. The first time I was hospitalized, I was approximately 16 years old. From then on, my mental illness reaped havoc on my life. It effected my friends and family. From 1979 –1995, I was admitted to Marlboro Psychiatric Hospital over twenty-five times. My longest stay, which was my last, was for two and a half years. Prior to this admission, my mom had informed me that the state of New Jersey had placed a lien on me for nearly \$250 million. This for the quality of care I received as a client at a state psychiatric hospital.

My mom was informed of the lien by a letter in the mail. “The state could take everything from me!” I felt like, “why should I even try to live a normal life. In the end I would have nothing.” I had no hope of a future. I thought about my own mortality and that of my parents. I could not be named as a beneficiary on anyone's will.

Anything and everything could be taken. This left me confused and concerned. It effected my recovery from both, as a psychiatric consumer and an addict. I felt worthless and a burden to my family. I continuously got high to escape my reality, which looked very bleak.

Somehow, with medication I have not been in any institution for the last five years. I have a part-time job at a major super-market chain and I've been there for almost a year.

I wonder if my strides and advances are really a good thing; if it can all be taken away? Psychiatric consumers without insurance should not be penalized for their illness, which is through no fault of their own. As a legal voter, I would suggest that any amendments that are beneficial to consumers should be taken and acted upon.

Thank you.

Consumer #3

In 1986 I was diagnosed with schizophrenia and depression. For the next ten years I was in and out of the hospital three times because I was not compliant with my psychiatric medications. My last hospitalization was at Ancora State Psychiatric Hospital from October of 1997 through January of 1998. I learned how to manage my illness and was discharged to a boarding home. For two years I attended a partial day program where I continued to learn how to stay clean and how to manage my illness. The program gave me more and more responsibilities and I finally realized that the responsibility for my health and life was my own, my choice. In June of 1999 I graduated from the program and was offered and took a full time job at CSP as a food shopper/driver. For one and a half years I picked up fellow consumers and drove them to the bank and assisted them in shopping. In November of 2001, I was offered and accepted a position as a full time support service worker for CSP. I now take mental health consumers to the doctor, do home visits, assist in legal/administrative issues, and operate as a peer advocate when necessary. I am a recent graduate of Consumer Connections which has helped me improve my professional skills as a consumer/provider.

Last year, about the time I got my new job, I realized that I might be able to get my own home. This has always been a dream of mine, to purchase and own my own home. I applied for a loan and was accepted. In the process the mortgage agency took a final check and discovered that the State of New Jersey had a lien against me from Ancora State Psychiatric Hospital. This was the first I heard of this in the three years since my discharge. In addition, the amounts I was reported to have owed were conflicting – from \$20,000 to \$36,000. It turns out it is \$36,000. Despite this and because of my good credit rating the mortgage company agreed to the loan on the condition that I try to work out a payment proposal with Ancora. I wrote to Ancora and asked for a payment plan of \$25/month. I am waiting to see if this is acceptable to them. In the meantime, I was able to purchase a house in December of 2001.

I take great pride in my ability to pay my bills on time and take responsibility for my life. This is how others view me too – responsible and dependable. Having a lien over my head makes me feel bad about myself. I owe someone money, and I haven't the means to pay them off until I sell my house.

I feel stuck too. I can't sell my house to move somewhere else if I wanted or needed to. After the lien is paid off I wouldn't have enough money for another down payment.

What really upsets me was that I was never notified, that I didn't even know about it. I am thankful that the mortgage company didn't discriminate against me because I am a mental health consumer.

I must say, I am managing it pretty well. I am six years clean, no relapse. Every day though, I wish it wasn't there.