An Independent Study of the Administration of Involuntary Non-Emergency Medications Under Act 114 (18 V.S.A. 7624 et seq.) During FY 2020

Report to the Vermont General Assembly

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EXECUTIVE SUMMARY

The Vermont statute governing administration of involuntary nonemergency psychiatric medications to clients of the public mental health system committed to the care and custody of the Commissioner is 18 V.S.A. 7624 et seq. – referred to in this report as Act 114. The statute requires two annual assessments of the Act's implementation, one conducted by the Department of Mental Health (DMH) and a second conducted by an independent reviewer. The following report summarizes Flint Springs Associates' independent assessment, providing a review of implementation during FY20 (July 1, 2019, through June 30, 2020).

This report examines implementation of Act 114 at designated hospitals responsible for administering involuntary psychiatric medications under Act 114 during FY20.

During FY20, DMH reported that 68 petitions were filed requesting orders for nonemergency involuntary medication under the provisions of Act 114 for 54 different individuals. Petitions were sought by physicians at four of the hospitals designated to administer the medications and sent through the Attorney General's DMH office to the court. Of those 68 petitions, 57 (84%) were granted, 9 (13%) were dismissed, one (1%) was denied, and one (1%) decision was not recorded. Hospitals involved included: Brattleboro Retreat, Rutland Regional Medical Center, University of Vermont Medical Center, and the Vermont Psychiatric Care Hospital.

In compliance with statutory requirements for the annual independent assessment, this report provides information on:

- Implementation of Act 114.
- Outcomes associated with implementation of the statute.
- Steps taken by the Department of Mental Health to achieve a mental health system free of coercion.
- Recommendations for changes.

We feel it important to note that this assessment was conducted during the COVID-19 pandemic, requiring changes to our processes and to how information was collected. No on-site visits could be conducted to meet with leadership at the four hospitals. The response rates to requests for interviews with individuals who have received Act 114 medication orders were even lower than in past years. While we cannot, with confidence, assign to COVID the changes in the amount and quality of feedback we've received, we feel it important to note this reality.

Key Findings

Among the findings presented in this report, this year's assessment found that:

- Documentation indicates that staff at three hospitals administering medications under Act 114 in FY20 were generally aware of the provisions as shown by documentation of adherence to most Act 114 provisions. Hospital staff feel that the process leading to involuntary medication should move as quickly as possible. They believe that individuals for whom Act 114 petitions are filed suffer on many levels when not receiving psychiatric medication as soon as possible.

- Mental Health Law Project (MHLP) believes that hospitals which administer Act 114 medication orders continue to rely on the use of medication as the first line of treatment in dealing with patients.

- The number of petitions filed for involuntary medication under Act 114 was lower in FY20 (n=68) than in FY19 (n=70) and FY18 (n=90).

- Petitions were filed a bit sooner after admission in FY20 than in past years: 52% were filed within 30 days and 33% within 30-60 days of admission, or, on average, 39 days from admission to petition filing, as compared to 41 days in FY19. Once the petition was filed, a decision was reached within an average of 13 days as compared to 15 days last year. The average time from admission to an Act 114 order was 51 days in FY20, or less than two months – lower than 56 days in FY19 and a consistent trend toward decrease in time from admission to Act 114 order over the past several years. This assessment focuses on tracking time between admission, filing of petition, and court decision. It does not consider factors which may influence the timeline, such as changes in clinical practice, Vermont laws, DMH data collection strategies, or additional factors which may influence the implementation of Act 114.

- In FY20, patients under Act 114 orders had notably lower length of stays than previous years. On average, patients under Act 114 orders in FY20 were discharged from psychiatric inpatient care, on average, 95 days (approximately 3 months) from admission, and 48 days (about 7 weeks) after the Act 114 order for medication was issued. In FY19, it took an average of 126 days from admission to discharge, and 66 days from order to discharge.

- Four persons who received Act 114 medication during FY 2020 provided input regarding their medication experience.

  Reports of how the Act 114 protocols were followed.
  - Three of the four respondents said they were not offered a support person (the fourth could not remember) and of those three only one said that if asked he would have wanted a support person. Similarly, the same three individuals said that staff had neither offered support or debrief with them after receiving the court ordered medication.
  - One individual was aware there were Act 114 protocols, and two knew they had the right to file a grievance if they felt the protocol was violated.
  - In terms of information received, three of the four respondents reported only being told the date and time of the hearing while the fourth was only told the hearing's location. Two individuals, both hospitalized at RRMC, said they were given information about the court ordered medication. The four individuals all were told how the medication would be given and all received varying types of information regarding medication dosage, name, frequency of administration, benefits, and potential side effects.

  Sense that they had some control.
  - Two individuals noted they were given a choice to receive the medication in pill form, while two others said they were not given that choice. Beyond that, none of the respondents reported feeling they had some control.

  Feelings about how they were treated, supported, and respected during that experience.
  - Two said they felt somewhat respected and two felt staff did not respect them at all.

  The value and benefit that receiving court-ordered medication has had on their current situations.
  - One individual felt the state did the right thing, while the other three disagreed with the decision to be medicated.

- Of the fourteen individuals (4 with 114 orders in FY 20 and 10 with 114 orders prior to FY 20) who provided feedback two report that they no longer take psychiatric medication or engage in any mental health services. Living situations for 7 respondents who received 114 medication orders prior to FY 20, are in some form of community-supported housing, including group residence and individual apartment while three individuals live in private residences (one of whom lives with her family). Of the 10 persons who received medication orders prior to FY 20, one is employed part-time and one reports his own business.

- Finally, those interviewed noted the need for meaningful activities within the hospital setting, and, importantly, the critical role that the communication and interpersonal skills of hospital staff can and should play in:
  - Acknowledging and attending to patients' concerns about court ordered medication.
  - Giving patients clear information about the medication, why it is being ordered and its potential impacts, both positive and negative
  - Providing patients with the information needed to exercise more choice in their treatment.

Recommendations

Flint Springs Associates offers the following recommendations:

Hospital Practices

FSA recommends that staff at hospitals administering Act 114 medication continue efforts to help patients understand the reasoning behind the decision to seek an order for involuntary medication and to invest time in talking with patients about the process and available options.

To maintain clear records for documenting implementation of Act 114 in accordance with provisions of the statute, all hospitals have followed past FSA recommendations that each hospital maintain an electronic file or section within the electronic file for persons receiving medication under Act 114. This practice should continue.

Annual Act 114 Assessment

FSA recommends that the following steps continue to be used in future assessments of Act 114:

- Provide a financial incentive for the participation of individuals who have received court-ordered medication in the independent assessment of Act 114.

- Request input from individuals through extensive outreach efforts to any person who received medication under Act 114 in previous years, not just the year under review, to learn about longer-term outcomes including individuals' engagement in treatment and their lives in the community as well as experiences receiving medication under Act 114 orders.

- Ask persons interviewed if they would like any family members to be interviewed and pursue these as permitted.

- Given the similar content to assess the implementation of Act 114 protocols required by the legislature through two reports, one generated by DMH and the other by an external entity, the legislature should clarify the purpose of having an internal and an external report.

INTRODUCTION

The Vermont statute governing administration of involuntary nonemergency psychiatric medications to clients of the public mental health system committed to the care and custody of the Commissioner is 18 V.S.A. 7624 et seq. The statute requires two annual assessments of the act's implementation, one conducted by the Department of Mental Health (DMH) and a second conducted by an independent reviewer. This report will refer to the statute as Act 114. Implementation of Act 114 commenced in late 2002.

This independent assessment report provides a review of implementation during FY20 (July 1, 2019, through June 30, 2020). The report also summarizes feedback from:

- 10 individuals who chose to be interviewed and who received medication under Act 114 between January 2003 and June 30, 2019
- 4 individuals who received an Act 114 order in FY20.

As a result of the petitions filed during FY20, court orders for administration of involuntary nonemergency psychiatric medication under the provisions of Act 114 were granted for 54 individuals.

The Commissioner of Mental Health has designated five hospitals to administer medications under Act 114: Brattleboro Retreat, Central Vermont Medical Center, Rutland Regional Medical Center, University of Vermont Medical Center, and Vermont Psychiatric Care Hospital. CVMC has infrequently administered medication under Act 114. During FY20, four of the five hospitals administered medication under Act 114, in FY20 CVMC did not.

