CHAPTER 2: Fundamental Concepts

As in many civil rights movements, the recognition of legal rights for individuals receiving involuntary inpatient mental health treatment was developed to promote social change, and was based on basic legal principles such as self-determination, privacy and due process. While these principles are grounded in the Federal and State Constitution, the application of these principles to mental health treatment is a relatively recent development.

RIGHT TO LIBERTY

The Supreme Court found a constitutional right to liberty for mental health patients: "There is...no constitutional basis for confining such persons involuntarily if they are dangerous to no one." With this constitutional recognition, the practice of mental health law became a process of limiting and defining the power of the state to detain and treat. (O'Connor v. Donaldson, 422. U.S. 563 [1975])

RIGHT TO DUE PROCESS

In California, the Lanterman-Petris-Short Act (LPS), passed in 1969, specifies a number of rights and protections, including civil commitments, procedures for individuals receiving treatment pursuant to LPS. The stated purposes of the Act include:

- To end the inappropriate, indefinite and involuntary commitment of mentally disordered persons...;
- To provide prompt evaluation and treatment of persons with serious mental disorders...;
- To guarantee and protect public safety;
- To safeguard individual rights through judicial review;
- To provide individualized treatment, supervision, and placement services by a conservatorship program for gravely disabled persons;
- To encourage the full use of all existing agencies, professional personnel and public funds to accomplish these purposes...,
- To protect mentally disordered persons and developmentally disabled persons from criminal acts. (Welfare and Institutions Code Section 5001 [g])

Beginning in 1971, a series of cases established due process limitations on the civil commitment power much the same way as protections had developed earlier in the criminal context. As with many mental health law concepts, case law initiated the development of a complex set of procedures and standards for commitment of mental health patients.

Important changes have revised and expanded the LPS Act, including the development of additional hearing procedures and the articulation of specific standards. A 1981 decision, Doe v. Gallinot, 657 F.2d 1017 (9th Cir. 1981) led to amendments requiring automatic, administrative commitment review hearings for all persons detained under 14-day certifications. Riese v. St. Mary's Hosp. & Medical Center, 209 Cal.App.3d 1303, 1318, 271 Cal.Rptr. 199, 208 (1988) established all individuals subject to 72-hour holds and 14-day certification under the LPS have the statutory right to make their own informed decision regarding antipsychotic medication absent an emergency or a specific judicial determination of incompetence.

RIGHT TO TREATMENT FOR MENTAL HEALTH PATIENTS

An important case in mental health law is Wyatt v. Stickney, 325 F.Supp. 781 (M.D. Ala. 1971) (Wyatt I). The Wyatt case established that the reason for hospitalization is treatment, not simply custodial care. The case emphasized that patients have a right to treatment, which is reasonably calculated to improve their condition. Treatment must have three components:

- Humane physical and psychological environment;
- Qualified staff in adequate numbers;
- Individual treatment planning.

In the follow-up case, Wyatt v. Stickney, 344 F.Supp. 373 (M.D. Ala. 1972) (Wyatt II), the court established a broad range of standards for mental health facilities.

In 1982, the United States Supreme Court addressed the right to treatment in Youngberg v. Romeo, 457 U.S. 307 (1982). The Court found that people institutionalized under civil commitment statutes have Constitutional rights to adequate food, shelter, clothing and medical care, the right to reasonable care and safety and the right to minimally adequate or reasonable training to ensure safety and freedom from undue restraint.

RIGHT TO PARTICIPATE IN TREATMENT DECISIONS

In a Federal appellate decision, Reenie v. Klein, 462 F.Supp. 1131 (D.N.J. 1978), the court found a qualified right to refuse involuntary administration of psychotropic drugs. In other cases throughout the country similar decisions found a right to refuse treatment based on procedural due process and privacy rights.

In California, the right to participate in treatment decisions has been a consistent theme. On an individual level, clinicians are required to secure client consent and involve the client in treatment planning and decision-making. On a system level, services are required to be client-centered and to be developed with the active participation of the client.

RIGHT TO LEAST RESTRICTIVE TREATMENT

In 1978, California adopted a provision which establishes that treatment should be provided in ways that are least restrictive of the personal liberty of the individual. (Welfare and Institutions Code Section 5325.1) Initially applied in the mental health field to challenge the appropriateness of institutionalization, the principle of least restrictive treatment has been extended in the courts to challenge the nature of the institution in which the patient is placed, the treatment modalities provided, and the limitation on patient liberties in the institution.

In 1999, the U.S. Supreme Court held in the case of Olmstead v. L.C., 527 U.S. 581 (1999), that the unnecessary segregation of individuals with disabilities in institutions may constitute discrimination on the basis of disability, in violation of the Americans with Disabilities Act. State and local implementation of community integration plans required under Olmstead have been slow to date.

RIGHT TO EQUAL TREATMENT

The California Legislature recognized that mental health patients retain all the rights, privileges, opportunities, and responsibilities of other citizens unless specifically limited by federal or state law or regulations. With the passage and enforcement of the Fair Housing Amendments Act in 1988 and the Americans with Disabilities Act in 1990, advocates for mental health clients have increasingly framed arguments in antidiscrimination rather than entitlement language and have developed new and creative theories for improving community services.