

DEPARTMENT OF MENTAL HEALTH
PROPOSED CHANGES RELATED TO H.241

The Department of Mental Health is proposing the repeal of section of Act 79 (33a), which required the Department to initiate rule-making. The standards set by the Centers for Medicare and Medicaid (CMS) provide universal and consistent rules for the use of emergency involuntary procedures (seclusion and restraint, both mechanical and chemical) that reach all areas of a hospital. Using the CMS rules will ensure that parity of physical and mental health care and the same level of protection exists for all patients throughout the hospital. In addition, the Department proposes removing the reference in § 7251 to “the rights and protections” at the Vermont State Hospital to avoid the confusion and lack of clarity the phrase has engendered.

With that in mind, the Department proposes that H.241 be amended to read as follows:

Sec. 1. 2012 Acts and Resolves No. 79, Sec. 33a is repealed: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 or 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 protection as those individuals cared for at the former Vermont State Hospital rights and protections that reflect evolving medical practice and evidence-based best practices.