This report, in compliance with statutory requirements for the annual independent assessment, provides the following information:

Section 1: The performance of hospitals in the implementation of Act 114 provisions, including surveys of staff, interviews with Mental Health Law Project and Vermont Psychiatric Survivor Patient Representatives, review of documentation, and interviews with persons involuntarily medicated under provisions of Act 114.
Section 2: Outcomes associated with implementation of Act 114.
Section 3: Steps taken by the Department of Mental Health to achieve a mental health system free of coercion.
Section 4: Recommendations for changes in current practices and/or statutes

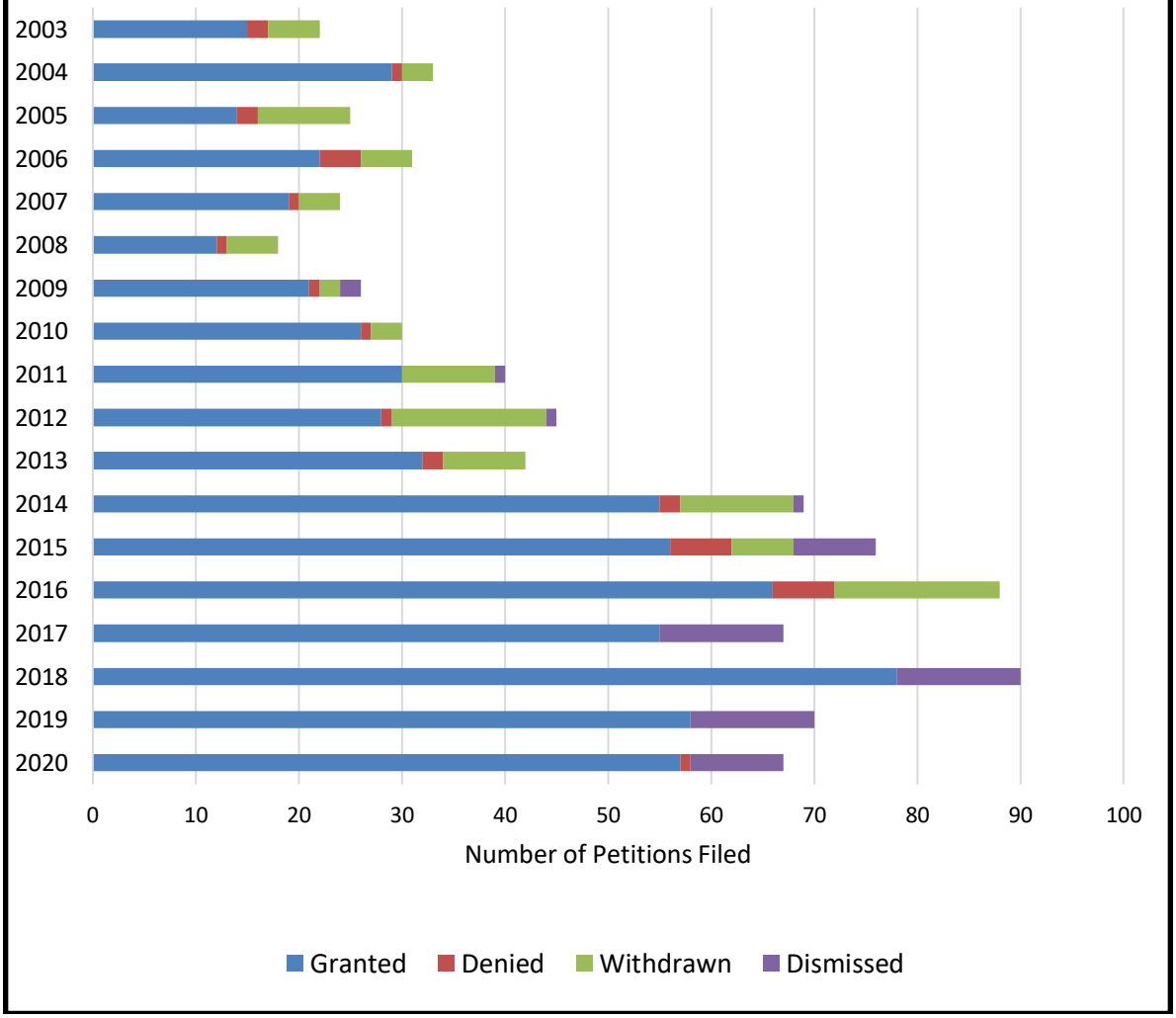
Flint Springs Associates (FSA), a Vermont-based firm advancing human-services policy and practice through research, planning and technical assistance, conducted this assessment. Flint Springs' Senior Partners, Joy Livingston, Ph.D., and Donna Reback, MSW, LICSW, gathered the required information, analyzed the data, and developed recommendations reported here.

Section 1: Performance Implementing Provisions of Act 114

During FY20, DMH reported that 68 petitions were filed requesting orders for nonemergency involuntary medication under the provisions of Act 114 for 54 different individuals. Petitions were sought by physicians at four of the hospitals designated to administer the medications and sent through the Attorney General's DMH office to the court. Of those 68 petitions, 57 (84%) were granted, 9 (13%) were dismissed, one (1%) was denied, and one (1%) decision was not recorded. Hospitals involved included: Brattleboro Retreat, Rutland Regional Medical Center, University of Vermont Medical Center, and the Vermont Psychiatric Care Hospital.

Figure 1 provides information on the number of petitions for court orders that were granted, denied, withdrawn, or dismissed since the initial implementation of Act 114 through FY20. Courts have granted most petitions. The number of petitions filed increased through 2016, with a decrease in 2017, increase in 2018, and then decrease over the past two fiscal years.

Figure 1: Number of Act 114 Petitions Filed
Calendar Year 2003-2008; Fiscal Year 2009-2019



Updates on Hospitals' Structure and Policies Related to Act 114

In past years, FSA senior partners, Joy Livingston, and Donna Reback, conducted site visits at each of the designated hospitals responsible for and administering involuntary nonemergency psychiatric medication under Act 114. During those site visits, interviews were conducted with leaders to identify any changes in hospital facilities, staffing, and procedures relative to implementation of Act 114. For the FY20 assessment, interviews with leaders were conducted via Zoom meetings, due to COVID-19 restrictions.

Hospitals reported most changes that might impact on the administration of medication under Act 114 were due to COVID-19 restrictions.

- Brattleboro Retreat leaders noted that due to COVID, it takes longer to get Act 114 petitions through the court process. Meanwhile, the Retreat revamped clinical education for nursing orientation. As part of the change, more specific information about Act 114 was included along with assessment of competencies related to Act 114 implementation.

- UVM Medical Center added daily rounds as a multidisciplinary team, including the patient in FY19. Due to COVID, the planned expansion for FY20 did not occur until June. UVMMC leaders noted that during the pandemic there have been fewer patients with reduced lengths of stay, and reduced use of involuntary non-emergency medication. Reasons were not clear to leaders.

- Vermont Psychiatric Care Hospital had not instituted any changes that would impact administration of Act 114 provisions prior to COVID. Since COVID, VPCH leaders noted a reduced census, and shorter stays, as well as reduced use of involuntary nonemergency medication. At the time of our interview, VPCH had only one patient receiving medication under an Act 114 order. Leaders also felt that COVID restrictions accelerated the adoption of person-centered rounding – prior to COVID person-centered rounding was being pilot tested. With the lowered census, same level of staffing, and increased use of virtual meetings, there was time and resources to institute person-centered rounding more fully. By the end of FY20, all patients met with their teams weekly. Finally, VPCH made changes in how Act 114 hearings were conducted, including the use of virtual platforms, and bringing needed equipment into patients' rooms.

- Rutland Regional Medical Center leadership did not report changes to policy or practice instituted prior to COVID. With COVID, RRMC also had a reduced census. Courts were not holding hearings in the early months of the pandemic, reportedly leading to even longer delays between petitions for non-emergency involuntary medication and orders for such medication. Leaders, as in past years, again emphasized their concerns about the length of time it takes to get a court order for medication under Act 114.

Staff Feedback on Implementing Act 114 Protocol

To gather input from a wider range of staff members, an online survey was developed in FY17 and has been used since; prior years we relied on interviews with staff which were often difficult to schedule and conduct. Each hospital was responsible for distributing the survey link to staff involved in administering medication under Act 114.

As shown in Table 1, 38 staff members responded to the survey. Nurses were most often represented. Three of the hospitals were relatively well represented among respondents, the VPCH was represented by fewest respondents (n=5).

Table 1: Act 114 Survey Respondents

Position at Hospital	All Respondents		By Hospital			
	Frequency	Percent	Retreat	RRMC	UVMMC	VPCH
Physician/Psychiatrist	8	21%	2	1	5	0
Nurse	22	58%	5	9	4	4
Social Worker	3	8%	2	0	0	1
Psychiatric technician/assistant	5	13%	0	5	0	0
Total	38	100%	9	15	9	5

Act 114 Implementation Training

About half of the survey respondents (n=18, 46%) reported that they had received formal training; particularly nurses (n=14). Informal training was reported by 38% (n=15) of the respondents. Past assessments found similar results, particularly as Act 114 is regularly included in annual training for nurses.

Table 2: Training Staff Receive on Protocols for Administering Medication under Act 114 By Position at Hospital

Training on Protocols for administering medication under Act 114	Position at hospital				Total
	Doctor	Nurse	SW	Psych Tech	
No training at all	0	0	1	2	3
Informal training through other staff members	5	7	2	1	15
Learn through completion of required forms	1	2	0	0	3
Formal training through orientation/other	2	14	0	2	18
Total	8	23	3	5	39

Patients' Rights

Staff were presented a list of steps taken to ensure that patients understand the process under Act 114 and are fully informed of their rights. These steps have been reported by staff in previous assessment interviews.

As shown in Table 3, nearly all staff report that most of these steps are utilized. Least often, patient advocates are asked to offer explanations.

Table 3: Steps Taken to Ensure that Patients Understand Process and Rights under Act 114

Steps taken	All Respondents		By Hospital			
	Frequency	Percent	Retreat (n=9)	RRMC (n=15)	UVMMC (n=9)	VPCH (n=5)
Patients are encouraged to contact their attorney	38	97%	3	12	13	10
Physician meets with patient to review all of the above	35	90%	9	15	8	3
Members of the treatment team review the above information with the patient	30	77%	8	12	7	3
Patients receive contact information for advocates, including attorneys	28	72%	6	13	7	2
Written information is provided to patients	27	69%	6	12	8	1
Patient advocates are asked to explain the process, reasons, rights, and consequences	12	31%	1	7	4	0

Staff, in past years' interviews, have often identified several challenges that arise when they attempt to provide patients with information about the Act 114 process. Thus, the survey asked, "How do you, and the others on the treatment team, respond to challenges that arise when providing patients with information about their rights and the Act 114 process?"

