

1 H.241

2 Introduced by Committee on Human Services

3 Date:

4 Subject: Human services; mental health; emergency involuntary procedures

5 Statement of purpose of bill as introduced: This bill proposes to amend the  
6 Department of Mental Health's rulemaking authority regarding emergency  
7 involuntary procedures.

8 An act relating to rulemaking on emergency involuntary procedures

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

10 ~~Sec. 1. 2012 Acts and Resolves No. 79, Sec. 33a is amended to read.~~

11 Sec. 33a. RULEMAKING

12 ~~On or before September 1, 2012, the commissioner of mental health shall~~  
13 ~~initiate a rulemaking process that establishes standards~~ The Commissioner of  
14 Mental Health shall adopt rules pursuant to 3 V.S.A. chapter 25 on emergency  
15 involuntary procedures for adults in the custody or temporary custody of the  
16 Commissioner that meet or exceed and are consistent with standards set by the  
17 Centers for Medicare and Medicaid Services ~~and the Joint Commission for~~  
18 regarding the use and reporting of the emergency involuntary procedures of  
19 seclusion or, physical restraint, and chemical restraint on individuals within the  
20 custody of the commissioner and that require the personnel performing those

1 ~~emergency involuntary procedures to receive training and certification on the~~  
2 use of these procedures. Standards established by rule shall be consistent with  
3 the ~~recommendations made pursuant to Sec. 33(a)(1) and (3) of this act~~  
4 Department's final proposed rule, as amended, on emergency involuntary  
5 procedures submitted to the Legislative Committee on Administrative Rules on  
6 November 6, 2013, with the exception that:

7 (1) chemical restraint may only be administered by a physician or an  
8 advanced practice registered nurse licensed by the Vermont Board of Nursing  
9 as a nurse practitioner in psychiatric nursing; and

10 (2) a physician or an advanced practice registered nurse licensed by the  
11 Vermont Board of Nursing as a nurse practitioner in psychiatric nursing shall  
12 personally observe a person in the custody or temporary custody of the  
13 Commissioner prior to administering chemical restraint.

14 Sec. 2. 18 V.S.A. § 7251 is amended to read:

15 § 7251. PRINCIPLES FOR MENTAL HEALTH CARE REFORM

16 The General Assembly adopts the following principles as a framework for  
17 reforming the mental health care system in Vermont:

18 \* \* \*

19 (9) Individuals with a psychiatric disability or mental condition who are  
20 in the custody or temporary custody of the Commissioner of Mental Health  
21 and who receive treatment in an acute inpatient hospital, intensive residential

1 ~~recovery facility, or a secure residential facility shall be afforded at least the~~  
2 same rights and protections as those individuals cared for at the former  
3 Vermont State Hospital to the extent that those rights and protections reflect  
4 evolving medical practice and evidence-based best practices.

5 Sec. 3. EFFECTIVE DATE

6 ~~This act shall take effect on passage.~~

*Sec. 1. 2012 Acts and Resolves No. 79, Sec. 33a is amended to read:*

*Sec. 33a. RULEMAKING*

*(a) On or before September 1, 2012, the commissioner of mental health shall initiate a rulemaking process that establishes The Commissioner of Mental Health shall adopt rules pursuant to 3 V.S.A. chapter 25 on emergency involuntary procedures for adults and children in the custody or temporary custody of the Commissioner who are admitted to a psychiatric inpatient unit. The rules shall establish standards that meet or exceed and are consistent with standards set by the Centers for Medicare and Medicaid Services and the Joint Commission for regarding the use and reporting of the emergency involuntary procedures of seclusion or restraint on individuals within the custody of the commissioner and that, restraint, and emergency involuntary medication. The rules shall also require the personnel performing those emergency involuntary procedures to receive training and certification on the their use of these procedures. Standards established by rule shall be consistent with the*

recommendations made pursuant to Sec. 33(a)(1) and (3) of this act policies set forth in the Department's final proposed rule, as amended, on emergency involuntary procedures submitted to the Legislative Committee on Administrative Rules on November 6, 2013, with the following exceptions:

(1) Emergency involuntary medication shall only be ordered by a psychiatrist, an advanced practice registered nurse licensed by the Vermont Board of Nursing as a nurse practitioner in psychiatric nursing, or a certified physician assistant licensed by the State Board of Medical Practice and supervised by a psychiatrist.

(2) Personal observation of an individual prior to ordering emergency involuntary medication:

(A) Shall be conducted by a certified physician assistant licensed by the State Board of Medical Practice and supervised by a psychiatrist if the physician assistant is issuing the order.

(B) May be conducted by a psychiatrist or an advanced practice registered nurse licensed by the Vermont Board of Nursing as a nurse practitioner in psychiatric nursing if the psychiatrist or advanced practice registered nurse is issuing the order. If a psychiatrist or advanced practice registered nurse does not personally observe the individual prior to ordering emergency involuntary medication, the individual shall be observed by a

registered nurse trained to observe individuals for this purpose or by a physician assistant.

(b) The rules adopted pursuant to subsection (a) of this section that pertain to children shall be consistent with the policies set forth in subsection (a), but may reflect best practices that apply to children where those best practices differ from those that apply to adults.

Sec. 2. 18 V.S.A. § 7251 is amended to read:

§ 7251. 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:

\* \* \*

(9) Individuals with a psychiatric disability or mental condition who are in the custody or temporary custody of the Commissioner of Mental Health and who receive treatment in an acute inpatient hospital unit, intensive residential recovery facility, or a secure residential recovery facility shall be afforded at least the same rights and protections as those individuals cared for at the former Vermont State Hospital that reflect evolving medical practice and evidence-based best practices that are aimed at reducing the use of coercion.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.