No. 17306

IN THE
SUPREME COURT OF ILLINOIS

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v. JOHN DOE, Defendant, ELAINE McCALL, Respondent-Appellant.	)	PETITION FOR LEAVE TO APPEAL FROM THE APPELLATE COURT OF ILLINOIS, FOURTH DISTRICT
	)	THERE HEARD ON APPEAL FROM THE CIRCUIT COURT OF SANGAMON COUNTY
	)	Honorable Simon L. Friedman, Presiding Judge

BRIEF OF THE ILLINOIS SOCIETY FOR CLINICAL SOCIAL WORK, THE NATIONAL ASSOCIATION OF SOCIAL WORKERS, THE ILLINOIS CHAPTER OF THE NATIONAL ASSOCIATION OF SOCIAL WORKERS, AND THE AMERICAN ORTHOPSYCHIATRIC ASSOCIATION AMICI CURIAE

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THE PEOPLE OF THE STATE OF ILLINOIS,	) PETITION FOR LEAVE TO
	) APPEAL FROM THE
Plaintiff-Appellee,	) APPELLATE COURT OF
	) ILLINOIS,
v.	) FOURTH DISTRICT
	)
JOHN DOE,	) THERE HEARD ON APPEAL
Defendant,	) FROM THE CIRCUIT COURT
	) OF SANGAMON COUNTY
ELAINE McCALL,	)
Respondent-Appellant.	) Honorable Simon L.
	) Friedman,
	) Presiding Judge

BRIEF OF THE ILLINOIS SOCIETY FOR CLINICAL SOCIAL WORK, THE NATIONAL ASSOCIATION OF SOCIAL WORKERS, THE ILLINOIS CHAPTER OF THE NATIONAL ASSOCIATION OF SOCIAL WORKERS, AND THE AMERICAN ORTHOPSYCHIATRIC ASSOCIATION AMICI CURIAE

To The Honorable Justices Of The Supreme Court Of The State of Illinois:

The Illinois Society for Clinical Social Work, The National Association of Social Workers, the Illinois Chapter of the National Association of Social Workers, and The American Orthopsychiatric Association respectfully submit this brief as Amici Curiae pursuant to Leave of Court heretofore granted and in accordance with Rule 345 of the Rules of this Court.

STATEMENT OF INTEREST OF AMICI CURIAE

This cause is now pending in this Court on Petition for Leave to Appeal filed on March 3, 1982 by Elaine McCall, Respondent-Appellant.

The Illinois Society for Clinical Social Work is a professional association of some two hundred psychiatric social workers practicing individually and privately in this State.

The National Association of Social Workers is a national organization of some eighty thousand (80,000) professional social workers practicing throughout the country.

The Illinois chapter of the National Association of Social Workers represents some five thousand (5,000) professional social workers practicing in this State.

The American Orthopsychiatric Association is a national education association with almost nine thousand (9,000) members who are clinicians, educators and lawyers.

The issue addressed by the Appellate Court opinion in this case is of great importance to the mental health providers of this State, and to their patients/clients, for the following reasons:

The defendant, Elaine McCall, is a registered nurse in charge of a psychiatric unit at St. John's Hospital in Springfield, Illinois. The Appellate Court, Fourth District, considered the question of whether the respondent-appellant is obliged to reveal the name of a patient who was hospitalized on the psychiatric unit of the hospital in which she worked to a

grand jury that was attempting to identify the perpetrator of a serious crime which had attracted great local interest. The respondent-appellant refused to supply the name of her patient to the grand jury on the basis that she was forbidden to do so under pain of civil and criminal sanctions by the Mental Health and Developmental Disabilities Confidentiality Act (Chap. 91-1/2 Ill. Rev. Stat., §801, et. seq., 1979, hereinafter referred to as "The Confidentiality Act".

The Confidentiality Act specifically and explicity prohibits a therapist (defined by the Act to include a psychiatric nurse) to disclose any "records and communications"... "made by a recipient (mental health care patient) or other person to a therapist or to or in the presence of other persons during or in connection with providing mental health...services to a recipient", except by written, informed consent of the patient, or as otherwise provided by the Act. The Act further provides that "Communication includes information which indicates that a person is a recipient." In addition to the imposition by the statute of a duty not to disclose, the statute also cloaks such material with a privilege: "a recipient, and a therapist on behalf and in the interest of a recipient has the privilege to refuse to disclose...the recipient's records or communication."

