

Sec. X. 18 V.S.A. § 7256 is amended to read:
§ 7256. REPORTING REQUIREMENTS

Notwithstanding 2 V.S.A. § 20(d), the ~~department of mental health~~ Department of Mental Health shall report annually on or before January 15 to the ~~senate committee on health and welfare and the house committee on human services~~ Senate Committee on Health and Welfare and the 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) Individual experience of care and satisfaction;
- (4) Individual recovery in terms of clinical, social, and legal outcomes; ~~and~~
- (5) Performance of the ~~state's~~ State's mental health system of care as compared to nationally recognized standards of excellence;
- (6) Ways in which patient autonomy and self-determination are maximized within the context of involuntary treatment and medication;
- (7) Outcome measures and other data on individuals for whom petitions for involuntary medication are filed; and
- (8) Progress on alternative treatment options across the system of care for individuals seeking to avoid or reduce reliance on medications, including supported withdrawal from medications.

Sec. X. 18 V.S.A. § 7257 is amended to read:
§ 7257. REPORTABLE ADVERSE EVENTS

allocate sufficient funds to maintain the ~~office of the mental health care ombudsman~~ Office of the Mental Health Care Ombudsman.

(d) The Department of Mental Health shall provide a copy of the certificate of need for all emergency involuntary procedures performed on a person in the custody or interim custody of the Commissioner to the Office of the Mental Health Care Ombudsman on a monthly basis.

Sec. 11. 18 V.S.A. § 7626 is amended to read:

§ 7626. ~~DURABLE POWER OF ATTORNEY~~ ADVANCE DIRECTIVE

(a) If a person who is the subject of a petition filed under section 7624 of this title has executed a ~~durable power of attorney~~ an advance directive in accordance with the provisions of ~~18 V.S.A. chapter 111~~ chapter 231 of this title, ~~subchapter 2 for health care,~~ the ~~court~~ Court shall suspend the hearing and enter an order pursuant to subsection (b) of this section, if the ~~court~~ Court determines that:

- (1) the person is refusing to accept psychiatric medication;
- (2) the person is not competent to make a decision regarding the proposed treatment; and
- (3) the decision regarding the proposed treatment is within the scope of the valid, duly executed ~~durable power of attorney for health care~~ advance directive.

(b) An order entered under subsection (a) of this section shall authorize the ~~commissioner~~ Commissioner to administer treatment to the person, including involuntary medication in accordance with the direction set forth in the ~~durable power of attorney~~ advance directive or provided by the ~~health care agent~~ agent or agents acting within the scope of authority granted by the ~~durable power of attorney~~ advance directive. If hospitalization is necessary to effectuate the proposed treatment, the ~~court~~ Court may order the person to be hospitalized.

Sec. X. 18 V.S.A. § 9701(21) is amended to read:

(21) “Ombudsman” means an individual appointed as a long-term care ombudsman under the Program contracted through the Department of Disabilities, Aging, and Independent Living pursuant to the Older Americans Act of 1965, as amended or the agency designated as the the Office of the Mental Health Care Ombudsman Pursuant to section 7259 of this title.

Sec. X. 18 V.S.A. § 9703 is amended to read:

§ 9703. FORM AND EXECUTION

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(d) An advance directive shall not be effective if, at the time of execution, the principal is being admitted to or is a resident of a nursing home as defined in 33 V.S.A. § 7102 or a residential care facility unless an ombudsman, a patient representative, a recognized member of the clergy, an attorney licensed to practice in this state, or a probate division of the superior court designee signs a statement affirming that he or she has explained the nature and effect of the advance directive to the principal. It is the intent of this subsection to ensure that residents of nursing homes and residential care facilities are willingly and voluntarily executing advance directives.

(e) An advance directive shall not be effective if, at the time of execution, the principal is being admitted to or is a patient in a hospital, unless an ombudsman, a patient representative, a recognized member of the clergy, an attorney licensed to practice in this ~~state~~ State, a probate division of the superior court designee, or an individual designated under subsection 9709(c) of this title by the hospital signs a statement that he or she has explained the nature and effect of the advance directive to the principal.

* * *

Probate Division of the Superior Court designee shall sign a statement affirming that he or she has explained the nature and effect of the provision to the principal, and that the principal appeared to understand the explanation and be free from duress or undue influence.

(ii) If the principal is a patient in a hospital when the provision is executed, the ombudsman, a patient representative, recognized member of the clergy, attorney, or ~~probate division of the superior court~~ Probate Division of the Superior Court designee shall be independent of the hospital and not an interested individual.

(E) The provision shall specify the treatments to which it applies, and shall include an explicit statement that the principal desires or does not desire the proposed treatments even over the principal's objection at the time treatment is being offered or withheld. The provision may include a statement expressly granting to the health care agent the authority to consent to the principal's voluntary hospitalization, ~~and to agree that the principal's discharge from the hospital may be delayed, pursuant to section 8010 of this title.~~

(F) The provision shall include an acknowledgment that the principal is knowingly and voluntarily waiving the right to refuse or receive treatment at a time of incapacity, and that the principal understands that a clinician will determine capacity.

(2) A provision executed in compliance with subdivision (1) of this subsection shall be effective when the principal's clinician and a second clinician have determined pursuant to subdivision 9706(a)(1) of this title that the principal lacks capacity.

(3) If an advance directive contains a provision executed in compliance with this section:

(A) ~~The~~ Except as provided in subdivision (B) of this subdivision (3), the agent may, in the event the principal lacks capacity, make health care decisions over the principal's objection, provided that the decisions are made in compliance with subsection 9711(d) of this title.

(5) an individual or entity identified in an advance directive, pursuant to subdivision 9702(a)(10) of this title, as authorized to bring an action under this section.