Staff most often (n = 14) described ongoing efforts to engage with the patient, for example staff quotes include:

- *Explain to the best of our ability, as many times as needed, having different team members describe to the patient in a way they can understand. Enlist help of other team-members as needed.*
- *Often staff do a lot of redirecting with emotions patients experience when learning they are going to undergo the act 114 process. Staff also help patients process and understand the process of Act 114.*
- *We provide information in a developmentally appropriate way, enlist family when possible, make ourselves available to answer questions, break down information into small chunks if necessary, encourage discussion of risks and potential benefits.*
- *Try to be open and transparent. Often the patients we seek court ordered medications for are too disorganized to fully engage with a discussion about treatment options.*

- *We respond with persistence and creativity to do our best to help patients understand their rights and the process.*

Additionally, staff (n = 5) encourage patients to speak with their advocates. Examples of quotes from staff include:

- *Encourage patients to contact their lawyers for legal counsel and information as appropriate.*
- *Provide patients with DVRT information, legal information, peer support, and answering questions that come up.*
- *Repeatedly discuss with patients that have questions about Court Ordered medications and who they can talk to outside of the organization, so they know that their concerns are being heard.*

Six respondents spoke to addressing each person individually: for example:

- *it depends on the challenge; some people increase in agitation when trying to engage them in conversation/medication teaching. Others want written information and to engage staff in conversations, asking questions.*
- *It depends on the individual patient, their ability to comprehend the information, and what the actual challenge is. All responses are geared to the individual needs of the patient.*
- *Very often the patient's mental status results in a lack of capacity to understand, and that can be the biggest obstacle. Involuntary medication is often the most appropriate path to improving this.*

Alternatives to Medication

Hospital staff were asked to "describe any alternatives to involuntary psychiatric medication offered to patients." Several respondents reported that the alternative was voluntary medication (n=10), as shown in the following quotes from surveys:

- *Voluntary psychiatric medication. Unfortunately, if a patient is, for example, actively psychotic or too depressed to think clearly, they are very often unable to make decisions which are in their best interest. This inability to make good decisions for their care is a direct result of the very illness which the medication is designed to treat. It becomes a vicious cycle which won't stop without proper medication.*
- *If a patient needs medication, they are offered them voluntarily multiple times first.*
- *Voluntary meds are continually being offered but are declined by the patient thus the need for involuntary treatment.*
- *We always offer voluntary medications; we offer many activities to distract as well as a staff to assist with patient's needs. A supportive milieu is maintained with caring and highly skilled staff.*

Nine respondents outlined an array of options including one-on-one care, groups therapy, stress reduction, sensory stimulation, as shown in the following quotes:

- *Groups, milieu therapy, dialogic/collaborative network approach, individual psychotherapy, voluntary medications.*
- *One-to-one conversation, off-unit activities to exert energy, such as Yard/Courtyard, Fitness Room, Massage Chair for relaxation, and the Quiet Room. Additionally, ask patient if s/he would be willing to take a PRN (as needed) medication.*
- *Open dialogue, wellness interventions, other forms of psychotherapy and behavioral plans.*
- *Quiet time in room, food and/or drink, 1:1 time with staff, distractions such as sensory items (weighted vest, squeeze balls etc.) reading material, time outside to run in the courtyard.*
- *They meet daily with members of treatment team, there is milieu activity / therapy daily, therapeutic and skills-based groups daily.*

Seven respondents essentially said there were no alternatives, when a patient needed medication and was not willing to take it, the only option left was involuntary medication. For example:

- *An application is only used if the patient is unable to progress without medication.*
- *By the time a decision is made to treat with involuntary meds, all alternatives have been exhausted.*
- *Emergency involuntary medications can be forgone in favor of isolation or other de-escalation techniques. Often there are no alternatives in cases of ongoing severe psychosis or mania, and medical treatment is the only reasonable option that may have the potential of mitigating long-term damage.*

The survey asked a forced-choice question: What would be needed to provide more extensive alternatives to involuntary psychiatric medication? As shown in Table 4, about half of the respondents endorsed a range of needs, particularly more sensory equipment, and programs/activities.

Table 4: Needed to Provide more Extensive Alternatives to Involuntary Medication

	Frequency	Percent
More sensory equipment	18	46%
More programs and activities	18	46%
More private quiet spaces	17	44%
Outdoor spaces	17	44%
More staff	15	38%

Specific responses to what is needed included:

- *A staffed exercise room and equipment so that it could be available at any time.*
- *Fenced in area for patients to exercise that is not on a rooftop and caged in.*
- *More one on one therapy and groups.*
- *More therapy.*
- *Truly this is a societal and architectural problem. Many of our patients would be healthier and not at odds with society if they had secure housing and space to express their independence.*
- *We need more space to meet with patients, more outdoor space, more recreation opportunities, more sensory modalities (e.g., music).*

Nine respondents spoke to the primary need for medication, for example:

- *Best practice is medication AND more extensive treatment modalities. Not giving people with psychiatric illnesses the medications they need as quickly as possible is neglectful and cruel. Psychiatric illnesses cause changes in the brain's neuro-electrical functioning, glucose uptake, and more. Permitting a psychotic episode or depressive episode to go on for weeks and even months allows for more damage to occur to the patient we are supposed to be helping.*
- *If an application for involuntary medication is pursued all of the above have already been utilized and/or are not viable options to help a patient progress.*
- *The question in my mind is not how to provide, or whether more extensive alternatives should be offered, but rather is there evidence that these alternatives treat the illness we are trying to treat as effectively as medications, because there is not. And this is always balanced against the harm of extending the length of time that the patient is ill without medications treating the illness, because it is harmful. There are safety issues that are at risk of occurring, there are dignity issues related to behaviors that are a result of illness, and significantly, there is the physiological harm of the illness; we know there is a correlation between the duration of untreated psychosis and poorer clinical outcomes for the patient. So NOT treating with medications is often actively harming the patient.*

Benefits of Act 114

The survey presented a list of four possible benefits of Act 114 – drawn from staff responses in previous years. Staff most often felt the benefit of Act 114 was that patients not willing to take medications received them (see Table 5).

Table 5: Benefits of Act 114

Benefits of Act 114	Strongly agree	Somewhat agree	Not sure	Somewhat disagree	Strongly disagree	Total
It provides a consistent process across all hospitals	11 29%	15 39%	11 29%	0 0%	1 3%	38 100%
Patients not willing to take medication receive medication	20 53%	9 24%	5 13%	4 11%	0 0%	38 100%
It provides a check on decision for involuntary medication	15 39%	12 32%	7 18%	2 5%	2 5%	38 100%
It protects the legal rights of patients	13 34%	7 18%	12 32%	3 8%	3 8%	38 100%

Additional comments were offered as follows:

- Court involvement and oversight for nonemergent involuntary medications is appropriate and this aspect of the process indeed provides the necessary check. However, the reality is that it often takes many weeks before the patient has access to treatment, and therefore, my opinion is that the patient's right to access treatment is not being provided in a timely and ethical manner. I would change the language of one of the options from "patients who are not willing" to "patients who lack the capacity to appropriately make the decision".

- It protects the ethical responsibility of the professional community and enhances the possibility of positive outcomes for the patients.

Challenges Posed by Act 114

The survey also asked about challenges posed by Act 114, again using a forced-choice list developed from previous staff interviews. The primary challenge identified by staff in this survey, and in every previous assessment, was the delay between admission and receipt of medication (see Table 6).

Table 6: Challenges posed by Act 114

Challenges	Strongly agree	Somewhat agree	Not sure	Somewhat disagree	Strongly disagree	Total
Results in long delays before patients receive psychiatric meds	33 55%	4 7%	2 3%	0 0%	0 0%	39 65%
Oversight is provided by judges not trained in psychiatry	17 28%	13 22%	8 13%	0 0%	1 2%	39 65%
It creates adversarial relationship between providers and patients	7 12%	9 15%	9 15%	10 17%	4 7%	39 65%
Court orders are too restrictive to allow adjusting medications	7 12%	12 20%	15 25%	3 5%	2 3%	39 65%

Additional comments offered by respondents are outlined below:

- *Act 114 delays the administration of treatment considerably longer than any other state in New England and likely throughout the entire country. This increases the amount of time patients are incapacitated due to their illness. When incapacitated, they lose some rights and privileges compared to when they are not incapacitated. Therefore, they are spending a greater portion of time with a restricted level of rights, freedoms, and privileges. In my opinion the delay doesn't protect their rights but, in a sense, punishes them for having a mental illness.*
- *Sometimes patients and staff are unnecessarily put at risk when involuntary medication is delayed. The "protection of their rights" can actually cause harm to both staff and patient*
- *I think that if there is an adversarial relationship that develops between providers and patients initially, it often resolves as the patient moves on in his/her recovery.*
- *The patient's psychiatrists are the experts on medication, not a judge. If psychiatrists were allowed to prescribe non-emergency medication without the need of court, then patients who need it would recover more quickly. Patients that have to wait for medication become very sick and do not recover as quickly and have to remain in the hospital longer.*

The survey asked staff if recent legislation that allows the courts to hold one hearing for both commitment and involuntary non-emergency medication for some patients has reduced the time it takes for many patients to receive medication under Act 114. As shown in Table 7, about one-third of the staff felt that the option had reduced time for many patients, while another third were not sure if the option had an impact.