The Appellate Court, notwithstanding the clear language of the Confidentiality Act and the obvious intention of the legislature in enacting it, held that the information sought from respondent-appellant was not privileged and upheld a contempt finding against her for her staunch and courageous obedience of

the statute. The Court reached that conclusion by a tortuous and narrow construction which is as difficult to follow as it is to justify.

Amici are bound by statute, professional ethics and professional and personal commitment to assist in developing and promulgating the theory and practice of mental health care. The final decision in this case will impact significantly not only on the parties to this cause, but also on the practices of amici, their relationships with their patients/clients, and the welfare and safety of the community.

Accordingly, amici respectfully request that this Court grant the Petition for Leave to Appeal and reverse the determination of the Appellate Court from which appeal is sought.

I.

POINTS AND AUTHORITIES

THE ILLINOIS MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES CONFIDENTIALITY ACT IMPOSES A DUTY UPON MENTAL HEALTH THERAPISTS TO REFUSE TO DISCLOSE CONFIDENTIAL INFORMATION EXCEPT AS PROVIDED IN THE ACT. DISCLOSURE OF CONFIDENTIAL INFORMATION EXCEPT AS PROVIDED IN THE ACT IS PUNISHABLE AS A CLASS A MISDEMEANOR, AND EXPOSES A MENTAL HEALTH THERAPIST TO CIVIL LIABILITY.

Ill. Rev. Stat., Ch.91-1/2, 803(a)
Section 10, Ill. Rev. Stat., Ch. 91-1/2, Sec. 810, 1979.
Ill. Rev. Stat., Ch. 91-1/2, Sec. 15.
Ill. Rev. Stat., Ch. 91-1/2, Sec. 16.

II.

THE CONFIDENTIALITY ACT CLOAKS THE IDENTITY OF MENTAL PATIENTS WITH A PROTECTIVE PRIVILEGE. PRIVILEGE STATUTES ARE TO BE STRICTLY CONSTRUED IN ACCORDANCE WITH THE OBVIOUS INTENDEMENT OF THE LEGISLATURE. ALL COMMUNICATIONS MADE IN THE COURSE OF MENTAL HEALTH CARE DELIVERY ARE CONFIDENTIAL AND MAY NOT BE DISCLOSED. DISCLOSURE BY ONE PATIENT OF STATEMENTS MADE BY ANOTHER IS IMPROPER AND ILLEGAL UNDER THE ACT.

Ill. Rev., Stat., Ch 91-1/2, Section 802(1), 1979.

III.

SECTION 10 OF THE CONFIDENTIALITY ACT APPLIES TO GRAND JURY PROCEEDINGS. THE ARGUMENT OF THE APPELLATE COURT AS TO THE DISTINCTION BETWEEN A GRAND JURY HEARING AND A CRIMINAL TRIAL IS THUS IRRELEVANT, AND THE CONCLUSIONS DRAWN BY THE COURT ARE INHERENTLY ERRONEOUS.

Ill. Rev. Stat., Ch. 91-1/2, Sec. 810(a), 1979).
Watkins v. United States, 354 U.S. 178 (1957).
Gibson v. Florida Legislative Investigation Committee, 372 U.S. 539 (1963).
Shelton v. Tucker, 364 U.S. 479 (1960).
People v. Sears, 49 Ill.2d 14, 31 (1971).
People v. Sears, 49 Ill.2d 14, 28
Ernst & Ernst v. Hochfelder, 425 U.S. 185, 201 (1976), reh. den., 425 U.S. 986 (1976).
Johnson v. Town & City of Evanston, 39 Ill. App. 3d, 419, 425 (1976).

Application of Grand Jury of County of Kings, 143 N.Y.S.2d, 507.
The Principles of Medical Ethics with Annotation Especially Applicable to Psychiatry, 130 Am.J.Psy. 1058 (1973).
Osterman v. Ehrenworth, 256 A.2d 123, 106 N.J. Super 515 (1959).

IV.

THE CONCEPT OF PRIVILEGE CLOAKS WITH PROTECTION ANY AND ALL INFORMATION RECEIVED BY A PARTY TO THE PROTECTED RELATIONSHIP WHICH WOULD NOT HAVE BEEN AVAILABLE EXCEPT BY REASON OF THE RELATIONSHIP. THAT WHICH CANNOT BE ADDUCED DIRECTLY CANNOT BE OBTAINED BY INDIRECTION.

