

**vermont
psychiatric
survivors**

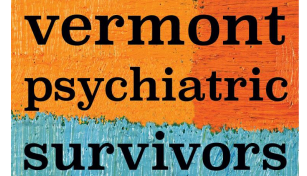
S.3 – An Act Relating to Mental Health Professionals’ Duty to Warn

Wilda L. White, Executive Director
Vermont Psychiatric Survivors, Inc.
House Committee on Health Care
April 25, 2017

About Wilda White

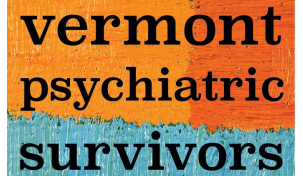
- Executive Director, Vermont Psychiatric Survivors since July 2015
- Trial attorney licensed to practice in NY, CA and MA
- Psychiatric Survivor
- Member of broad group concerned about adverse impacts of *Kuligoski* decision

Stakeholder Group



<ul style="list-style-type: none">• Vermont Medical Society/Vermont Psychiatric Association	<ul style="list-style-type: none">• Vermont Psychiatric Survivors
<ul style="list-style-type: none">• Vermont Association of Hospitals and Health Care Systems	<ul style="list-style-type: none">• Disability Rights Vermont
<ul style="list-style-type: none">• Vermont Care Partners	<ul style="list-style-type: none">• University of Vermont Health Network
<ul style="list-style-type: none">• Agency of Human Services	<ul style="list-style-type: none">• Rutland Regional Medical Center
<ul style="list-style-type: none">• Northeast Kingdom Human Services	<ul style="list-style-type: none">• NAMI-VT
<ul style="list-style-type: none">• Vermont Legal Aid – Mental Health Law Project	<ul style="list-style-type: none">• NASW – Vermont Chapter
<ul style="list-style-type: none">• VT Mental Health Counselors Association	<ul style="list-style-type: none">• Vermont Ethics Network
<ul style="list-style-type: none">• Vermont Attorney General’s Office, Mental Health Division	

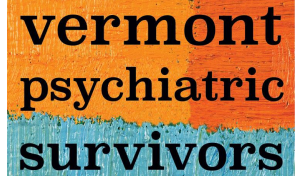
Subject of Today's Testimony



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- Impact of *Kuligoski* on patients and clients
- Impact on caregivers
- How proposed stakeholder statutory language improves upon Senate Bill No. 3

Kuligoski Decision Summary

The logo for Vermont Psychiatric Survivors is a vertical rectangle with a textured, painterly appearance. The top half is orange and the bottom half is blue. The text "vermont psychiatric survivors" is written in a lowercase, sans-serif font, with "vermont" in white on the orange background and "psychiatric survivors" in white on the blue background.

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“Duty to provide information” to caregivers to “enable [the caregivers] to fulfill their role in keeping (the patient) safe” if that patient has violent propensities and “the caregiver is ... within the zone of danger of the patient’s violent propensities.”

Who are patients impacted by *Kuligoski*?

- About 10% of Vermonters (62,751) receive mental health services
- Includes people from all walks of life
- Common thread among us is discrimination we suffer based on mental health diagnosis or challenges, real or perceived

Employment Discrimination

Employers -

- 50% are reluctant to hire someone with a past psychiatric history
- ~70% are reluctant to hire someone currently taking antipsychotic medication
- 25% would dismiss someone who had not disclosed a mental illness

Housing Discrimination

Housing -

- 33% of Americans unwilling to have people with mental health problems as neighbors, friends or residents in a nearby group home
- Landlords are reluctant to rent to people with mental health diagnoses

Martin et al. Of Fear and Loathing: The Role of 'Disturbing Behavior,' Labels, and Casual Attributions in Shaping Public Attitudes Toward People with Mental Illness. *Journal of Health and Social Behavior* 2000, Vol 41 (June):08

Discrimination Driven by Misconceptions

- Mental illness alone does not increase the chances that a person will become violent
- Media report violence disproportionate to actual rates of violence
- Disproportionate emphasis leads to public policies that penalize people with mental health challenges

Archives of General Psychiatry (Vol. 66, No. 2) 2009.

McGinty, E et al. Trends in News Media Coverage of Mental Illness in the United States: 1995 – 2014. *Health Aff* (Millwood). 2016 June 1; 35(6):1121-1120

Kuligoski and Senate S.3

Perpetuate Discrimination

- Singling out mental health providers perpetuates a false belief about a link between mental illness and violence
- Operate as a license to discriminate in housing and employment
- Uncertainty of *Kuligoski* duty threatens the therapeutic alliance between mental health professionals and their clients and patients

Kuligoski and Caregivers

- Caregiver is actively engaging with the patient's provider in connection with the patient's care or treatment plan
- Provider substantially relies on that caregiver's ongoing participation
- Caregiver is himself or herself within the zone of danger of the patient's violent propensities

Examples of Caregiver Actively Engaging

- Mental health provider asks “caregiver” to remind patient to take medication
- Mental health provider asks “caregiver” to monitor patient/client for reaction to medication
- Mental health provider asks “caregiver” to assess patient/client’s mood

Impact on Caregivers

- Blamed by doctor and patient/client
- Sued by third-party
- Wracked with guilt
- Families torn apart
- Caregivers decline to cooperate or be helpful
- Clients/Patients lose critical support

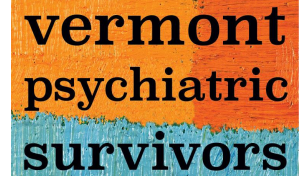
Senate S.3 Shortcomings

- Does not clearly abrogate or negate *Kuligoski*
- Perpetuates false belief about link between mental illness and violence, thereby reinforcing discrimination
- Creates a risk of legal liability for caregivers
- Creates a new, undefined standard for hospitals and residential facilities (i.e., “necessary information”)

Proposed Stakeholder Draft

- Clearly abrogates *Kuligoski* (p. 4, Sec. 2(a))
- Does not perpetuate false belief of link between mental illness and violence (p. 1, Sec. 1(1))
- Does not operate as a **statutory** license to discriminate (p. 4, Sec. 2(b))
- Does not threaten caregivers with legal liability; risk of liability remains with mental health professionals through discharge planning rules and regulations (p. 4, Sec. 2(c))

Contact Information

The logo for Vermont Psychiatric Survivors is a square divided into two horizontal sections. The top section is orange and the bottom section is blue. The text "vermont psychiatric survivors" is written in a black, lowercase, sans-serif font across the square.

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Wilda L. White, Executive Director
Vermont Psychiatric Survivors, Inc.
128 Merchants Row, Suite 606
Rutland, VT 05701-5912
T: (802) 775-6834
F: (802) 775-6823
wilda@vermontpsychiatricsurvivors.org
www.vermontpsychiatricsurvivors.org