H.630

Introduced by Committee on Human Services

Date:

Subject: Health; mental health; system of care

Statement of purpose: This bill proposes to strengthen Vermont's existing mental health system and to create new treatment opportunities for individuals with mental health conditions.

An act relating to reforming Vermont's mental health system

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. PURPOSE

(a) It is the intent of the general assembly to strengthen Vermont's existing mental health care system by offering a continuum of community and peer services, as well as a range of acute inpatient beds throughout the state. This system of care shall be designed to provide flexible and recovery-oriented treatment opportunities and to ensure that the mental health needs of Vermonters are served.

(b) It is also the intent of the general assembly that the agency of human services fully integrate all mental health services with all substance abuse, public health, and health care reform initiatives, consistent with the goals of parity.

Sec. 2. PRINCIPLES FOR MENTAL HEALTH CARE REFORM

The general assembly adopts the following principles as a framework for reforming the mental health care system in Vermont:

(1) The state of Vermont shall meet the needs of individuals with mental health conditions, and the state's mental health system shall reflect excellence, best practices, and the highest standards of care.

(2) Long-term planning shall look beyond the foreseeable future and present needs of the mental health community. Programs shall be designed to be responsive to changes over time in levels and types of needs, service delivery practices, and sources of funding.

(3) Vermont's mental health system shall provide a coordinated continuum of care by the department of mental health, designated hospitals, designated agencies, and community and peer partners to ensure that individuals with mental health conditions receive care in the most integrated and least restrictive settings available. Individuals' treatment choices shall be honored to the extent possible.

(4) The mental health system shall be integrated into the overall health care system, including the location of any new inpatient psychiatric facilities adjacent to or incorporated with a medical hospital.

(5) Vermont's mental health system shall be geographically and financially accessible. Resources shall be distributed based on demographics

and geography to increase the likelihood of treatment as close to home as possible. All ranges of services shall be available to individuals who need them, regardless of individuals' ability to pay.

(6) The state's mental health system shall ensure that the legal rights of individuals with mental health conditions are protected.

(7) Oversight and accountability shall be built into all aspects of the mental health system.

(8) Vermont's mental health system shall be adequately funded and financially sustainable to the same degree as other health services.

Sec. 3. DEFINITIONS

As used in this act:

(1) "Adult outpatient services" means flexible, person-centered services necessary to stabilize, restore, or improve the level of social functioning and well-being of individuals with mental health conditions, including individual and group treatment, medication management, psychosocial rehabilitation, and case management services.

(2) "Designated agency" means a designated community mental health and developmental disability agency as described in 18 V.S.A. § 8907(a).

(3) "Designated area" means the counties, cities, or towns identified by the department of mental health that are served by a designated agency.

(4) "Enhanced programming" means targeted, structured, and specific intensive mental health treatment and psychosocial rehabilitation services for individuals in individualized or group settings.

(5) "Intensive residential recovery facility" means a licensed program under contract with the department of mental health that provides a safe, therapeutic, recovery-oriented residential environment to care for individuals with one or more mental health conditions who need intensive clinical interventions to facilitate recovery in anticipation of returning to the community. This facility shall be for individuals not in need of acute inpatient care and for whom the facility is the least restrictive and most integrated setting.

(6) "Mobile support team" means professional and peer support providers who are able to respond to an individual where he or she is located during a crisis situation.

(7) "Noncategorical case management" means service planning and support activities provided for adults by a qualified mental health provider, regardless of program eligibility criteria or insurance limitations.

(8) "No refusal system" means a system of hospitals and intensive residential recovery facilities under contract with the department of mental health that provide high intensity services, in which the facilities shall admit

any individual for care if the individual meets the eligibility criteria established by the commissioner in contract.

(9) "Participating hospital" means a hospital under contract with the department of mental health to participate in the no refusal system.

(10) "Peer" means an individual who has lived experience of a mental health condition or psychiatric disability.

(11) "Peer services" means support services provided by trained peers or peer-managed organizations focused on helping individuals with mental health and other co-occurring conditions to support recovery.

(12) "Psychosocial rehabilitation" means a range of social, educational, occupational, behavioral, and cognitive interventions for increasing the role performance and enhancing the recovery of individuals with serious mental illness, including services that foster long-term recovery and self-sufficiency.

(13) "Warm line" means a nonemergency telephone response line operated by peers for the purpose of active listening and assistance with problem-solving for persons in need of such support.