WITNESSES, 81 Am.Jr.2d 256
Newman v. Blom, 249 Iowa 836, 89 N.W.2d 349.
Massachusetts Mutual Life Insurance Co. v. Board of Trustees, 178 Mich. 193, 144 N.W. 538.
Weis v. Weis, 147 Ohio St. 416, 34 Ohio Ops. 350,72 N.E.2d 245, 169 A.L.R. 668.
Casson v. Schoenfeld, 166 Wis. 401, 166 N.W.23.
WITNESSES, 81 Am.Jur.2d 301.

V.

IT IS THE PUBLIC POLICY OF THIS STATE TO ELIMINATE TO THE GREATEST EXTENT POSSIBLE BARRIERS TO OBTAINING MENTAL HEALTH CARE. THIS POLICY IS CLEARLY CONSISTENT WITH THE NEEDS OF THE COMMUNITY TO PROTECT ITSELF FROM THE HIGH SOCIAL AND ECONOMIC COST OF UNTREATED MENTAL ILLNESS. STRICT CONFIDENTIALITY AND PRIVACY ARE IMPERATIVE TO MENTAL HEALTH CARE RECIPIENTS.

PRELIMINARY REPORT TO THE PRESIDENT FROM THE PRESIDENT'S COMMISSION ON MENTAL HEALTH, September 1, 1977 at page 4 and page 23
Nunnally, POPULAR CONCEPTIONS OF MENTAL HEALTH, (Holt, Rinehart and Winston, 1961).
Rabkin, Opinions about Mental Illness: A Review of the Literature, 77 PSYCHOL. BULL. 153 (1972).
Beigler, The 1971 Amendment of the Illinois Statute on Confidentiality: A New Development in Privilege Law, 129:3 AM. J. PSYCHIATRY 87 (1972)
Foster, Illinois: A Pioneer in the Law of Mental Health Privileged Communication, 62 ILL. B.J. 6687 (Aug., 1974).
Section 11, (Ill. Rev. Stat., Chap. 91-1/2, Sec. 811, 1979).

ARGUMENT

I.

THE ILLINOIS MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES CONFIDENTIALITY ACT IMPOSES A DUTY UPON MENTAL HEALTH THERAPISTS TO REFUSE TO DISCLOSE CONFIDENTIAL INFORMATION EXCEPT AS PROVIDED IN THE ACT. DISCLOSURE OF CONFIDENTIAL INFORMATION EXCEPT AS PROVIDED IN THE ACT IS PUNISHABLE AS A CLASS A MISDEMEANOR, AND EXPOSES A MENTAL HEALTH THERAPIST TO CIVIL LIABILITY.

Section 3 of the Mental Health and Developmental Disabilities Confidentiality Act states as follows:

> "Section 3.(a) All records and communications shall be confidential and shall not be disclosed except as provided in this Act."

Much has been discussed and argued in the stages of this of this matter about the privilege aspect of the cause. The privilege is set forth in Section 10 of the Act.(Ill. Rev. Stat., Ch. 91-1/2, Sec. 810, 1979). It must be pointed out that respondent-appellant was not only invested under Section 10 with the right to assert a communications privilege with respect to the information about which she was asked to testify, but she was also laboring under a duty imposed by Section 3 of the Act. In establishing both a privilege and a duty, the legislature underscores its intention that mental health care providers are not merely enabled to passively resist demands for disclosures of patient data but must actively protect the privacy and confidentiality of their patients.

So seriously does the legislature regard the responsibility of the mental health care provider in this matter that criminal and civil sanctions are set forth in Sections 15 and 16 of the Act for failure of a therapist to obey.

"Section 15. Any person aggrieved by a violation of this Act may sue for damages, an injunction or other appropriate belief. Reasonable attorney's fees and costs may be awarded to the successful plaintiff in any action under this Act.

"Section 16. Any person who knowingly and wilfully violates any provision of this Act is guilty of a Class A misdemeanor." (Ill.Rev.Stat., Ch. 91-1/2, Sec. 15-16, 1979).

Respondent-appellant was thus placed in a totally untenable position by the proceedings before the Grand Jury and the Court. There is no exception or protection provided by the statute for a therapist who disobeys its strictures by reason of a state's licensed attorney's demand, or even a trial court's order. It is respectfully suggested that the trial court erred seriously in ordering respondent-appellee to behave in a blatantly illegal fashion and that Appellate Court has ignored her dilemma. She has no choice but to invoke the wisdom and protection of the highest Court of this State in her insistence upon upholding the law.

II.