Table 7: The Option for Hearing on Commitment and Act 114 Simultaneously Has Reduced Time for Many Patients to receive Medication

	Frequency	Percent
Strongly agree	6	15%
Somewhat agree	10	26%
Not sure	14	36%
Somewhat disagree	3	8%
Strongly disagree	6	15%
Total	39	100%

Staff Recommendations

The primary recommendation offered by hospital staff was to speed up the legal process so that it takes much less time to obtain an Act 114 order. Comments ranged from general (e.g., "quicken the process") to specific strategies ("it should happen within two days"). The following are quotes are representative of broader suggestions:

- *Decrease the amount of time it takes to get an order for court ordered meds.*
- *Expedite the process but do not lose the attention to detail and the critical review.*
- *More flexibility for the doctor to adjust medications as needed. Quicker court dates for quicker treatment and less injury for staff.*
- *Please consider that when patients are sick that they are suffering. Medicating patients sooner is the more humane way.*

The following quotes provide more detailed suggestions:

Time limits:

- *A 24-48-hour turnaround time on medication applications. End their suffering.*
- *Mandate that court hearings take place no longer than 7- 10 days after admission (like it is done in other states). We have a moral and ethical responsibility to help these patients whose illnesses keep them from being able to help themselves. Allowing them to suffer for months before any action is taken is unacceptable.*
- *Develop an expedited process, along the lines of one week, to ensure the appropriate access to care for all patients. To have someone involuntarily hospitalized for 5 to 6 weeks without receiving treatment that is necessary to improve, is unethical in my mind.*
- *Patients should have access to involuntary medications within 2 weeks of presentation for help (or initiation of involuntary commitment/EE).*

Psychiatrists prescribe involuntary medication:

- *Allow for medications to be emergently administered after multiple psychiatrists agree to a clear need for treatment in the setting of mania or severe psychosis concerning for schizophrenia in which case leaving the condition untreated would result in potential long-term negative consequences of disease progression.*
- *Allow psychiatrists to prescribe non-emergency involuntary medication not a judge in the court system.*

Training:

- *Consider the danger of not ordering the medication promptly. Judges should be required to undergo training and perhaps even visit psychiatric facilities to see the acuity of the patients.*
- *Please have the people making decisions regarding appropriateness of involuntary medications come witness patients and the torment they are living within.*

Additional reform:

- *We need Act 114 in the community so that we are not restricting patients' liberty unnecessarily in hospital when what is needed is to restart a medication regimen that works. We need more supportive living arrangements for patients who are not dangerous but have primary psychiatric disorders for which medications are either inadequate or not desired.*
- *Talk to someone who has lived experience, they should be helping design these programs and how treatment can be improved. We must utilize the opinion of not only the "professionals" but those who have lived experience. And not just the perspective of those who want to eradicate the system but those who want to help improve the care provided and work in conjunction with versus against.*

Interview with Legal Services

This year, following precedents from previous studies, FSA reached out to gain feedback from Vermont Legal Aid Mental Health Law Project (MHLP) and patient representatives from Vermont Psychiatric Survivors (VPS). MHLP provides legal representation to the vast majority of patients on whom applications to the court for Act 114 medication are filed. VPS places Patient Representatives who are persons with lived experience in each of the four hospitals (Brattleboro Retreat, RRMC, UVMMC and VPCH) that administer Act 114 medication. Our outreach to MHLP was successful, however phone calls and emails requesting input from patient representatives were not. It is impossible to know why we received no response this year from VPS, however, the COVID pandemic created a range of challenges to preparing this report in a timely manner and VPS's absence may have fallen into that category. As a result, this section summarizes input from MHLP. through its Project Director

Our interview aimed to understand the following:

- What is going well in relation to implementation of Act 114?
- What challenges exist in relation to implementation of Act 114?
- What could be done to improve the implementation of Act 114?

What is going well in relation to implementation of Act 114?

Our conversation with MHLP began with the statement that, from the organization's perspective, cases have continued to rise, where one would have expected to see, over the course of so many years, a reduction in numbers, congruent with DMH's commitment to reduce coercion in the mental health system. However, that cases are still high reflects to legal services that involuntary medication is still used in Vermont's psychiatric hospital settings as a first resort.

Having said the above, MHLP noted the following. Legal representation of a patient has resulted in the following due process benefits to the patients:

- getting the court to completely deny an Act 114 application.
- where an application has been accepted, gaining a reduction in the number of medications ordered, and/or dosages to be administered.
- the court's refusal, in some cases, to approve long acting injectables or to reduce the dosage of the injectable.

COVID-19 has led the judiciary to hold remote hearings via Web-Ex. While this allows most patients to fully participate in hearings, MHLP hasn't noticed a difference in patient attendance at hearings. (It should be noted that this impact has not been tracked for this study.)

MHLP provided FSA with its letter, sent annually to DMH. for the department's separate Act 114 study. The letter notes that skilled counsel has defended the legal rights and prevented the use of and/or harmful impacts of medication on patients.

What challenges exist in relation to implementation of Act 114?

While MHLP did not address this question directly in our interview, the content of its letter to DMH indicates a disconnect between current practice in Vermont's psychiatric hospitals, using involuntary medication and an increasing body of evidence indicating that ongoing use of psychotropic medication "does not result in improved functional outcomes".

What could be done to improve the implementation of Act 114?

Again, referencing MHLP's letter to DMH, their position is that involuntary medication "should be used only as a last resort". While no alternative approaches were offered in our interview, or review of the letter we reference, our past reports have communicated a range of specific ideas from both legal advocates and patient representatives.

Review of Documentation

The Act 114 statute requires the Department of Mental Health to "develop and adopt by rule a strict protocol to ensure the health, safety, dignity and respect of patients subjected to administration of involuntary medications." VSH had in place a protocol and set of forms intended to guide its personnel in adhering to the protocol, including written, specific, step-by- step instructions that detailed what forms must be completed, by whom and when, and to whom copies were to be distributed. As other hospitals took on responsibility for administering medication under Act 114, they utilized the forms VSH had developed. Forms included:

1. Patient Information: Implementation of Nonemergency Involuntary Medication – completed once – includes information on the medication, potential side effects and whether patient wishes to have support person present.
2. Implementation of Court-Ordered Involuntary Medication – completed each time involuntary medication is administered in nonemergency situations – includes whether support person was requested and present, type and dosage of medication, and preferences for administration of injectable medications.
3. 7-Day Review of Nonemergency Involuntary Medications by Treating Physician – completed at 7-day intervals – includes information on dose and administration of current medication, effects and benefits, side effects, and whether continued implementation of the court order is needed.
4. Certificate of Need (CON) packet – completed anytime emergency Involuntary procedures (EIP), i.e., seclusion or restraint, are used. This form provides detailed guidelines for assessing and reporting the need for use of emergency involuntary procedures.
5. Support Person Letter – completed if a patient requests a support person be present at administration of medication.

As part of the VSH protocol discussed above, there was a requirement that each patient on court-ordered medication have a separate file folder maintained in Quality Management including:

1. Copy of court order.
2. Copy of Patient Information Form.
3. Copies of every Implementation of Court-Ordered Medication Form.
4. Copy of reviews.
5. Copies of Support Person Letter, if used.
6. Copies of CON, if needed.
7. Summary of medications based on court order.
8. Specific timeline of court order based on language of court order.

To assess the implementation of the Act 114 protocol, FSA reviewed each hospital's documentation for patients with Act 114 orders for whom the petition had been filed during FY20. Hospitals all use electronic records; staff from four hospitals (Retreat, RRMC, UVMMC and VPCH) provided electronic, redacted copies of Patient Information Forms, Implementation of Court-Ordered Medication Forms, and 7-Day Review Forms (or Progress Notes if review forms were not used), along with any CON documentation for review.

FSA reviewed forms completed by hospital staff for 54 persons with Act 114 applications filed and granted in FY20 (July 1, 2019 to June 30, 2020). This included patients from the Retreat (n = 16), RRMC (n = 9), UVMMC (n = 9), and VPCH (n=20).

Patient Information Form

Patient Information forms were present for 48 of the 54 files (89%) reviewed. Files with missing Patient Information forms were at the Retreat (n=4), RRMC (n=1), and UVMMC (n=1).

All Patient Information forms present (n=48) were complete in terms of medication type and dose, possible side effects, and options for taking the medication. Most forms (n=45, 83%) included information on whether the patient wanted a support person present when receiving medication; 18 patients refused to or were not able to discuss having a support person. Five forms did not include any information about support persons (n=2 RRMC, n=1 Retreat, n=2 VPCH). Patients signed four forms, refused to sign 22. Two RRMC forms did not have patient signatures or an explanation. VPCH electronic record did not include a place for patient signature.

The Patient Information Forms should be completed prior to the first administration of court-ordered nonemergency involuntary medication. This is indicated by the Patient Information form completion date at least one day prior to the date of the first Implementation of Court- Ordered Medication form. Patient Information Forms had been completed on the day of the order for 15 (31%) patients, one to three days later for 26 (54%), or longer for 6 patients (13%). Each hospital completed Information Forms on the same day or prior to administration of medication at the same rate.