Sec. 4. 18 V.S.A. § 7209 is added to read:

§ 7209. CLINICAL RESOURCE MANAGEMENT AND OVERSIGHT

The commissioner of mental health, in consultation with health care providers as defined in section 9432 of this title, including designated hospitals, designated agencies, consumers, and other stakeholders, shall design

and implement a clinical resource management system that ensures the highest quality of care and facilitates long-term, sustained recovery for individuals in the custody of the commissioner.

(1) For the purpose of coordinating the movement of individuals across the continuum of care to the most appropriate services, the clinical resource management system shall:

(A) ensure that all individuals in the care and custody of the commissioner receive the highest quality and least restrictive care necessary;

(B) develop a process for receiving direct patient input on treatment opportunities and the location of services;

(C) use state-employed clinical resource management coordinators to work collaboratively with community partners, including designated agencies, hospitals, consumers, and peer groups, to ensure access to services for individuals in mental health crisis. Clinical resource management coordinators or their designees shall be available 24 hours a day, seven days a week to assist emergency service clinicians in the field to access necessary services;

(D) use an electronic bed board to track in real time the availability of bed resources across the continuum of care;

(E) use specific level-of-care descriptions, including admission, continuing stay, and discharge criteria, and a mechanism for ongoing assessment of service needs at all levels of care;

(F) specify protocols for medical clearance, bed location, transportation, information sharing, census management, and discharge or transition planning;

(G) coordinate transportation resources so that individuals may access the least restrictive mode of transport consistent with safety needs;

(H) ensure that to the extent patients' protected health information pertaining to any identifiable person that is otherwise confidential by state or federal law is used within the clinical resource management system, the health information exchange privacy standards and protocols as described in subsection 9351(e) of this title shall be followed; and

(I) review the options for the use of ambulance transport, with security as needed, as the least restrictive mode of transport consistent with safety needs required pursuant to section 7511 of this title.

(2) For the purpose of maintaining the integrity and effectiveness of the clinical resource management system, the department of mental health shall:

(A) require a designated team of clinical staff to review the treatment received and clinical progress made by individuals within the commissioner's custody;

(B) coordinate care across the mental and physical health care systems, as well as ensuring coordination within the agency of human services,

particularly the department of corrections and the department of health's alcohol and drug abuse programs;

(C) coordinate service delivery with Vermont's Blueprint for Health and health care reform initiatives, including the health information exchange as defined in section 9352 of this title and the health benefit exchange as defined in 33 V.S.A. § 1803;

(D) use quality indicators, manageable data requirements, and quality improvement processes to monitor, evaluate, and continually improve the outcomes for individuals and the performance of the clinical resource management system;

(E) actively engage stakeholders and providers in oversight processes; and

(F) provide mechanisms for collaborative dispute resolution.

Sec. 5. INTEGRATION OF THE TREATMENT FOR MENTAL HEALTH, SUBSTANCE ABUSE, AND PHYSICAL HEALTH

(a) The director of health care reform and the commissioners of mental health, of health, and of Vermont health access and the Green Mountain Care board or designees shall ensure that the redesign of the mental health delivery system established in this act is an integral component of the health care reform efforts established in 3 V.S.A. § 2222a. Specifically, the director,

commissioners, and board shall confer on planning efforts necessary to ensure that the following initiatives are coordinated and advanced:

(1) any health information technology projects;

(2) the integration of health insurance benefits in the Vermont health benefit exchange to the extent feasible under federal law;

(3) the integration of coverage under Green Mountain Care;

(4) the Blueprint for Health;

(5) the reformation of payment systems for health services to the extent allowable under federal law or under federal waivers; and

(6) other initiatives as necessary.

(b) The department of banking, insurance, securities, and health care administration shall ensure that private payers are educated about their obligation to reimburse providers for less restrictive and less expensive alternatives to hospitalization.

Sec. 6. PEER SERVICES

The commissioner of mental health is authorized to contract for new peer services and to expand existing programs managed by peers that provide support to individuals living with or recovering from mental illness at an annual estimated cost of $1,000,000.00. Peer services shall be aimed at helping individuals with mental illness achieve recovery through improved physical and mental health, increased social and community connections and

supports, and the avoidance of mental health crises and psychiatric hospitalizations. The commissioner of mental health shall:

(1) Establish a warm line or warm lines accessible statewide which shall be staffed at all times to ensure that individuals with a mental health condition have access to peer support;

(2) Establish new peer services focused on reducing the need for inpatient services;

(3) Improve the quality, infrastructure, and workforce development of peer services; and

(4) Develop peer-run transportation services.

