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March 6, 2019

The Honorable Bobby Powell

The Florida Senate

404 South Monroe Street, Room 214 SOB

Tallahassee, FL 32399-1100

Re: SB 838 Exemption/Admission to Mental Health Facilities

Dear Senator Powell:

We are writing to express our concerns regarding SB 838, creating various public record exemptions for petitions for voluntary and involuntary admission for mental health treatment, court orders, and related records.

There is a provision in the bill that allows access to the exempt records upon court order for good cause. Of particular concern is the language on lines 59 – 62, which requires a person or entity receiving the exempt information to maintain its confidentiality. This, we believe, is a prior restraint. As a rule, government cannot control the downstream use of information lawfully obtained, so the requirement to maintain confidentiality is, in our opinion, unenforceable. We respectfully suggest that SB 838 be amended to strike those lines.

We appreciate your attention to our concerns, Senator Powell. If you or your staff have any questions, please don't hesitate to contact us.

Sincerely,

Barbara A. Petersen, President

Cc: The Honorable Lauren Book, Chair, Senate Children, Families, and Elder Affairs Committee