

To: House Committee on Healthcare
Re: Disability Awareness Day
From: Disability Rights Vermont
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Thank you for the invitation to speak with this Committee today, as it relates to Disability Awareness Day. Disability Awareness Day has traditionally been an opportunity for a broad range of disability organizations, typically members of the Vermont Coalition for Disability Rights, to educate legislators on issues impacting and important to the disability community. At its heart, Disability Awareness Day is really a celebration of this large, diverse community; AND a demand for inclusion in ALL aspects of policy and rulemaking- such that there is "Nothing About Us Without Us." My name is Lindsey Owen and I am the Executive Director at Disability Rights Vermont. I have been with Disability Rights Vermont (DRVT) for the last twelve years, as a legal intern, an advocate, a practicing attorney for the past ten years, and serving as the Executive Director for almost three years.

Disability Rights Vermont is the Protection and Advocacy (P&A) agency for the State of Vermont. As many of you probably know, the Protection and Advocacy system was established, in part, after horrifying and dehumanizing treatment of people with disabilities at Willowbrook, a residential school in New York for individuals with disabilities, was exposed in 1973. Congress began enacting a series of legislation mandating that every state and territory of the United States have a P&A agency to monitor, investigate and address abuse, neglect and serious rights violations experienced by people with disabilities.

The Governor also designated DRVT as the Mental Health Care Ombudsman. As the Mental Health Care Ombudsman, DRVT receives, reviews, and monitors the Critical Incident Reports and Certificates of Need

(reports of emergency involuntary procedures) involving individuals receiving mental health services. DRVT receives these reports from the Department of Mental Health.

We believe it is crucial to support and maintain this day of awareness for people with disabilities, as the needs in our Vermont community continue to increase. We want all Vermonters to know, and care about the needs of their neighbors, family members, co-workers, and friends with disabilities.

The list of issues of concern for the disabled community is long. I would like to highlight a couple that are particularly concerning at this time, relevant to this Committee, and during this legislative session.

Following the decision in a case commonly referred to as *Olmstead*¹, healthcare providers (including mental health) are mandated to provide care in the least restrictive manner possible. Compliance with the *Olmstead* provisions means that substantive efforts are required to provide for care at all levels of intervention: home care through hospitalization. This results not only in improved outcomes but also substantial cost savings. DRVT published a report called *Wrongly Confined* in March of 2020. Unfortunately, days later the President declared a National Emergency regarding COVID, the country came to a screeching halt, and it would appear our report disappeared in the dust. I've sent that report (and the follow-up report) to this Committee this morning.

Sadly, to this day, the trend in Vermont continues to be an emphasis on increasing resources in more restrictive settings while treating the *Olmstead* requirements more like aspirational guidelines instead of what it is, which is the law. There is no secrecy or doubt about the fact that community-based resources foster financial, emotional and physical wellbeing, stability of patients, providers, and the State as a whole. Especially when we consider that making the appropriate services available

¹ *Olmstead v. L.C.*, 527 U.S. 581

to younger patients comes with an enormous reduction in costs and an increase in positive outcomes over the lifetime.

There has been work during this session on creating or funding of the Forensic Psychiatric Facility, a nine-bed inpatient locked facility in the existing Vermont Psychiatric Care Hospital; a Psychiatric Residential Treatment Facility (PRTF), in the locked Linden Lodge, at the Brattleboro Retreat. Also, during this session Southwestern Vermont Medical Center has applied for a Certificate of Need for the licensure of a 12-bed locked Inpatient Mental Health Unit for Adolescents. The main thrust of these efforts by DMH and these State and private providers has been a misrepresentation of an unsupported need for more high-acuity beds in existing facilities. At the same time, there has been no appreciable effort on improving home and community-based services, low and mid-level resources, or to meet the actual treatment needs of our community members with all manner of disabilities. Providing our community enough services at the least restrictive levels provides more accurate measures of the real need for services at more restrictive levels. And, to add insult to injury, a request to increase wages for direct services providers has been rejected.

Children, adolescents and adults should enter the system at the lowest level of care necessary, and only when they are unable to succeed or make progress at the lower level of care, should additional methods, and more restrictive models of care be introduced. The goal should always be to prevent the need for psychiatric hospitalization, whenever possible. Yet, Vermont is currently lacking sufficient providers of low to mid-levels of care, i.e., traditional outpatient, intensive outpatient, in-home family support and stabilization, partial inpatient, day treatment, and non-secured residential treatment with community integration. This lack of services disallows children from receiving the most appropriate treatment, and from having successful outcomes at an appropriate level of care. We have an unsuccessful healthcare system for children and adults because Vermont is

failing to meet each person where they are, in terms of need, and preventing unnecessary harm and deterioration of Vermonters by engaging in reactive healthcare instead of proactive healthcare.

In the spirit and intent of Disability Awareness Day, the community needs to be fully apprised of this enormous care gap in the treatment landscape. A gap that contributes to the seemingly unending incarceration of Vermonters, particularly younger Vermonters, because the State has not seen fit to provide more effective alternatives to institutionalized treatments. And the concerns of those people who are affected are compounded by additional inefficiencies, such as lower levels of success in the community, higher costs of care, and increased burdens on affected families and community members. I started off my testimony by using the phrase "Nothing About Us Without Us." I would encourage anyone involved in the decision making about our healthcare system to visit the many units at the Brattleboro Retreat, which is the only facility that has services across most of the lifespan. If you did, you would know that Vermont is not going about caring for its residents in the right way.

Consider this: if a person presented with an open wound on their foot, it would not be appropriate care to say, "Sorry, I don't have any bandages.", and leave that person uncared for until their condition worsened to the point that they now need amputation and then to use that scenario to demand more surgeons instead of bandages because more and more people keep coming to you with open wounds . Common sense and economic sense would suggest that you need more bandages and that people deserve to keep their limbs.

Lindsey Owen