Sec. 7. COMMUNITY SERVICES

To improve existing community services and to create new opportunities for community treatment, the commissioner of mental health is authorized to:

(1) Improve emergency responses, mobile support teams, noncategorical case management, adult outpatient services, and alternative residential opportunities at designated agencies with an estimated annual cost of $8,000,000.00.

(A) Each designated agency shall provide the scope and category of services most responsive to the needs of designated areas, as determined by the commissioner of mental health.

(B) Designated agencies shall work collaboratively with law enforcement officials, local hospitals, and peers to integrate services and expand treatment opportunities for individuals living with or recovering from mental illness.

(2) Establish at least four additional short-term crisis beds in designated agencies located within underserved areas of the state with a total estimated annual cost of $1,000,000.00 for the purpose of preventing or diverting individuals from hospitalization when clinically appropriate.

(3) Establish a safe, voluntary five-bed residence with an estimated cost of $1,000,000.00 for individuals seeking to avoid or reduce reliance on medication or having an initial episode of psychosis. The residence shall be peer supported, unlocked, and noncoercive, and treatment shall be focused on a nontraditional, interpersonal, and psychosocial approach, with minimal use of psychotropic medications to facilitate recovery in individuals seeking an alternative to traditional hospitalization.

(4) Provide housing subsidies at an estimated annual cost of $600,000.00 to individuals living with or recovering from mental illness for the purpose of fostering stable and appropriate living conditions. Receipt of housing subsidies shall not require an agreement to accept certain services as a condition of assistance.

Sec. 8. INTENSIVE RESIDENTIAL RECOVERY FACILITIES

(a) To support the development of intensive residential recovery facilities, the commissioner of mental health is authorized to establish:

(1) Fifteen beds in northwestern Vermont with an estimated annual cost of $3,200,000.00.

(2) Eight beds located in southeastern Vermont with an estimated annual cost of $2,400,000.00.

(3) Eight beds located in either central or southwestern Vermont or both with an estimated annual cost of $1,700,000.00.

(b) Notwithstanding 18 V.S.A. § 9435(b), all facilities funded under subsection (a) of this section shall be subject to the certificate of approval process, which shall take into consideration the recommendations of a panel of stakeholders appointed by the commissioner to review each proposal and conduct a public hearing.

Sec. 9. INPATIENT HOSPITAL BEDS

(a) To replace the services provided at the Vermont State Hospital, the department of mental health shall oversee the delivery of emergency examination and involuntary inpatient treatment services at four acute inpatient hospitals throughout the state:

(1) Contingent upon receipt of certificates of need pursuant to 18 V.S.A. chapter 221, subchapter 5, and execution of contracts with the department of

mental health that meet the requirements of subdivision (2) of this subsection, a 14-bed unit within the Brattleboro Retreat and a six-bed unit within Rutland Regional Medical Center shall be established.

(2) Initial contract terms for the 14-bed unit within the Brattleboro Retreat and the six-bed unit within Rutland Regional Medical Center shall require participation in the no refusal system for at least four years and until the facility has recouped its initial investment. Thereafter, the state shall retain the option to renew its contract. Contracts referenced in subdivision (1) of this subsection shall apply to participating hospitals, notwithstanding their status as designated hospitals, and shall contain the following requirements:

(A) Funding shall be based on the capacity to treat patients with high acuity levels;

(B) Units shall be managed as part of a statewide no refusal system;

(C) Reimbursement by the state shall cover agreed costs for enhanced programming and staffing;

(D) Units shall be managed to ensure access to peer supports; and

(E) Participating hospitals shall maintain a stakeholder advisory group with open membership to ensure high quality and appropriate levels of care.

(3) Provided that the conditions of subdivisions (1) and (2) of this subsection are met, the following capital and annual state costs are estimated:

(A) To renovate and operate a 14-bed unit within the Brattleboro Retreat:

Capital costs $4,000,000.00

Annual operating cost $7,500,000.00

(B) To renovate and operate a six-bed unit within Rutland Regional Medical Center:

Capital costs $6,000,000.00

Annual operating cost $3,000,000.00

(b)(1) The department of buildings and general services shall design and build a 25-bed state-managed hospital in central Vermont contiguous to the Central Vermont Medical Center.

Capital costs estimated at $25,000,000.00

Annual operating cost estimated at $12,500,000.00

(2) To foster coordination between the judiciary and mental health systems, the state-managed facility shall contain:

(A) adequate capacity to accept individuals receiving a court order of hospitalization pursuant to 18 V.S.A. chapter 181; and

(B) a private room used and outfitted for the purpose of judicial proceedings.