Form for Implementation of Court-Ordered Medication

FSA examined the forms documenting the first three administrations of involuntary medication following the court order, and then the same forms documenting administration of medications at 30-day intervals following the court order. Of the 216 Implementation Forms reviewed, 182 (84%) were complete. The incomplete Retreat forms were missing information indicating whether the patient wanted a support person. The missing VPCH forms were CONs as described below.

Table 8: Number and Percent of Complete/Incomplete Implementation Forms

Hospital	Complete Forms		Incomplete Forms		Total	
	Frequency	Percent	Frequency	Percent	Frequency	Percent
Retreat	37	54%	31	46%	68	100%
RRMC	37	100%	0	0%	37	100%
UVM MC	25	100%	0	0%	25	100%
VPCH	83	97%	3	3%	86	100%
Total	182	84%	34	16%	216	100%

Certificate of Need (CON) Form

Forms also recorded whether a CON was needed for administration of medications. In total, there were 16 forms noting that restraint was used, CONs were required and present with all but three files from VPCH. It was not clear if the required CON form was in the file but not present in the redacted copies used for this review.

7 Day Review of Nonemergency Involuntary Medications by Treating Physicians

A total of 196 Seven Day Review forms were examined. Of these, 182 (93%) were complete. Most of the incomplete forms were Progress Notes, not Review Forms, from the Retreat; these forms were missing information about the side effects of medication patients might be experiencing. One RRMC file and three VPCH files did not include Review Forms.

Gaining Input

The FY 2020 annual assessment invited feedback from persons to whom medication had been administered under an Act 114 court order anytime between 2003 and June 30, 2020, as well as from persons for whom an application for an Act 114 court order had been filed and denied by the court. In our conversation with the Adult Program Standing Committee following submission of our 2007 assessment, members suggested that the study should offer *anyone* who has received Act 114 court-ordered medication the opportunity to reflect on the experience. The suggestion was driven by an interest in knowing if and how individuals' perceptions of their experiences receiving involuntary medication while hospitalized might have changed once living again in the community. In response to this idea, beginning with the FY 2008 Annual Assessment, anyone who had been under an Act 114 court order (through June 30th of each year) was invited to participate in an interview. One additional change took place when legislators, in the 2014 legislative session, asked that beginning in the FY 2015 assessment interviews be offered to individuals on whom a petition was filed during the assessment period but NOT granted by the court. To encourage voluntary input from individuals fitting the above criteria, Mental Health Law Project has supported this assessment by mailing invitational materials both to:

- Individuals for whom an Act 114 application was filed and granted.
- Individuals for whom an Act 114 application was filed but not granted in the study year.

The following steps were used to engage individuals in this study:

- FSA designed a questionnaire and consent form for distribution to individuals who received Act 114 medication orders *during* FY 2020. The questionnaire/consent form gave individuals the option of participating in an interview OR providing feedback on the questionnaire. The Vermont Legal Aid Mental Health Law Project (MHLP) mailed the questionnaire/consent form with a letter about the study to all persons who received Act 114 medication *during* FY 2020.
- A brochure, intended to inform people and create interest in participating, was written by FSA for distribution to individuals who received Act 114 medication orders *prior to* FY 2020. Again, MHLP mailed the brochure and a letter about the study to individuals fitting these criteria for which they had postal addresses.
- Additionally, MHLP mailed a letter, inviting feedback, to persons on whom applications submitted for Act 114 medication during FY 20 were not granted by the court.
- A direct phone number was provided in materials to make it easy for people to contact the Flint Springs Associates research team and leave a message indicating whether they wanted to schedule an interview - or learn more about the study before deciding whether to participate. For those individuals who stated their interest in being interviewed, FSA promptly reached out to schedule an interview time.
- Compensation of fifty dollars ($50.00) was offered and paid to those individuals who received a mailing from MHLP and chose to participate either by phone interview or completion of the questionnaire.

Focus of Input Desired

The assessment pursued two lines of questioning: one for persons hospitalized and receiving an Act 114 medication order at some point between July 1, 2019 and June 30, 2020, and another for those discharged from VSH, the Retreat, RRMC, VPCH or UVM Medical Center at any time prior to July 1, 2019.

The questions asked of persons who had been hospitalized and had received Act 114 medication orders during FY 2020 sought to understand:

- How the event of receiving court-ordered, nonemergency medication was experienced.
- To what extent the protocols identified in the statute were followed, and
- What recommendations they might have for improving the experience of receiving Act 114 medication.

Specific questions focused on understanding the extent to which the following provisions of Act 114 had been implemented examined:

- Conditions and events leading up to the involuntary medication.
- How well individuals were informed regarding how and why they would be receiving involuntary medication.
- Whether and how individuals were apprised of their rights to have a support person present and to file a grievance
- Conditions and events related to the actual experience of receiving involuntary medication.

Additionally, people who received Act 114 orders during the FY 2020 were asked to comment on:

- Their opinion, looking back, on the state's decision to order Act 114 medication.
- The most and least helpful aspects surrounding the experience of receiving court-ordered, non-emergency, involuntary medication.
- How the administration of Act 114 medication could be improved

Persons discharged at any time prior to July 1, 2019 who agreed to interviews were asked the following:

- How the event of receiving court-ordered medication was experienced on reflection.
- What impact receiving court-ordered medication has had on their current life.
- What they are doing to care for themselves and what involvement, if any, they have with mental health services and treatment.
- What recommendations they have for improving the administration of court-ordered, non-emergency, involuntary medication at the UVM Medical Center, Rutland Regional Medical Center, the Brattleboro Retreat, and the Vermont Psychiatric Care Hospital.

Number of Individuals Who Received Invitation Letters and Numbers Who Provided Feedback

<u>FY 2020</u>

During FY 2020, MHLP records indicate that Act 114 applications were submitted to the courts for 48 individuals[i]. Of those:

- 44 applications were granted.
- 4 applications were denied.

MHLP sent letters with the questionnaire/consent form to the 44[1] individuals in their records who received at least one Act 114 court order during FY 2020. Four envelopes were returned to MHLP leaving 40 individuals who received an invitation to participate. Four individuals provided feedback, all via completion of questionnaires they received in the mail.

Prior to FY 2020

MHLP maintains updated contact information for individuals who've received Act 114 court-ordered medication between 2003, when Act 114 court orders were first granted, and June 30th, 2019 (the end of the FY19 study period). For FY 20, MHLP sent out 302 letters, of which 99 were returned, resulting in 203 individuals receiving an invitation to provide feedback for the study. Of the 21 individuals who expressed interest, 10 persons with medication orders prior to FY 2020 agreed to provide feedback through phone interviews. No interest was expressed from the 4 persons whose applications for Act 114 medication were not approved during the study period.

Table 9: Participants Providing Input as Proportion of All Persons with Act 114 Orders by Study Year

Year of Court Order	Persons Who Received 114 Court Orders		
	Number with Orders Issued in Designated Study Period	Number Providing Feedback Who Received Order in Study Period	Response Rate of Feedback
2003	14	1	1%
2004	27	6	22%
2005	13	4	31%
2006	22	4	18%
2007	18	2	1%
2008(1/1/08–11/30/09)	12	4	33%
2009 (7/1/08 -6/30/09)	19	3	16%
2010 (7/1/09 -6/30/10)	26	4	15%
2011 (7/1/10 – 6/30/11)	28	4	14%
2012 (7/1/11 – 6/30/12)	28	6	21%
2013 (7/1/12 – 6/30/13	32	4	13%
2014 (7/1/13 - 6/30/14	55	6	11%
2015 (7/1/14 - 6/30/15)	50	6	12%
2016 (7/1/15 - 6/30/16)	62	6	10%
2017 (7/1/16 - 6/30/17)	52	8	15%
2018 (7/1/17 - 6/30/18	67	7	10%[2]
2019 (7/1/18 - 6/30/19)	50	8	16%[3]
2020 (7/1/19 – 6/30/2020	44	4	9%[4]

[1] Numbers provided in this section reflect the number of individuals on whom applications were filed at any point during FY2020. The number of applications filed may differ as it is possible that more than one application was filed for an individual over the 12-month study period.

[2] Although 67 individuals received Act 114 orders during FY 18, 12 letters/questionnaires sent by MHLP were returned unopened. Of the fifty-five individuals who received the materials from MHLP, the seven who provided feedback represent a 13% response rate.

[3] Although 50 individuals received Act 114 orders during FY 19, only 44 individuals received letters (6 were returned to MHLP), raising the response rate amongst recipients to 18%.

[4] Although MHLP sent invitations to the 44 individuals in their records who had received at least 1 Act 114 order during FY 2020, 4 letters were returned raising the response rate amongst recipients to 10%.

Of the four persons who provided input regarding their medication experience during FY 2020:

- one received the medication order at the University of Vermont Medical Center
- two received the medication order at the Rutland Regional Medical Center
- one received the medication order at the Vermont Psychiatric Care Hospital (VPCH)

Feedback provided by the four persons who received Act 114 medications in FY20

The reason for refusing to take medication.

In response to the question "why did you choose to not take medication voluntarily?" three of the four individuals provided answers. Two individuals responded that they didn't like the side effects associated with the medication. One of those also said, "I didn't think I needed it" and noted the doctor "told me to stop taking (all) pills". Another person had "never wanted to" take medication.

Information about the court hearing, the court order, the Act 114 protocols, and the right to file a grievance.

