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Department of Corrections Hepatitis C Treatment
Joint Legislative Justice Oversight Committee
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- The HCA has been advocating for hepatitis C treatment access in Vermont since 2015.
- Hepatitis C is a curable, deadly, infectious disease. Early treatment helps prevent irreversible liver damage and other health issues and prevents new infections.
- While we recognize that DOC has made notable progress – from treating 1 person in 2017 to 14 in 2018, and 35 on treatment as of May – we continue to see that hundreds of people in custody are not receiving treatment. DOC and Centurion have stated that they do not plan to treat everyone.
- Treatment of people with hepatitis C is essential to public health in the state—there are still serious treatment gaps and these need to be addressed.
- We hear about people in corrections being refused treatment because they might be released to the community, and people in the community being refused treatment because they might return to corrections. This problem is solvable and AHS needs to take responsibility for addressing it.
- The vast majority of Vermonters in custody continue to be denied access to lifesaving treatment. Many are denied care because of unjustified treatment delays and broad length of stay requirements that DOC and Centurion have in place and say they will continue to use. These restrictions exclude huge numbers of people regardless of how long, realistically, they may remain in custody.
- In the community in Vermont, there are no restrictions on treatment for hepatitis C. Treatment is readily available and Medicaid, Medicare, and commercial insurers cover the medication.
- DOC is required by Vermont statute to provide medical treatment using the prevailing medical standard,¹ which for chronic hepatitis C is to treat everyone with curative medication, with very few exceptions.²
- We have been in regular communication with AHS and DOC about these issues and other questions. We received some helpful information and then this spring stopped getting meaningful responses. Our most recent communication to DOC asked for a meeting to talk about how we can get the remainder of the information we are looking for. DOC responded by saying they have given us all the information they are willing to share. Since then AHS has also stopped sending us their regular data reports despite multiple requests.

¹ 28 V.S.A. §801(a) The Department shall provide health care for inmates in accordance with the prevailing medical standards.

² American Association for the Study of Liver Diseases (AASLD) and the Infectious Diseases Society of America (IDSA). *HCV Guidance: Recommendations for Testing, Managing, and Treating Hepatitis C. When and in Whom to Initiate HCV Therapy*.
<https://www.hcvguidelines.org/evaluate/when-whom>

- The HCA and the ACLU have been part of a coalition working on this project. The HCA has worked with the administration, the legislature, and others to promote policy changes to treat more people in corrections. The ACLU has now taken a litigation approach. The ACLU and Harvard Law School filed a class action suit on May 21 in federal court.³ The suit charges that denial of hepatitis C medication violates both the Eighth Amendment, which bars cruel and unusual punishment, and the Americans with Disabilities Act. Similar lawsuits in other states have had positive outcomes for treatment access.⁴
- Restrictions like length of stay have been used elsewhere to ration treatment for hepatitis C. This kind of rationing saves money in the immediate term while sacrificing people's health, ensuring high long-term health care costs, and causing additional infections.
- Finally, we continue to have concerns that many people in DOC custody have not been tested for HCV. Our understanding is that tests are offered at intake and after that, only at a person's request. There are likely many more people in custody with HCV than we know about.

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³ Press Release: *ACLU and Harvard Law School File Class Action Lawsuit Challenging Denial of Lifesaving Hepatitis C Treatment to Hundreds of Vermont Prisoners*. May 22, 2019. <https://www.acluvt.org/en/press-releases/aclu-and-harvard-law-school-file-class-action-lawsuit-challenging-denial-lifesaving>. Complaint available at: https://www.acluvt.org/sites/default/files/2019-05-21_-_complaint_stamped_and_signed.pdf.

⁴ All of the settlements to date have addressed length of stay. Additionally, in March 2019 a federal district court struck down a North Carolina correctional department policy that withheld treatment based upon insufficient length of stay, noting that the treatment takes 8-12 weeks with little follow-up necessary.