(c)(1) The commissioner is authorized to contract for seven to 12 involuntary acute inpatient beds at Fletcher Allen Health Care until the

state-managed hospital described in subsection (b) of this section is operational, to cover the increased cost of care, at an estimated annual cost of $8,000,000.00; and

(2) If a viable setting is identified by the commissioner and licensed by the department of health, the commissioner is authorized to provide acute inpatient services at a temporary location until the state-managed hospital described in subsection (b) of this section is operational. The department shall pursue Medicare and Medicaid certification for any such hospital or facility.

(d) To the extent amounts of potential funding from various sources are not clear upon passage of this act, the legislative intent for funding the capital costs of this section is first through insurance funds that may be available for these purposes; second through the Federal Emergency Management Agency funds that may be available for these purposes; third through a rate payment with clearly defined terms of services; and last with state capital or general funds.

Sec. 10. SECURE RESIDENTIAL RECOVERY PROGRAM

(a) The commissioner of mental health is authorized to establish and oversee a secure five-bed residential facility for individuals no longer requiring acute inpatient care, but who remain in need of treatment within a secure setting for an extended period of time. The program shall be the least restrictive and most integrated setting for each of the individual residents:

Capital costs estimated at $1,800,000.00

Annual operating cost estimated at $2,000,000.00

(b) The opening of the facility described in subsection (a) of this section is contingent upon the passage of necessary statutory amendments authorizing judicial orders for commitment to such a facility, which shall parallel or be included in 18 V.S.A. § 7620 (related to applications for continuation of involuntary treatment), and shall include the same level of statutory protections for the legal rights of the residents as provided for individuals at inpatient facilities.

* * * Vermont Employees Retirement System * * *

Sec. 11. 3 V.S.A. § 455 is amended to read:

§ 455. DEFINITIONS

(a) Unless a different meaning is plainly required by the context, the following words and phrases as used in this subchapter shall have the following meanings:

* * *

(28) "Successor in interest" means the state-managed mental health hospital that provides acute inpatient care and replaces the Vermont State Hospital.

Sec. 12. 3 V.S.A. § 459(d)(2)A) is amended to read:

(2)(A) Upon early retirement, a group F member, except facility employees of the department of corrections and department of corrections

employees who provide direct security and treatment services to offenders under supervision in the community and Woodside facility employees, shall receive an early retirement allowance which shall be equal to the normal retirement allowance reduced by one-half of one percent for each month the member is under age 62 at the time of early retirement. Group F members who have 20 years of service as facility employees of the department of corrections, as department of corrections employees who provide direct security and treatment services to offenders under supervision in the community or as Woodside facility employees or as Vermont ~~state hospital~~ State Hospital employees, or as employees of its successor in interest, who provide direct patient care shall receive an early retirement allowance which shall be equal to the normal retirement allowance at age 55 without reduction; provided the 20 years of service occurred in one or more of the following capacities as an employee of the department of corrections, Woodside facility~~[~~, or the Vermont ~~state hospital]~~ State Hospital, or its successor in interest: facility employee, community service center employee, or court and reparative service unit employee.

* * * Executive: Human Services * * *

Sec. 13. 3 V.S.A. § 3089 is amended to read:

§ 3089. DEPARTMENT OF MENTAL HEALTH

The department of mental health is created within the agency of human services as the successor to and the continuation of the division of mental health services of the department of health. The department of mental health shall be responsible for the operation of the Vermont ~~state hospital~~ State Hospital, or its successor in interest as defined in subdivision 455(28) of this title.

* * * Crimes and Criminal Procedure: Escape * * *

Sec. 14. 13 V.S.A. § 1501 is amended to read:

§ 1501. ESCAPE AND ATTEMPTS TO ESCAPE

* * *

(b) A person who, while in lawful custody:

* * *

(4) escapes or attempts to escape from the Vermont ~~state hospital~~ State Hospital, or its successor in interest, when confined by court order pursuant to chapter 157 of ~~Title 13 or chapter 199 of Title 18~~ this title, or when transferred there pursuant to ~~section~~ 28 V.S.A. § 703 ~~of Title 28~~ and while still serving a sentence, shall be imprisoned for not more than five years or fined not more than $1,000.00, or both.

* * *

(d) As used in this section, "successor in interest" shall mean the state-managed mental health hospital that provides acute inpatient care and replaces the Vermont State Hospital.