Act 114 protocols stipulate that individuals be given information about the upcoming court hearing and the subsequent court order. Three respondents said they were given information about only the hearing date and the fourth reported being given information about the hearing's location. When asked how they'd learned that a court order to take medication had been approved one individual noted that his lawyer, doctor and other hospital staff had all provided this information, one person learned about this from other hospital staff, one individual said no one had provided this information and the fourth respondent could not remember.

Act 114 requires that individuals be given information about the prescribed medication being ordered, including its name, the dosage and frequency with which it would be administered, whether it would be given orally or by injection, the intended effect and the potential side effects and risks associated with taking it. One individual reported having been given all the above information, one person received information only about the frequency of administration, another respondent said information was provided over how the ordered medication would be administered, and the benefits of the medication were provided, and a fourth individual was informed about the dosage, side effects and type of administration.

Finally, people were asked if they knew about the Act 114 protocols that guide the administration of court-ordered involuntary medication and whether they were aware of their right to file a grievance. One individual reported knowing about the protocol that directs how DMH should use involuntary medication ordered under Act 114, and that individual along with another person affirmed their knowledge of their right to file a grievance if the protocol was violated.

Treatment by staff during and after administration of involuntary medication

People were asked to comment on:

- What happened if they receive medication through injection?
- How they felt they were treated in general by staff around, during and after the administration of court-ordered medication.
- Concern that staff showed for a patient's interest in being afforded privacy when medication was being administered.
- Whether they were asked if they wanted a support person present when receiving medication, as stipulated in the protocols.
- Whether they were offered emotional support.
- Whether staff offered to help debrief them after administration of court-ordered medication.

Two of the four individuals answered question about the experience of receiving medication through injection. One of the individuals was hospitalized at RRMC and the other at VPCH. Both said they had been physically restrained when they got a shot. Neither reported that staff had asked them where on their body they would prefer to get the injection or that while restrained they were able to talk, drink, eat and use the bathroom.

Individuals were asked how they would rate the privacy of the location in the hospital where medication was given to them. Two people reported the location was private enough for them, one noted the location for receiving medication was not private enough and the fourth respondent said that privacy was not an issue in receiving medication. Responses regarding how people were treated by staff in relation to the administration of the court- ordered medication revealed mixed reactions. In response to a question about the extent to which people felt their health, safety and dignity were respected throughout the experience of receiving Act 114 medication:

- Two people reported feeling somewhat respected.
- Another two reported feeling that their well-being had not been respected at all.

Patients receiving Act 114 medication should be asked by staff if they would like a support person present when receiving medication. One individual did not remember being asked about having a support person present. The remaining three respondents said they were not asked. Of those two said that if asked they would not have wanted a support person while the third said a support person would have been requested.

The protocol also states that patients should receive offers from staff to debrief the experience of receiving involuntary medication and to receive emotional support. No one said that emotional support or an opportunity to debrief the experience was offered.

<u>Regarding the extent of force used to get people to take medication</u>:
The questionnaire asked people to describe any ways in which they felt they had some control over the process of receiving court-ordered medication. One individual noted being given the opportunity to choose whether to take the medication orally or via injection. The only other comment provided by another respondent was that the person had not control.

<u>What was most difficult and who or what was most helpful about the experience of receiving involuntary, court-ordered, non-emergency medication?</u>
Each respondent gave very different answers when asked what was most difficult. One person said, "there was not a difficult part, I take the meds regularly". Another noted the belief that the medication ordered caused physical pain. A third individual simply said that being restrained was most difficult, while the fourth said "they did not get information to Mental Health". Without further elaboration it's difficult to discern the full meaning of that final statement.

In response to the question of what or who as most helpful during the experience of receiving Act 114 medication one respondent noted that a social worker at the hospital had been most helpful. Another responded identified a doctor who appears to be community-based who is attributed with changing the medication and dosages, which relieved complaints about the physical pain this person associated with the ordered medication.

People were asked their opinion about whether the State had made the right decision in seeking an order for, and giving the court-ordered, involuntary medication. Only one individual circled "yes" to this question while the other three circled "no". No additional explanations for their responses were provided.

Responses from people who received Act 114 medication prior to FY 20

MHLP reported that 203 individuals who had Act 114 medication orders prior to FY 2020 *received* letters and a brochure inviting their participation to give feedback for the study. Ten people in this category participated in phone interviews for the study, representing a 5% response rate.

People interviewed were asked the most recent year in which they received Act 114 medication and in which hospital was the medication order administered. Four people did not have a specific memory of when they last received medication. Three individuals thought the most recent Act 114 order took place between three and four years ago while a fourth person said, "I'm not sure – it's been a few years". Amongst the remaining six respondents, the timeline went as far back as 2004 for one person, hospitalized at the Vermont State Hospital, with the remaining five reporting most recent court orders in 2015, 2016, 2017 (2 persons) and 2018.

In terms of where the 10 individuals interviewed last received an Act 114 order:

- 3 persons were at the Brattleboro Retreat.
- 3 were at the Vermont Psychiatric Care Hospital.
- 3 were at Rutland Regional Medical Center.
- 1 was at the Vermont State Hospital.

People living in the community were asked to reflect on the following:

- How the event of receiving court-ordered involuntary, nonemergency medication was experienced and why they refused to take medication.
- The impact of receiving medication on their current life.
- Their current involvement in self-care and treatment activities.

<u>How was the event of receiving court-ordered medication experienced?</u>
Four persons described their experiences, looking back, as negative ones that linger in their memories. Segments of their responses include the following:

- "It was a pretty frightening experience…absolutely life-ruining for me at the time. It is still fresh in my mind as it was yesterday – as many times as I tell myself the positive aspects of it I'm taken back by the experience."
- "It was terrifying…like a level of torture. I was terrified because of my past experience of having drugs forced into your body."
- "When [I was] in court, I felt I didn't' have a voice…. It all happened so fast…I just yielded to the powers that be."

People discussed their reasons for not wanting medication which included concerns about, and past experiences with harmful side effects and beliefs that they didn't need medication.

- <u>Upon receiving the medication "I felt tired, sluggish…. Was afraid that the medication would keep me from function in regular life…. [Now the medication] restricts my ability to drive, to go out".</u>
- <u>"I didn't want to take it at first because of side effects from other meds [taken previously]".</u>
- <u>"They were giving me medication because of false information".</u>

<u>One person agreed to take the medication saying, "I knew that if I didn't take the medication, they would force you to take it".</u>

Finally, two people felt they had not been treated well by the doctor at the hospital where they received medication. In one case the person felt that she had been doing well at the residential program until a doctor hospitalized her.

- "I was sent to Rutland…the doctor was more like a dictator. I associate [getting forced] medication to being raped".

What impact has receiving court-ordered medication had on your current life?
Amongst the 10 respondents, five talked negative impacts on their current situation while the other five cited positive outcomes related to receiving court-ordered medication.

Negative impacts:
Two people referred to the trauma and stigma experienced as result of receiving Act 114 medication.

- "The fear, pain and being restrained has left me with residual trauma. [Right now] I'm in an interview process for a job…I am hoping this doesn't come out…I still feels I can't reach out to my former friends – those people before I was forced on drugs."
- "The pressure [I experience] from family, doctors, Mental Health, to take the drug is traumatic – that people can overpower others…"

One other individual described the impact on his self-esteem.

- "It was bad for my self-esteem…the association with being nuts…. when they said [the medication] was a court order, it was upsetting because I wanted to get to the root of the project. I would have like people to have done this with care versus telling me that I'm acting crazy".

Three individuals noted the lasting side effects of the medication they experience.

- "I'm fifty pounds heavier because of the shots…. I'm disgusted and discouraged."
- "At first I gained weight on Abilify. I asked for a switch but have continued to gain weight".
- "The medication was starting to give me tremors and my nurse practitioner reduced the dosage, and that seemed to help".

Positive impacts:
Although expressed in different ways, four persons described finding themselves more able to function and less debilitated by symptoms related to their mental illnesses.

- One individual noted "now I am highly functional". She noted that within the past year she decided to discontinue one medication, leading over the course of months to her delusions returning. However now back on the medication, she reports "I am fine now…. I was able to pull out of it and pull myself back".
- Another person noted still battling some depression but, remaining on medication has resulting in not becoming "manic which led me into hospitalizations in the past".
- Medication on the first try doesn't always work but a positive impact for one person resulted from working with her doctor in the community to alter both the medication and the dosage. The change in medication "helps me get my voices down so I can deal with them better".
- Positive impacts were also noted in how people learned to take better care of themselves. Specifically, one respondent said "the good parts of involuntary medication gave my physical body the discipline to take on the moment…one good thing about the hospital stay was that I had to replace and build my ways to cope. I started making plans for on-line shopping [in preparation for returning to the community] and getting food to the house, so when COVID hit I was prepared [to take care of myself] …through it all, good came out of [the hospitalization]".

In what course of self-care and treatment activities are people currently engaged?
People were asked to discuss how they are taking care of themselves. Specifically, they were

questioned about what activities and events they participate in that they view as beneficial and/or that make them feel good and what, if any, involvement they have with the mental health system.

A variety of interest areas, activities and disciplines were described by the ten individuals interviewed. Many people identified a range of pursuits in which they find pleasure and express themselves creativity. These include making visual art, composing and playing music, writing books and poetry, watching movies, engaging in political activity, and starting a business or working as a volunteer.

Two individuals are focused on improving their nutrition, both of whom noted a move to more healthy meals, high in fruits and vegetables.