THE CONFIDENTIALITY ACT CLOAKS THE IDENTITY OF MENTAL PATIENTS WITH A PROTECTIVE PRIVILEGE. PRIVILEGE STATUTES ARE TO BE STRICTLY CONSTRUED. IN ACCORDANCE WITH THE OBVIOUS INTENDMENT OF THE LEGISLATURE. ALL COMMUNICATIONS MADE IN THE COURSE OF MENTAL HEALTH CARE DELIVERY ARE CONFIDENTIAL AND MAY NOT BE DISCLOSED. DISCLOSURE BY ONE PATIENT OF STATEMENTS MADE BY ANOTHER IS IMPROPER AND ILLEGAL UNDER THE ACT.

The Fourth District has quoted in its opinion Section 2(1) of the Mental Health and Developmental Disabilities Confidentiality Act (Ill. Rev., Stat., Ch 91-1/2, §802(1), 1979), which undeniably states that the identity of a mental patient is confidential information. It is to be noted that this provision of the Mental Health and Developmental Disabilities Confidentiality Act is a dramatic and deliberate departure from the common law. Early cases in other jurisdictions had historically considered the identity of a patient not to be privileged information. This rule had evolved in cases involving medical privilege and even the attorney-client privilege. Its inappropriateness to modern life and modern mental health care became apparent as medical record technology and third party payments made patient privacy more difficult. In many instances, the mere knowledge that a person has been a recipient of mental health services has been enough to ruin a career, and even a life. The Eagleton situation in the early seventies is a universally known example.

In considering the language of the statute, the drafters (of which this writer was one) carefully defined as confidential information, to be protected by Sections 3 and 10 of the Act,

"information which indicates that a person is a recipient." The definitional language carefully and explicitly wrought this and other significant substantive changes in confidentiality and privilege law. Earlier holdings were overturned and any information given in the course of mental health care delivery - whether to a therapist or any other person (including other patients, family, observers, etc.) - is protected. Mental Health and Developmental Disabilities Confidentiality Act, Sec. 2(1); (Ill. Rev. Stat., Ch. 91-1/2, Sec. 802(1), 1979).

Modern psychiatric hospitalization involves patient groups, family involvement, and the treatment modality of "milieu therapy". The very hospitalization itself, the structured opportunities for protected interaction with other patients, the process of encouraging the patient to interact socially with others - all of these are techniques of "milieu therapy". Thus anything that transpires on a psychiatric in-patient unit is part of mental health care delivery, and any information communicated during the course of the patient's participation in the milieu is protected as confidential.

Not only was respondent-appellant prohibited from disclosing the identity of her patient, but so - in fact - was Bobby Joe Kyle (the patient who called the police and later testified as to the statements allegedly made by the other unidentified patient) prohibited from making the disclosures he did. Such a prohibition makes eminent sense both from the perspective of modern-day treatment techniques, but also given that hospitalized mental patients are usually very ill, and their veracity is - at

best - questionable. To subject a patient to exposure, embarrassment, stigmatization or traumatic confrontation as a consequences of the possible psychotic, quixotic, hallucinatory or other unreliable statements of another patient is hardly sensible or consistent with the concept of good clinical care.

III.

SECTION 10 OF THE CONFIDENTIALITY ACT APPLIES TO GRAND JURY PROCEEDINGS. THE ARGUMENT OF THE APPELLATE COURT AS TO THE DISTINCTION BETWEEN A GRAND JURY HEARING AND A CRIMINAL TRIAL IS THUS IRRELEVANT, AND THE CONCLUSIONS DRAWN BY THE COURT ARE INHERENTLY ERRONEOUS.

The Fourth District attempts to draw a distinction between Grand Jury Proceedings and a criminal proceeding for purposes of interpretation of the Act. Section 10 very clearly states that confidential information is privileged in all judicial proceedings - civil and criminal - and any proceedings preliminary thereto.

> "Section 10. (a). Except as provided herein, in any civil, criminal, administrative, or legislative proceeding, or in any proceeding preliminary thereto, a recipient, and a therapist on behalf and in the interest of a recipient, has the privilege to refuse to disclose and to prevent the disclosures of the recipient's record or communications." (Ill.Rev.Stat., Ch. 91-1/2, Sec. 810(a), 1979).

Interpretation to the effect that a Grand Jury proceeding is not within the categories set forth by Section 10 cannot be supported. The rights and protections afforded by the Constitution apply with equal force to Grand Jury proceedings and any type of governmental investigative activities. Watkins v. United States, 354 U.S. 178 (1957). Gibson v. Florida Legislative Investigation Committee, 372 U.S. 539 (1963). Shelton v. Tucker, 364 U.S. 479 (1960). A court must intervene when "failure to do so will effect a deprivation of due process or result in a miscarriage of justice." People v. Sears, 49 Ill.2d 14, 31 (1971).