* * * Crimes and Criminal Procedure: Insanity as a Defense * * *

Sec. 15. 13 V.S.A. § 4815 is amended to read:

§ 4815. PLACE OF EXAMINATION; TEMPORARY COMMITMENT

* * *

(g)(1) Inpatient examination at the ~~state hospital~~ Vermont State Hospital, or its successor in interest, or a designated hospital. The court shall not order an inpatient examination unless the designated mental health professional determines that the defendant is a person in need of treatment as defined in 18 V.S.A. § 7101(17).

* * *

(3) An order for inpatient examination shall provide for placement of the defendant in the custody and care of the commissioner of mental health.

(A) If a Vermont ~~state hospital~~ State Hospital psychiatrist, or a psychiatrist of its successor in interest, or a designated hospital psychiatrist determines that the defendant is not in need of inpatient hospitalization prior to admission, the commissioner shall release the defendant pursuant to the terms governing the defendant's release from the commissioner's custody as ordered

by the court. The commissioner of mental health shall ensure that all individuals who are determined not to be in need of inpatient hospitalization receive appropriate referrals for outpatient mental health services.

(B) If a Vermont ~~state hospital~~ State Hospital psychiatrist, or a psychiatrist of its successor in interest, or designated hospital psychiatrist determines that the defendant is in need of inpatient hospitalization:

(i) The commissioner shall obtain an appropriate inpatient placement for the defendant at the Vermont ~~state hospital~~ State Hospital, or its successor in interest, or a designated hospital and, based on the defendant's clinical needs, may transfer the defendant between hospitals at any time while the order is in effect. A transfer to a designated hospital is subject to acceptance of the patient for admission by that hospital.

(ii) The defendant shall be returned to court for further appearance on the following business day if the defendant is no longer in need of inpatient hospitalization, unless the terms established by the court pursuant to subdivision (2) of this section permit the defendant to be released from custody.

* * *

(i) As used in this section, "successor in interest" shall mean the state-managed mental health hospital that provides acute inpatient care and replaces the Vermont State Hospital.

* * * Elections * * *

Sec. 16. 17 V.S.A. § 2103 is amended to read:

§ 2103. DEFINITIONS

As used in this title, unless the context or a specific definition requires a different reading:

* * *

(38) "State institution" means the Vermont State Hospital, or its successor in interest, correctional facilities, and other similar public institutions, established or funded, or both, by public funds within the state of Vermont, not including educational institutions.

* * *

(43) "Successor in interest" means the state-managed mental health hospital that provides acute inpatient care and replaces the Vermont State Hospital.

* * * General Provisions (pertaining to Mental Health) * * *

Sec. 17. 18 V.S.A. § 7101 is amended to read:

§ 7101. DEFINITIONS

As used in this part of this title, the following words, unless the context otherwise requires, shall have the following meanings:

* * *

(26) "No refusal system" means a system of hospitals and intensive residential recovery facilities under contract with the department of mental health that provides high intensity services, in which the facilities shall admit any individual for care if the individual meets the eligibility criteria established by the commissioner in contract.

(27) "Participating hospital" means a hospital under contract with the department of mental health to participate in the no refusal system.

(28) "Successor in interest" means the state-managed mental health hospital that provides acute inpatient care and replaces the Vermont State Hospital.

Sec. 18. 18 V.S.A. § 7108 is amended to read:

§ 7108. CANTEENS

The ~~superintendents~~ chief executive officer of the Vermont State Hospital ~~and the Training School~~, or its successor in interest, may conduct a canteen or commissary, which shall be accessible to patients, ~~students,~~ employees, and visitors of the ~~state hospital and training school~~ Vermont State Hospital, or its successor in interest, at designated hours and shall be operated by employees of the hospital ~~and the school~~. A revolving fund for this purpose is authorized. The salary of an employee of the hospital ~~or training school~~ shall be charged against the canteen fund. Proceeds from sales may be used for operation of the canteen and the benefit of the patients~~, students~~ and employees of the hospital

~~or training school~~ under the direction of the ~~superintendents~~ chief executive officer and subject to the approval of the commissioner. All balances of such funds remaining at the end of any fiscal year shall remain in such fund for use during the succeeding fiscal year. An annual report of the status of the funds shall be submitted to the commissioner.

Sec. 19. 18 V.S.A. § 7110 is amended to read:

§ 7110. CERTIFICATION OF MENTAL ILLNESS

A certification of mental illness by a licensed physician required by section 7504 of this title shall be made by a board eligible psychiatrist, a board certified psychiatrist or a resident in psychiatry, under penalty of perjury. In areas of the state where board eligible psychiatrists, board certified psychiatrists or residents in psychiatry are not available to complete admission certifications to the Vermont ~~state hospital~~ State Hospital, or its successor in interest, the commissioner may designate other licensed physicians as appropriate to complete certification for purposes of section 7504 of this title.

