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Date: June 20, 2013

To: Mental Health Oversight Committee

From: Ed Paquin, DRVT, Vermont Mental Health Care Ombudsman

In Re.: Observations on Act 79 Implementation

Here are some observations and concerns that DRVT would like to present as the Committee monitors the progress made in implementing Act 79.

Community Based system of care:

DRVT believes that the system remains under great strain due to lack of resources in general and in that many elements of the new system have not yet been fully implemented, however many good improvements, mostly localized, have been occurring in areas such as:

- Police social worker/mobile mental health response capacity has increased in many areas of the state,
- There has been more cross training and familiarizing with each other between MH staff, law enforcement and legal staff,
- More step-down, residential-type programs are opening up, most recently the Middlesex Secure Recovery Residence.

Remaining concerns we would highlight are:

- A lack of masters level mental health staff to do the mobile crisis work,
- A lack of consistent capacity, such as alternative respite staffed housing, to provide alternatives to involuntary placement in an Emergency Department or jail for people with mental health-based needs,
- Medical clearance capacity to avoid ED's, and
- More peer support capacity!

DRVT is the protection and advocacy system for the State of Vermont.

DRVT is the Vermont Mental Health Care Ombudsman.

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Inpatient issues:

- The system remains under great strain, also due to a lack of resources. A lack of psychiatrists, lack of inpatient beds, lack of appropriate levels of staffing is now leading to:
- Prolonged waits for beds, keeping patients in prison cells or emergency rooms for days,
- Anecdotally, we believe that prolonged stays in hospital units lead to increased injuries to patients and staff,
- DRVT questions what seems to be use of force that is inappropriate as inconsistent with the minimum standard set in Act 79,
- We believe that the new EIP rules proposed by the Department of Mental Health will greatly reduce the protections patients have against unnecessary uses of force by allowing much lower paid, less qualified people to order forced medications than was the case at the VSH - this at a time when lack of capacity has increased the risk and the actual rate of unnecessary uses of force, as is exemplified by the problems the Retreat is having with CMS currently.

DRVT would also observe that the Department of Corrections remains of great concern, mainly in terms of the continued segregation of prisoners with mental health needs that are not being adequately treated. This causes prisoners to be in more isolated settings and in their being held beyond their minimum sentences due to disability related needs. We urge the legislature and DOC to consider prompt action to remedy problems relating to the need for more capacity to effectively stabilize and then treat mental health problems for prisoners sufficient to prevent them from being isolated and incarcerated longer than their peers who do not have similar disabilities.

The Mental Health Oversight Committee would be well served by hearing from individuals with lived experience about the need to protect patients' rights now that the system is being implemented mostly by private hospitals. We would add that wherever we work we hear that there are open positions for want of qualified psychiatrists and individuals qualified to staff mobile crisis response. We hope that attention can be put on these needs and that peers can be mobilized as well in all parts of the system.