> "A grand jury does not become, after it is summoned, impaneled, and sworn, an independent planet, as it were, in the judicial system, but still remains an appendage of the court on which it is attending ... All indictments or presentments of a grand jury become effective only when presented in court and a record is made of such motion. A Grand Jury is not, therefore, and cannot become, an independent, self-functioning, uncontrollable agency. It is and remains a grand jury attending on the court, and does not, after it is organized, become an independent body, functioning at its uncontrolled will, or the will of the district attorney or special assistant . . . . It can therefore never become an immaterial matter to the court what may be done with its process or with its grand jury. A court would not be justified, even if it were so inclined, to create or call into existence a grand jury, and then go off and leave it. A supervisory duty, not only exists, but is imposed upon the court, to see that its grand jury and its process are not abused, or used for purposes of oppression and injustice." People v. Sears, 49 Ill. 2d, at 28.

In construing a statute, a Court must take the plain and obvious meaning. Ernst & Ernst v. Hochfelder, 425 U.S. 185, 201 (1976), reh. den., 425 U.S. 986 (1976). "Where the intent of the legislature is expressed clearly in the language of the statute, there is no room for judicial interpretation." Johnson v. Town & City of Evanston, 39 Ill. App. 3d, 419, 425 (1976).

Further, the Fourth District makes a distinct point as to the manner of the questions put to respondent-appellant and, by stretching and contortion, concludes that simply naming her patient would not be a disclosure prohibited by the Act. In the New York case of Application of Grand Jury of County of Kings, 143 N.Y.S.2d, at 507, the New York Court noted,

> "In effect,...the Grand Jury is attempting to reach proscribed information in an indirect and circuitous manner.

> If the Legislature had intended to make such a drastic modification of the statutory prohibition...it would have expressed the intention in clear and unmistakable language and would not have left it to be spelled out by the tenuous or tortuous reasoning inherent in the process of interpretation of ambiguous statutes. Application of Grand Jury of County of Kings, 143 N.Y.S.2d, at 507,508."

The State's Attorney in the instant case - whether by clever design or lucky inadvertence - also attempted "to reach proscribed information in an indirect and circuitous manner." To allow him to succeed would be to circumvent the clear and unmistakable intent of the legislature.

The New York Grand Jury case also supports the contention that the identity of a patient comes under the scope of confidential communications which are privileged. Application of Grand Jury of County of Kings, 143 N.Y.S.2d 501, at 507. Clients expect their identity to be kept secret. We have only to remember what happened to Senator Eagleton when it was discovered that he had undergoine therapy to realize what harm disclosure could do. To some patients, disclosure of their identity is so frightful that they refuse to use insurance coverage!

> "Psychiatric records, including even the identification of a person as a patient, must be protected with extreme care." "The Principles of Medical Ethics with Annotation Especially Applicable to Psychiatry," 130 Am.J.Psy. 1058 (1973).

A New Jersey Court was also in accord with the principle that the privilege covers patient identity. Osterman v. Ehrenworth, 256 A.2d 123, 106 N.J. Super 515 (1959) involved a medical malpractice action against a physician who allegedly prescribed a certain drug. Interrogatories were directed to the physician, which sought the identity of any other person who had every previously been treated with that drug. The Court held that disclosure of such information would be violative of the physician-patient privilege and would, therefore, "amount to judicial disregard of the legislatively expressed public policy..." Osterman v. Ehrenworth, 256 A.2d 123, 106 N.J. Super 515 (1959), at 129.

The protection is intended to inspire confidence and trust in the relationship by preventing the trusted "other" from making public information that would humiliate, embarrass or disgrace the discloser. The general rule has been that any information gained by the professional (or spouse) in the course of the relationship, arising out of the relationship, and which would not have been available except by reason of the relationship is protected by a privilege statute, as well as inferences and conclusions to be drawn therefrom. See WITNESSES, 81 Am.Jur.2d 256 and cases cited therein.

Again, that which cannot be elicited directly cannot be gained indirectly. When information given orally to a care provider is privileged against discovery, "introduction of records would obviously be an evasion of such statutes, for although the (care provider) would not actually testify, yet the privileged matter sought to be barred would in fact be effectually placed in evidence." Newman v. Blom, 249 Iowa 836, 89 N.W.2d 349; Massachusetts Mutual Life Insurance Co. v. Board of Trustees, 178 Mich. 193, 144 N.W. 538; Weis v. Weis, 147 Ohio St. 416, 34 Ohio Ops. 350,72 N.E.2d 245, 169 A.L.R. 668; Casson v.Schoenfeld, 166 Wis. 401, 166 N.W.23. See also WITNESSES, 81 Am.Jur.2d 301 and cases cited therein.