* * * The Department of Mental Health * * *

Sec. 20. 18 V.S.A. § 7205 is amended to read:

§ 7205. SUPERVISION OF INSTITUTIONS

(a) The department of mental health shall operate the Vermont State Hospital, or its successor in interest, and shall be responsible for patients

receiving involuntary treatment ~~at a hospital designated by the department of mental health~~.

(b) The commissioner of the department of mental health, in consultation with the secretary, shall appoint a chief executive officer of the Vermont State Hospital, or its successor in interest, to oversee the operations of the hospital. The chief executive officer position shall be an exempt position.

Sec. 21. 18 V.S.A. § 7206 is amended to read:

§ 7206. RECOMMENDATIONS AND REPORTS

(a) The department shall from time to time study comprehensively the mental health problems of the state, develop programs for mental health services, and recommend as to the integration within the department of any other related agencies and services as it considers proper. It shall also periodically review and evaluate the mental health programs.

(b) Notwithstanding 2 V.S.A. § 20(d), the department of mental health shall report annually on or before January 15 to the senate committee on health and welfare and house committee on human services regarding the extent to which individuals with mental health conditions receive care in the most integrated and least restrictive setting available. The report shall address:

(1) Utilization of services across the continuum of mental health services;

(2) Adequacy of the capacity at each level of care across the continuum of mental health services;

(3) Patient experience of care and consumer satisfaction; and

(4) Clinical, social, and legal outcomes.

Sec. 22. 18 V.S.A. § 7208 is amended to read:

§ 7208. DEFINITIONS

As used in this chapter:

(1) "Adult foster care" shall have the same meaning as in 33 V.S.A. § 502.

(2) "Home care services" shall have the same meaning as in 33 V.S.A. § 502.

(3) "Intensive residential recovery facility" means a licensed program under contract with the department of mental health that provides a safe, therapeutic, recovery-oriented residential environment to care for individuals with one or more mental health conditions who need intensive clinical interventions to facilitate recovery in anticipation of returning to the community. This facility shall be for individuals not in need of acute inpatient care and for whom the facility is the least restrictive and most integrated setting.

* * * The Commissioner of Mental Health * * *

Sec. 23. 18 V.S.A. § 7401 is amended to read:

§ 7401. POWERS AND DUTIES

Except insofar as this part of this title specifically confers certain powers, duties, and functions upon others, the commissioner shall be charged with its administration. The commissioner may:

* * *

(5) supervise the care and treatment of ~~patients at the Retreat in the same manner and with the same authority that he supervises patients at the Vermont State Hospital~~ individuals within his or her custody;

* * *

(16) contract with accredited educational or health care institutions for psychiatric services at the Vermont State Hospital, or its successor in interest;

* * *

* * * Admission Procedures * * *

Sec. 24. 18 V.S.A. § 7511(a) is amended to read:

(a) The commissioner shall ensure that all reasonable and appropriate measures consistent with public safety are made to transport or escort a person subject to this chapter to and from any inpatient setting, including escorts within a designated hospital or the Vermont ~~state hospital~~ State Hospital, or its

successor in interest, or otherwise being transported under the jurisdiction of the commissioner in any manner which:

(1) prevents physical and psychological trauma;

(2) respects the privacy of the individual; and

(3) represents the least restrictive means necessary for the safety of the patient.

Sec. 25. 18 V.S.A. § 7703 is amended to read:

§ 7703. TREATMENT

(a) Outpatient or partial hospitalization shall be preferred to inpatient treatment. Emergency involuntary treatment shall be undertaken only when clearly necessary. Involuntary treatment shall be utilized only if voluntary treatment is not possible.

(b) The department shall establish minimum standards for adequate treatment as provided in this section, including requirements that law enforcement is not used as a primary source of inpatient security.

* * * Transfer of Patients * * *

Sec. 26. 18 V.S.A. § 7901 is amended to read:

§ 7901. INTRASTATE TRANSFERS

The commissioner may authorize the transfer of patients between the Vermont ~~state hospital~~ State Hospital, or its successor in interest, and designated hospitals if the commissioner determines that it would be consistent

with the medical needs of the patient to do so. Whenever a patient is transferred, written notice shall be given to the patient's ~~attorney,~~ legal guardian or agent, if any, ~~spouse, parent, or parents, or, if none be known, to any other interested party in that order~~, and any other person with the consent of the patient. In all such transfers, due consideration shall be given to the relationship of the patient to his or her family, legal guardian, or friends, so as to maintain relationships and encourage visits beneficial to the patient. Due consideration shall also be given to the separation of functions and to the divergent purposes of the Vermont ~~state hospital~~ State Hospital, or its successor in interest, and designated hospitals. No patient may be transferred to a correctional institution without the order of a court of competent jurisdiction. No patient may be transferred to a designated hospital outside the no refusal system unless the head of the hospital or his or her designee first accepts the patient.