Engaging in exercise was noted by five people. Three persons "walk a lot", one of whom is trying to keep her weight down. Biking, playing tennis and strengthening exercises were also listed.

- One individual noted that exercise "lowers my anxiety and keep my time pretty occupied",
- Another, who began bicycling, said "I can't believe the people you meet who live a healthy lifestyle…I've met all kinds of people [biking] and that's really been therapy".

Half the individuals interviewed noted having taken up some form of spiritual practice.

- "Getting out in nature is my higher power".
- "Spiritually…. I practice in private. [My practice] incorporates other religions and I worship at home and wherever I go".
- "I read psalms from the Bible" which was sent to him by a friend.

Two people noted they practice mindfulness work.

- "I have a mindfulness app."
- "I do a lot of mindfulness work and have a spiritual teacher". Additionally, this person practices yoga which helps "to keep me in good shape".

Connecting with family and/or friends was mentioned as important by half the people interviewed for the study.

- "I'm a new grandma…. [due to COVID] I zoom with my daughter to see my grandson."
- "I see my father weekly and am currently in visitation with my child."

One person stays in touch with family members by email and phone contact and finally one other person continues to live with her family, including a son.

As FY2020 is marked by the COVID pandemic, we asked people living in the community to describe if and how their current lives have been affected during this time. Five people commented, some about the anxiety around staying safe, the "stress around cleaning hands", the inability to have in-person contacts with family and friends – and in one case the loss of work as her place of business "can't be open".

People were asked whether they remained connected to any mental health system and services, and if so, in what ways did they engage those services?

Two persons report they no longer take psychiatric medication and are not involved with formal mental health services.

The remaining eight individuals who continue to take medication, differ in their opinion about the value of taking medication, but all receive and accept varying levels of support from mental health services in their communities.

Regarding the current benefit of medication seven individuals had different thoughts to offer:

- "I don't feel I need it, but I take it because of the court [ONH] order. Every 6 months a nice lady comes out and tells me 'they want you on int again' and I say all right."
- "I want to get off the ONH but I would still take the medication because it helps me…. I haven't been manic for 2 years due to the meds".
- "I value the medication I'm now on – but I wouldn't want to be living on too high a dose or become psychotic."
- While the medication "addresses the psychosis, it increases the anxiety…and leave me felling not like myself".
- While the "voices are diminished" the medication leaves "me having to deal with the [side effects of] physical pain and the weight gain".

One person said that the medication has had a negative impact on her art. And finally, a sixth person feels that all the services received through the mental health system, including case management help and medication "are beneficial".

Each of the eight individuals who remain engaged with mental health services work with a case manager and see a psychiatrist for medication monitoring and adjustment. COVID safety protocols have resulted in telephone and/or telemedicine appointments between most of these individuals, their case managers and their psychiatrists. Two people noted appreciation for their case managers who helps them run errands and needed shopping. Another reported having "a very good relationship [with the case manager] – anything I ask for she does" while a fourth person said, "I have a case manager who is available to contact any time…he makes himself available, sees my independence, checks in and gives me support".

Finally, in addition to case management and medication management services, a handful of respondents said they participate in counseling sessions through their local mental health services.

Table 10: Reported Treatment Participation and Self-Care Activities

Key Responses	Number of Responses
Involved in some way with mental health professional services (has case a manager, sees MD, participates in individual and/or group therapy), either community-based or private	8
Currently taking psychiatric medication	8
Engaged in hobbies such as reading, painting, music, poetry, performing	8
Exercises regularly (exercises, taking walks, etc.)	5
Remains connected with family/friends	5
Maintains a spiritual/religious practice	5
Holds a paying job	1
Engaged in business projects	1
Volunteers	1

Recommendations for improving how court-ordered involuntary medication should be administered at the hospitals in Vermont.

This section describes responses from the fourteen people who provided feedback this year including:

- 4people who received Act 114 medication orders during FY 20.
- 10 persons currently living in the community who received Act 114 medication at least once prior to FY 20.

Recommendations fell into several themes including the importance of staff interpersonal and communications skills with patients, sensitivity to patients' concerns about and reactions to the strong impacts of medications, and the need for a range of activities to positively engage and occupy patients during their hospitalization. The following section presents a sample of recommendations regarding the above

- *Staff should listen more, work to understand, and believe what the patient is going through, and reduce potential trauma resulting from being ordered to take medication.*
  "They should recognize they have the power, and there's not much that anyone could do."
  "They should take opportunities to engage collaboratively."
  "The person who was telling me about the court order was hollering to me. It would have been better if he spoke like a mature adult, level-headed. I didn't like the staff because of their attitudes. They were pretty snotty."
  "It would be good to have a counselor to talk to. I met with a doctor, but it was brief, not therapy."
  "Do more de-escalation, make it a last resort to do forced medication. The forced medication is really physically and emotionally traumatic."

- *Staff should provide information about the medication including why it is needed, its potential benefits and side effects, address and demonstrate sensitivity to the fears and concerns that patients may have.*
  "Staff should focus in a calm way and explain the purpose of the medication, and work with the person so that both the patient and the staff feel empowered."
  "They should heed to the patient's concerns more."
  "One thing that upset me – I didn't see the doctor. He gave me a high dosage of another medication without talking to me about it and I believed I could have died…. I recognized [the medication] before and I refused to take it. That upset me."
  "More information about the medication."
  "These are powerful drugs…to not administer them so regularly and pressure [patients] is my suggestion. Be sensitive to physical reactions and determine what the cause is – psychosis or the drugs."
  "They should be responsive to the patient's physical conditions."
  "Start the patient off on a very low dose."

- *Hospitals should provide a range of activities for patients to engage in during their stay.*
  "I think the hospitals should have mindfulness activities [as well as] exercise, yoga and walking."
  "Groups had really helped. If you didn't go to group you wouldn't get out. They really have good groups."
  "There's not much to do there. [Provide] more reading material like some books."

One person felt it took too long for the medication order to be implemented with negative consequences. This person commented as follows:
"Í really did need medication and didn't have contact with my family. The Courts should be more

expedient in getting people out of the hospital. If the hospitals have other modalities [of treatment] I think I'd be out of these more quickly….it was 7 – 8 months of your life, it was like being in prison."

Key Findings Emerging from Interviews

It is important to offer the following information about the interviews. First, the people who volunteered to participate in the interviews were self-selected. This year's response rates - (5%) for persons receiving medication orders prior to FY20 and 10% for those receiving orders in FY 20 - were extremely low so that one cannot view the findings as representative of all people who received Act 114 court-ordered involuntary medication between January 1, 2003, and June 30, 2020. Second, in a small number of cases, people chose not to comment, were unable to remember, or were confused and unable to clarify their responses to some of the circumstances surrounding the court order and administration of medication.

In recruiting people who received court-ordered medication over the span of time between 2003 and June 30, 2019, the study aimed to:

- Generate an increased amount of feedback from individuals who received involuntary medication under Act 114.
- Gain new information from people now in the community and no longer under an Act 114 court order about:
    - How receiving involuntary medication has impacted their current circumstances.
    - The forms of self-care people pursue.
    - Choices they have made regarding whether and how they are currently engaged in any form of (voluntary) treatment.

This year, as in years 2009 through 2019, two different sets of questions were posed to study participants, based on:

- whether they were hospitalized and received Act 114 medication within FY 20
- or had been discharged prior to July 1, 2019 and were living in the community.

Responses from the four individuals who were hospitalized and received involuntary medication through an Act 114 order at some point between July 1, 2019, and June 30, 2020, showed mixed responses in terms of:

- Reports of how the Act 114 protocols were followed.
    - Three of the four respondents said they were not offered a support person (the fourth could not remember) and of those three only one said that if asked he would have wanted a support person. Similarly, the same three individuals said that staff had neither offered support or debrief with them after receiving the court ordered medication.
    - One individual was aware there were Act 114 protocols, and two knew they had the right to file a grievance if they felt the protocol was violated.
    - In terms of information received, three of the four respondents reported only being told the date and time of the hearing while the fourth was only told the hearing's location. Two individuals, both hospitalized at RRMC, said they were given information about the court ordered medication. The four individuals all were told how the medication would be given and all received varying types of information regarding medication dosage, name, frequency of administration, benefits, and potential side effects.

- Sense that they had some control.
    - Two individuals noted they were given a choice to receive the medication in pill form, while two others said they were not given that choice. Beyond that, none of the respondents reported feeling they had some control.
- Feelings about how they were treated, supported, and respected during that experience.
    - Two said they felt somewhat respected and two felt staff did not respect them at all.
- The value and benefit that receiving court-ordered medication has had on their current situations.
    - One individual felt the state did the right thing, while the other three disagreed with the decision to be medicated.

Of the fourteen individuals who provided feedback, two report that they no longer take psychiatric medication or engage in any mental health services. Living situations for 7 respondents who received 114 medication orders prior to FY 20, are in some form of community-supported housing, including group residence and individual apartment while three individuals live in private residences (one of whom lives with her family). Of the 10 persons who received medication orders prior to FY 20, one is employed part-time and one reports his own business.

Finally, those interviewed noted the need for meaningful activities within the hospital setting, and, importantly, the critical role that the communication and interpersonal skills of hospital staff can and should play in:

- Acknowledging and attending to patients' concerns about court ordered medication.
- Giving patients clear information about the medication, why it is being ordered and its potential impacts, both positive and negative
- Providing patients with the information needed to exercise more choice in their treatment.

