

To: Members, House Human Services
From: Laura Ziegler
Re: S.287; distress and insult to human dignity

I am requesting that the Committee review and reject language added to S.287 by House Judiciary in response to brief testimony and proposed language concerning dosage levels, long-acting injections and nasogastric intubation.

Current law requires an application for involuntary medication to specify “any proposed medication, including the method, dosage *range*, and length of administration for each specific medication.” Adding “permitted” provides no check whatsoever on upper dosage levels. It is meaningless comfort language that obscures the absence of standards.

No additional protection has been added to S.287 concerning forcible administration of psychotropic drugs by nasogastric intubation. If anything House Judiciary’s amending language could be construed as an *endorsement* of what is arguably outside the realm of authorized methods.

In 1999 administrative rules were adopted pursuant 18 V.S.A. § 7628, which require DMH to “develop and adopt by rule a strict protocol to ***insure the health, safety, dignity and respect*** of patients subject to administration of involuntary psychiatric medications in any designated hospital. This protocol shall be followed by all designated hospitals administering involuntary psychiatric medications.” The issue of administration by nasogastric intubation was raised during the rule making process. The adopted rule specifies methods of delivery, *which include only oral and injectable involuntary medication*.

Despite its own rule, DMH recently sought forcible nasogastric intubation as a route of involuntary administration (In re ____, 132-10-13 Cnmh-im). The court called it “drastic and unacceptable,” explaining that: “If permitted, ____ would have to be restrained by hospital staff to allow the naso-gastric tube insertion through her nose down to her stomach. Dr. Lewis admitted that the risks associated with the procedure include the inadvertent injection into the lungs, the inadvertent perforation of the esophagus, and choking. Since the patient would have to remain still during the procedure, it is possible that five-point restraints would have to be used, and the procedure would have to be repeated on a daily basis unless or until the patient agreed to oral medication.”

What one court finds unacceptable, another may endorse. People against whom the state seeks involuntary medication orders — all categorically vulnerable adults — should not be threatened with, much less subject to, such an intrusive and unconscionable intervention. If the legislature is unwilling to affirmatively protect them, at least refrain from recognizing forcible administration by nasogastric intubation as permissible and limited only by a court’s discretion.

I have Ed Paquin’s permission to state Disability Rights Vermont supports this letter.