* * * Support and Expense * * *

Sec. 27. 18 V.S.A. § 8101(b) is amended to read:

(b) The commissioner shall promulgate, pursuant to 3 V.S.A. chapter 25 ~~of Title 3~~, regulations which set forth in detail the levels of income, resources, expenses, and family size at which persons are deemed able to pay given amounts for the care and treatment of a patient, and the circumstances, if any, under which the rates of payment so established may be waived or modified.

A copy of the payment schedule so promulgated shall be made available in the admissions office ~~and in the office of each supervisor~~ at the ~~state hospital~~ Vermont State Hospital, or its successor in interest.

Sec. 28. 18 V.S.A. § 8105 is amended to read:

§ 8105. COMPUTATION OF CHARGE FOR CARE AND TREATMENT

The charge for the care and treatment of a patient at the Vermont ~~state hospital~~ State Hospital, or its successor in interest, shall be established at least annually by the commissioner. The charge shall reflect the current cost of the care and treatment, including depreciation and overhead, for the Vermont ~~state hospital~~ State Hospital, or its successor in interest. Depreciation shall include but not be limited to costs for the use of the plant and permanent improvements, and overhead shall include but not be limited to costs incurred by other departments and agencies for the operation of the hospital. Accounting principles and practices generally accepted for hospitals shall be followed by the commissioner in establishing the charges.

Sec. 29. 18 V.S.A. § 8010 is amended to read:

§ 8010. VOLUNTARY PATIENTS; DISCHARGE; DETENTION

~~(a) If a voluntary patient gives notice in writing to the head of the hospital of a desire to leave the hospital, he or she shall promptly be released unless he or she agreed in writing at the time of his admission that his or her release could be delayed.~~

~~(b) In that event and if the head of the hospital determines that the patient is a patient in need of further treatment, the head of the hospital may detain the patient for a period not to exceed four days from receipt of the notice to leave. Before expiration of the four-day period the head of the hospital shall either release the patient or apply to the family division of the superior court in the unit in which the hospital is located for the involuntary admission of the patient. The patient shall remain in the hospital pending the court's determination of the case.~~

~~(c) If the patient is under 18 years of age, the notice to leave may be given by the patient or his r her attorney or the person who applied for admission, provided the minor consents thereto.~~ [Repealed.]

* * * Professions and Occupations: Nursing * * *

Sec. 30. 26 V.S.A. § 1583 is amended to read:

§ 1583. EXCEPTIONS

This chapter does not prohibit:

* * *

(6) ~~The work and duties of psychiatric technicians and other care attendants employed in the Vermont state hospital at Waterbury. The agency of human services shall consult with the board regarding standards for the education of the technicians and care attendants.~~

~~(7)~~ The work and duties of attendants in attendant care services programs.

~~(8)~~(7) The practice of any other occupation or profession licensed under the laws of this state.

~~(9)~~(8) The providing of care for the sick in accordance with the tenets of any church or religious denomination by its adherents if the individual does not hold himself or herself out to be a registered nurse, licensed practical nurse, or licensed nursing assistant and does not engage in the practice of nursing as defined in this chapter.

* * * Public Institutions and Corrections: Juveniles * * *

Sec. 31. 28 V.S.A. § 1105 is amended to read:

§ 1105. TRANSFER OF JUVENILES TO STATE HOSPITAL

~~The transfer of any child committed to the custody of the commissioner from a facility of or supported by the department to the state hospital shall be conducted pursuant to the same procedures established for the transfer of adult inmates by sections 703-706 of this title.~~ [Repealed.]

* * * Regulation of Long-Term Care Facilities * * *

Sec. 32. 33 V.S.A. § 7102 is amended to read:

§ 7102. DEFINITIONS

For the purposes of this chapter:

* * *

(11) "Therapeutic community residence" means a place, however named, excluding ~~a hospital~~ hospitals as defined by statute ~~or the Vermont state hospital~~ which provides, for profit or otherwise, short-term individualized treatment to three or more residents with major life adjustment problems, such as alcoholism, drug abuse, mental illness, or delinquency.