Section 2: Outcomes from Implementation of Act 114

As part of earlier assessments, stakeholder input was used to identify a set of outcomes that would be expected with successful implementation of Act 114. These outcomes include:

- Hospital staff awareness of Act 114 provisions.
- Decreased length of time between hospital admission and filing petition for involuntary medication.
- Decreased length of stay at hospital for persons receiving involuntary medication.
- Reduced readmission rates and increased length of community stay for persons receiving involuntary medication.

In addition, persons currently living in the community were asked to describe the impact that receiving nonemergency involuntary medication had on their current lives and their engagement in treatment.

For FY20, achievement of outcomes was as follows:

- Staff awareness of Act 114: Documentation indicates that staff administering medications under Act 114 in FY20 were generally aware of the provisions as shown by documentation of adherence to most Act 114 provisions. Consistent with past reviews, documentation of whether the patient wanted a support person was the most common piece of information missing on the Implementation Form. This was especially true for Implementation Forms completed at the Retreat as nearly half of the implementation forms did not indicate whether a support person was wanted.
- Time between admission and petition: In FY20, 52% of Act 114 petitions were filed within 30 days of the date of hospital admission; 33% were filed 30-60 days after admission (see Table 11). This finding demonstrates that petitions continued to be filed in approximately the same period as in the past two years.

Table 11: Time (in days) Between Admission to Hospital and Filing Act 114 Petition

Time from Admission to Petition	FY of petition filing (7/1 to 6/30)							
	FY17		FY18		FY19		**FY20**	
	Freq	Percent	Freq	Percent	Freq	Percent	Freq	Percent
<30 days	24	39%	44	56%	34	52%	28	52%
30-60 days	21	34%	19	24%	20	31%	18	33%
61 - 180 days	11	18%	14	18%	7	11%	7	13%
181 - 365 days	1	2%	1	1%	2	3%	1	2%
>365 days	4	7%	1	1%	2	3%	0	0%
Total	61	100%	79	100%	65	100%	54	100%

In FY20, it took on average 38 days from admission to filing the Act 114 petition (see Table 12). Overall, it took about 51 days from admission to the Act 114 order. This represents a decrease in time from previous years in admission to filing the petition. It took on average 13 days from the date the petition was filed to the date an order was issued. This is within the increase/decrease of the past few years.

Table 12: Mean Time Delays between Steps in Act 114 Process
(Excluding cases in which petition filed more than 1 year after admission)

FY of Petition (7/1 t0 6/30)	Time (in days) from:					
	Admission to Filing Petition		Petition to Order		Admission to Order	
	Mean	*Std. Dev.*	Mean	*Std. Dev.*	Mean	*Std. Dev.*
2012	50.2	*35.1*	14.4	*6.8*	65.7	*35.0*
2013	57.6	*40.9*	13.4	*9.6*	66.7	*39.7*
2014	93.2	*107.4*	16.2	*8.1*	109.3	*109.4*
2015	64.9	*55.9*	15.9	*9.7*	81.1	*61.0*
2016	67.6	*61.4*	12.2	*6.9*	79.6	*63.0*
2017	51.2	*56.2*	11.0	*6.9*	62.1	*57.7*
2018	43.2	*49.5*	12.1	*11.9*	55.3	*50.3*
2019	40.7	*44.9*	15.3	*22.5*	55.9	*53.4*
2020	37.6	*39.0*	13.1	*14.0*	50.7	*44.8*

In past assessments, and again this year, hospital staff reported that time delays in the Act 114 process were often due to legal procedures. The first of these is separation of the commitment and Act 114 hearings. As shown in Table 13, in FY 20, 92% of Act 114 petitions had been filed prior to the commitment orders.

Table 13: Time between Date of Commitment and Act 114 Petition Filing Date
(Excludes cases in which time was 1 year or more)

Petition filed:	FY17		FY18		FY19		FY20	
	Freq	Percent	Freq	Percent	Freq	Percent	Freq	Percent
Before commitment	24	50%	52	75%	16	30%	47	92%
Same day as commitment	0	0%	0	0%	0	0%	0	0%
Within 7 days of commitment	6	13%	5	7%	20	37%	1	2%
8 - 30 days following commitment	9	19%	9	13%	15	28%	1	2%
30+ days after commitment	9	19%	3	4%	3	6%	2	4%
Total	48	100%	69	100%	54	100%	51	100%

- Length of stay: Of the 54 individuals with Act 114 petition filed in FY20, 50 (93%) were discharged from psychiatric inpatient care, on average, 95 days (approximately 3 months) after admission, and 48 days (about 7 weeks) after the Act 114 order was issued (see Table 14). This represents a notable decrease in length of stay.

Table 14: Length of Stay for Patients under Act 114 Orders Who Were Discharged from Hospital
(Excludes cases in which time was 1 year or more)

FY Petition Filing (7/1 t0 6/30)	**Average Length of Stay (in days) from:**			
	Admission to Discharge		**Order to Discharge**	
	Mean	*Std. Dev.*	Mean	*Std. Dev.*
2012 (n=23)	128.1	*67.4*	63.5	*40.5*
2013 (n=21)	123.4	*41.3*	71.0	*38.9*
2014 (n=35)	154.7	*125.9*	85.8	*63.0*
2015 (n=45)	149.6	*87.9*	97.1	*69.6*
2016 (n=41)	152.8	*121.0*	58.9	*49.0*
2017 (n= 46)	122.4	*75.4*	68.9	*47.8*
2018 (n=65)	116.2	*80.7*	65.4	*63.2*
2019 (n=62)	126.0	*105.1*	66.2	*61.0*
2020 (n=48)	95.5	*55.3*	48.3	*41.7*

- Readmission Rates: Of the 50 patients who were discharged in FY20, 15 individuals (30%) had been readmitted at least once after the order by the time of this review.

Section 3: Steps to Achieve a Noncoercive Mental Health System

The Department of Mental Health (DMH) leadership team, six individuals, met with Flint Springs Associates (FSA) to review steps DMH took during FY20 toward achieving a noncoercive mental health system. These include:

1. On January 1, 2019, Whole Person Care was implemented. This payment reform initiative focuses on person-centered care by guaranteeing the Designated Agencies (DA) a set monthly fee to provide more flexibility in the services. The initiative has opened up multiple service codes allowing DAs to customize services. By constructing a menu of services that are less reliant on categorical eligibility, services are more accessible to individuals. In addition, as individuals recover, they are no longer in danger of losing services because their eligibility doesn't change as they improve. During FY20, DMH collected data to track and monitor service volume to ensure that persons with greater needs are served and there are no incentives to reduce services. Data shows increased use of outpatient case management, indicating attention to service needs. DA's increased ability to use telemedicine has been helpful with COVID restrictions.

2. As part of Act 82 implementation, during FY20 DMH has been reviewing persons with duplicate 114 orders and hospitalizations FY17 – FY19; the review will be completed in FY21.

3. DMH has been soliciting feedback toward developing a 10-year plan for mental health services from a range of stakeholders.

4. Additionally, DMH sought stakeholder input for developing a new physically secure residential program that would facilitate return to community living. Stakeholders included community providers, advocates, current/past residents. After seven years of planning, funding to design the building and acquire land was secured in FY20. Funds were allocated by the legislature for building a new program in FY21.

5. DMH, working with ADAP at the Department of Health, secured a $1.1 million Substance Abuse outreach grant. The grant focuses on crisis outreach, especially in rural areas. It includes:
    - Vehicles for DA's to use for crisis outreach.
    - Technology to help people connect with agency staff and peers.
    - Increased hours and availability of Peer network call-in centers.
    - Funds to renovate crisis beds and meeting spaces.
    - Renovations at the Brattleboro Retreat to provide more in-patient care.
    - Expanding CVHHS capacity by 25 beds to provide voluntary, low acuity patients with in-patient care.

6. COVID safety efforts have included PPE for staff working directly with individuals, especially when de-escalation is needed; a 10 bed COVID unit for anyone in need of any level inpatient psychiatric care as week as COVID care; testing for all patients prior to admission for inpatient psychiatric care; expedited COVID testing reducing time to get results from several days to several hours.

7. DMH has supported hospitals to develop internal capacity to ensure safety for patients and staff in the Emergency Department. In FY20, sheriff's departments no longer provided this support.

Section 4: Recommendations

Flint Springs Associates offers the following recommendations:

Hospital Practices

FSA recommends that staff at hospitals administering Act 114 medication continue efforts to help patients understand the reasoning behind the decision to seek an order for involuntary medication and to invest time in talking with patients about the process and available options.

To maintain clear records for documenting implementation of Act 114 in accordance with provisions of the statute, all hospitals have followed past FSA recommendations that each hospital maintain an electronic file or section within the electronic file for persons receiving medication under Act 114. This practice should continue.

Annual Act 114 Assessment

FSA recommends that the following steps continue to be used in future assessments of Act 114:

- Provide a financial incentive for the participation of individuals who have received court-ordered medication in the independent assessment of Act 114.
- Request input from individuals through extensive outreach efforts to any person who received medication under Act 114 in previous years, not just the year under review, to learn about longer-term outcomes including individuals' engagement in treatment and their lives in the community as well as experiences receiving medication under Act 114 orders.
- Ask persons interviewed if they would like any family members to be interviewed and pursue these as permitted.
- Given the similar content to assess the implementation of Act 114 protocols required by the legislature through two reports, one generated by DMH and the other by an external entity, the legislature should clarify the purpose of having an internal and an