V.

IT IS THE PUBLIC POLICY OF THIS STATE TO ELIMINATE TO THE GREATEST EXTENT POSSIBLE BARRIERS TO OBTAINING MENTAL HEALTH CARE. THIS POLICY IS CLEARLY CONSISTENT WITH THE NEEDS OF THE COMMUNITY TO PROTECT ITSELF FROM THE HIGH SOCIAL AND ECONOMIC COST OF UNTREATED MENTAL ILLNESS. STRICT CONFIDENTIALITY AND PRIVACY ARE IMPERATIVE TO MENTAL HEALTH CARE RECIPIENTS.

Mental illness is a major social and economic problem in the United States. It has been estimated that at any one time, between 20 and 32 million Americans need some form of mental health services. "The current direct cost of providing mental health services is about $17 billion a year. The social cost, when measured in terms of lost wages and shortened life span, is estimated to be another $20 billion." PRELIMINARY REPORT TO THE PRESIDENT FROM THE PRESIDENT'S COMMISSION ON MENTAL HEALTH," September 1, 1977 at page 4. In Illinois alone, some 13,000 patients are treated annually in Department of Mental Health inpatient facilities. As a matter of public policy, as well as humanitarian desire, it is urgent that mentally ill persons be encouraged to seek treatment they require to enable them to function in and contribute to society. This country cannot afford the economic and social cost of untreated mental illness. The President's Commission, at page 23, reports:

> ". . . The stigma of mental illness, however, is so pervasive in our society that many who need help do not seek it. The misunderstanding and fear surrounding mental and emotional problems are so great that there is insufficient public support for needed services and further research.
>
> "In many ways, this is surprising. Almost all Americans are touched by these problems, either themselves or in their families or among their neighbors and friends. Nevertheless, this stigma and the fears exist, and they

> are deeply engrained in our society. Unless we deal constructively with these problems, future progress will be slowed and those currently underserved are likely to remain underserved."

The stigma of mental illness carries with it grave and unfortunate consequences for its sufferers. "Mental patients appear to have taken the place of lepers as the targets of public dislike and rejection." Nunnally, POPULAR CONCEPTIONS OF MENTAL HEALTH, (Holt, Rinehart and Winston, 1961); Rabkin, Opinions about Mental Illness: A Review of the Literature, 77 PSYCHOL. BULL. 153 (1972). As a result, they are discriminated against to the degree that many who need treatment fear and avoid it.

A sophisticated and knowledgeable legislature in Illinois has expressed the long-standing public policy of this State that communications disclosed in the course of mental health treatment are confidential. For two interesting and thoughtful commentaries on the Illinois view of psychotherapeutic confidentiality, see Beigler, The 1971 Amendment of the Illinois Statutue on Confidentiality: A New Development in Privilege Law, 129:3 AM. J. PSYCHIATRY 87 (1972), and Foster, Illinois: A Pioneer in the Law of Mental Health Privileged Communication, 62 ILL. B.J. 668 (Aug., 1974).

The legislature was likewise aware that there are times when interests of a patient/client and/or the public safety require disclosure of confidential information, including the identity of [illegible] community from harm. Illinois law provides the authority to mental health care providers to disclose confidential information when, in the discretion of the mental health profession,

create a climate in which access to mental health care is enhanced. Patients/clients must be able to look to their care providers with confidence and hope, not uncertainty and fear of betrayal.

Public policy demands that the law enable the mental health professional maximum opportunity to deliver services to mentally ill or emotionally disturbed persons. This requires a climate in which the patient/client may be assured of privacy and confidentiality and not subjected to fear of disclosure and stigmatization.

CONCLUSION

Amici Curiae respectfully submit that the public interest requires that the Mental Health and Developmental Disabilities Confidentiality Act be interpreted to protect the confidentiality of the therapist-recipient relationship, and that the Appellate Court's opinion in this case is contrary to the public policy of the State, to the thrust of this Court's recent opinions in analogous cases and to the position of the Appellate Court in prior cases.

For the reasons stated, Amici respectfully urge that the Petition for Leave to File be granted and this Court reverse the determination of the Appellate Court from which appeal is sought.

Respectfully submitted,

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