* * *

Sec. 33. REPORTS

On or before January 15, 2013, the department of mental health shall report to the senate committee on health and welfare and the house committee on human services on issues and protections relating to decentralizing high intensity inpatient mental health care. The commissioner of mental health shall:

(1) Recommend whether any statutory changes are needed to preserve the rights afforded to patients in the Vermont State Hospital. In so doing, the commissioner shall consider 18 V.S.A. §§ 7705 and 7707, the Vermont Hospital Patient Bill of Rights as provided in 18 V.S.A. § 1852, the settlement order in Doe, et al. v. Miller, et al., docket number S-142-82-Wnc dated May 1984, and other state and federal regulatory and accreditation requirements related to patient rights.

(2) Work with designated hospitals and stakeholders to develop a process to ensure public involvement with policy development relevant to individuals in the care and custody of the commissioner.

(3) Develop consistent definitions and measurement specifications for measures relating to seclusion and restraint and other key indicators, in collaboration with the designated hospitals. The commissioner shall prioritize the use of measures developed by national organizations such as the Joint Commission and the Centers for Medicare and Medicaid Services.

(4) Report on the efficacy of the department of mental health's housing subsidies program on the status of stable housing.

Sec. 34. APPROPRIATIONS

To continue the training program established in Sec. 13 of No. 80 of the Acts of the 2003 Adj. Sess. (2004) (amending Sec. 57 of No. 66 of the Acts of 2003), for assisting selected law enforcement officers during the performance of their duties, in their interactions with persons exhibiting mental health conditions, $20,000.00 is appropriated from the general fund to the office of the attorney general.

(1) The office of the attorney general, in consultation with the Vermont coalition for disability rights and other organizations, shall implement this training program.

(2) By January 15 of each year and until funds are fully expended, the attorney general shall submit to the secretary of administration and the house and senate committees on appropriations a report summarizing how the funds have been used and how the trainings have progressed.

(3) Unexpended funds shall be carried forward and used for the purpose of this section in future years.

* * * Fiscal Year 2012 Appropriations * * *

Sec. 35. Sec. B.301 of No. 63 of the Acts of 2011 (FY12 Big Bill), as amended by Sec. X of H.558 of 2012 (FY12 Budget Adjustment) is amended to read:

Sec. B.301 Secretary's office - global commitment

Grants	~~1,080,785,264~~	1,107,604,567
Total	~~1,080,785,264~~	1,107,604,567
Source of funds		
General fund	~~139,267,121~~	138,357,833
Special funds	~~18,630,961~~	19,052,361
Tobacco fund	36,978,473	36,978,473
State health care resources fund	~~221,579,040~~	232,795,524
Catamount fund	~~23,948,700~~	24,226,979
Federal funds	~~639,692,834~~	655,505,262
Interdepartmental transfers	688,135	688,135

Total	~~1,080,785,264~~	1,107,604,567

Sec. 36. Sec. B.314 of No. 63 of the Acts of 2011 (FY12 Big Bill), as amended by Sec. X of H.558 of 2012 (FY12 Budget Adjustment) is amended to read:

Sec. B.314 Mental health - mental health

Personal services	~~5,486,339~~	5,482,633
Operating expenses	~~1,117,984~~	1,040,984
Grants	~~124,369,250~~	139,483,645
Total	~~130,973,573~~	146,007,262
Source of funds		
General fund	~~811,295~~	961,295
Special funds	6,836	6,836
Federal funds	~~6,555,971~~	6,552,154
Global Commitment fund	~~123,579,471~~	138,466,977
Interdepartmental transfers	20,000	20,000
Total	~~130,973,573~~	146,007,262

Sec. 37. Sec. B.315 of No. 63 of the Acts of 2011 (FY 12 Big Bill), as amended by Sec. X of H.558 of 2012 (FY12 Budget Adjustment) is amended to read:

Sec. B.315 Mental health – Vermont state hospital

Personal services	~~20,479,188~~	20,228,969

Operating expenses	~~2,056,312~~	1,394,734
Grants	82,335	82,335
Total	~~22,617,835~~	21,706,038
Source of funds		
General fund	~~17,016,067~~	5,963,977
~~Special funds~~	~~835,486~~	0
Federal funds	~~213,564~~	93,117
Global Commitment fund	~~4,252,718~~	15,648,944
~~Interdepartmental transfers~~	~~300,000~~	0
Total	~~22,617,835~~	21,706,038

Sec. 38. EFFECTIVE DATES

This act shall take effect on passage, except for Sec. 34 which shall take effect on July 1, 2012.