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November 17, 2016

Melinda Murtaugh
Department of Mental Health
280 State Drive
NOB 2 North
Waterbury, VT 05671-2010

Re: **DRVT Act 114 Comments**

Dear Ms. Murtaugh,

Once again, DRVT wishes to thank the Department for reaching out to us for comments and input regarding our experience working with patients subject to the Act 114 Non-Emergency Involuntary Medication process. As you know, Disability Rights Vermont (DRVT) is the federally authorized disability protection and advocacy system in Vermont pursuant to 42 U.S.C. 10801 et seq., as well as being the Mental Health Care Ombudsman for the State of Vermont pursuant to 18 V.S. A. §7259. The following are responses to the specific questions posed in the Department's November 2, 2016 letter to DRVT on this subject.

1. During the last year DRVT staff have often come in contact with patients subject to the Act 114 process.
2. DRVT staff witnessed, or reviewed medical records of, many episodes of non-emergent forced medication injections on psychiatric units around Vermont in 2016. Often those episodes were accompanied by traumatic uses of force, and contrary to popular opinion, often the patients continued to struggle against these injections for days, weeks or even months. In addition, DRVT staff noted several instances where patients, and in some cases staff, were not aware of DMH regulations providing protections and preferences to patients subject to these forced medication orders. See <http://mentalhealth.vermont.gov/sites/dmh/files/misc/Rules-Regs/Rules%20Implementig%20the%20Act%20Relating%20to%20Involuntary%20Medication%20f%20Mental%20Health%20Patients.pdf>. In those cases, DRVT staff intervened to inform all involved about these regulations and secured the patients' rights in these areas.

Overall, DRVT did not see significant progress towards the statutory goal of working toward a system that does not rely upon forced medication and coercion (18 V.S. A. §7629) in 2016. DRVT's experience has been that people who are subjected to forced medication orders

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

On the web: www.disabilityrightsvt.org

sometimes do not improve quickly and stay on the unit for long periods of time even after the orders are implemented. We continue to hear that patients are genuinely afraid of being subjected to forced medication orders and the disruption that causes in their relationship with their treatment providers. People tell us that they do not seek voluntary treatment because of this fear. Unfortunately, there remains a perception in our community that patients receiving mental health inpatient care will be subjected to involuntary medication that they do not want, they believe causes them harm, and which they will discontinue at the earliest opportunity. This situation is at odds with the legislative mandate to move to a non-coercive mental health system.

Most troubling from DRVT's perspective is the failure for DMH to follow through on commencing a study to determine the outcome for patients forcibly medicated going out five years, a plan that has been universally accepted as appropriate and necessary in order to have an effective and informed policy on this practice. DRVT urges DMH to follow up on this suggestion and promptly implement such a study.

3. Again in 2016 DRVT staff worked collaboratively with MHLA attorneys and believe that while MHLA is an effective and critical part of the process that does exemplary work, there are insufficient resources in terms of attorneys and expert witnesses and quality of representation is likely to decline if no additional funding is provided while the numbers of these cases increase.

4. As noted above, lack of alternatives to forced medication, in part due to overreliance on highly marketed medications, and in part due to lack of adequate capacity in the overall mental health system resulting in patients being held in inpatient units unnecessarily, remains a significant problem with our mental health system. In addition, the lack of a five year study of outcomes for people subjected to these forced medications orders is an aspect of the process that has not worked well over the last year. Overall, the Department's fixation on increasing the use of coercion in the system, in terms of speeding up medication orders, increasing the number of locked, non-inpatient facilities, and relying more on ONH's requiring medication compliance, instead of putting more resources into peer supports, step down facilities, one on one community supports, and alternatives to involuntary placements, appears to be a major cause for the problems DRVT staff and our clients have identified.

5. DRVT continues, as we have for many, many years, to urge the Department to conduct a long-term study of the immediate, middle and long term impacts of forced medications on Vermonters in order to determine statistically rather than anecdotally if the process is beneficial. As noted in prior submissions, DRVT staff continue to meet with patients for whom the forced medication episodes were very traumatic and not helpful in the long-term, as well as meeting clients for whom the experience was worth the benefit.

6. DRVT recommends that the Department implement a robust outcome study of the impact of these orders on people. We also recommend that the Department make stronger efforts to limit the number, as opposed to the recent trend of large increases in the numbers, of the uses of these forced medication orders, at least until the above-recommended outcome study demonstrates that no more harm than good is resulting from these proceedings. DRVT also suggests that the Department advocate for more funding for MHLA to hire additional staff and

expert witnesses in order to avoid the appearance that, due to the increase in forced medication petitions and the lack of similar increases in MHLF funding, the ability of MHLF to adequately represent their clients is at risk of significant decline. DRVT suggests again that the goal of more prompt forced medication orders held by the Department and the Hospitals can be attained more reasonably by increasing the resources available to the attorneys and the courts, including the availability of independent expert review, rather than conflating hearings for commitment and forced medication into one hearing in an effort to speed up the process.

Thank you again for this opportunity to share our perspective on Act 114 implementation in 2014 and please contact me if you wish additional information or clarification.

Sincerely,

A handwritten signature in black ink, appearing to read 'A.J. Ruben', with a long, sweeping horizontal line extending to the right.

A.J. Ruben
Supervising Attorney

Cc: Jack McCullough, MHLF