

OPTION 1: Eliminate Rulemaking

- All hospitals would still have to comply with federal (CMS) standards.
- Department would retain ability impose special requirements on all inpatient psychiatrist units, including Level 1 units, through their designation agreements and contracts for Level 1 services.
- In conjunction with our proposed change to Section 2 of the bill, it resolves the ambiguity about Licensed Independent Practitioners and phone orders (would allow for both).

Sec. 1. 2012 Acts and Resolves No. 79, Sec. 33a **is repealed**.

~~Sec. 33a. RULEMAKING~~

~~On or before September 1, 2012, the commissioner of mental health shall initiate a rulemaking process that establishes standards that meet or exceed and are consistent with standards set by the Centers for Medicare and Medicaid Services and the Joint Commission for the use and reporting of the emergency involuntary procedures of seclusion and restraint on individuals within the custody of the commissioner and that require the personnel performing emergency involuntary procedures to receive training and certification on the 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.~~

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

OPTION 2: Retain rule making; modify directive to department

- Commissioner would adopt a rule that would apply only to inpatient psychiatric units, including Level 1 units.
- Gives department more flexibility to adjust the last draft of the rule to account for current status of the system.
- In conjunction with our proposed changes to Section 2 of the bill, it resolves the ambiguity about Licensed Independent Practitioners and phone orders (would allow for both).

Sec. 33a. RULEMAKING [as it would read]

The Commissioner of Mental Health shall adopt rules pursuant to 3 V.S.A. chapter 25 on emergency involuntary procedures for adults admitted to inpatient psychiatric units of Vermont hospitals in the custody or temporary custody of the Commissioner that meet or exceed and are consistent with standards set by the Centers for Medicare and Medicaid Services regarding the use and reporting of seclusion, physical restraint, and emergency involuntary medication and that require the personnel performing those emergency involuntary procedures to receive training and certification on the use of these procedures.

Sec. 33a. RULEMAKING [showing markup from H.241]

~~On or before September 1, 2012, the commissioner of mental health shall initiate a rulemaking process that establishes standards~~ The Commissioner of Mental Health shall adopt rules pursuant to 3 V.S.A. chapter 25 on emergency involuntary procedures for adults **in admitted to inpatient psychiatric units of Vermont hospitals in** the custody or temporary custody of the Commissioner 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~~, physical restraint, and **chemical restraint emergency involuntary medication** on individuals within the custody of the commissioner and that require the personnel performing those emergency involuntary procedures to receive training and certification on the 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 **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 exception that:**

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

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

Section 2

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