June 18, 1979

TO: Carl Letson, Program Aide
Assembly Ways and Means Committee
The Capitol
Albany, N.Y. 12248

FROM: Max Fink, M.D.
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SUBJECT: Assembly Bill 7237: proposed amendment to Mental Hygiene Law Article 34.

The proposed law ignores present procedures which already provide that psychiatric treatments only be given after proper consent has been obtained. The law ignores the experience that when the restrictions on medical practice are increased, treatments are no longer given and patients are deprived of the best (most effective and safe) treatment for their care. The proposed amendment will serve to further deprive patients in state mental facilities of the type of care which may be most effective. As an example, we found that less than 1% of patients admitted in 1975-1976 to state facilities received ECT, while 5.2% of patients admitted to University hospitals received this treatment (Asnis, Fink and Saferstein, 1978).

This is particularly true for patients who have the following diagnoses: psychotic depression, involutional depression, depression in the elderly, endogenous depression, depression with delusions; as well as some patients with mania and catatonia. It is for such illnesses that ECT is particularly effective, with efficacy rates that are greater than other available therapies, including drugs (APA Task Force Report, Chapter 2, 3, pp. 13-56, 1978; Fink, Chapter 3, pp. 21-41).

The proposed law restricts the number of ECT treatments to 15 in any 12 month period. Such a restriction ignores variability in response of subjects, relapse rates, and experience with different illnesses. While most patients respond with an average of 7-9 treatments, about 10% require more treatments. About 10% of depressed patients who are not given maintenance drug therapy may relapse within six months.

A risk-benefit analysis of ECT finds it more effective and as safe (or safer) than antidepressant drug therapy for patients with psychotic depression (Fink, 1978; Fink, Chapter 5, pp. 51-58, 1979).

We also believe that present guidelines for consent as described by APA Task Force (Chapter 7, pp. 132-151, 1978) and Fink (pp. 219-222, 1979) are adequate safeguards. This is particularly true for experimental treatments, which already must meet peer review under existing IRB guidelines.

This proposed law is heinous on many counts - deprives patients of an effective treatment, increases the cost of care, increases risk of suicide and death, as well as impairs confidentiality, consent and freedom of choice in the doctor-patient relationship. Further, the history of such laws, as exemplified by the effects of a similar law in California, is to deprive lower class minority patients (those served principally by state mental health services), of a useful treatment, while upper class patients, with the same illness are able to obtain care in facilities in neighboring states. Such deprivation of services of our minorities is not an acceptable position for the legislature of the Empire State.

References:

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