RULES
for the
ADMINISTRATION OF NONEMERGENCY INVOLUNTARY PSYCHIATRIC MEDICATIONS

1. POLICY STATEMENT

The Department of Mental Health (DMH) is committed to providing voluntary mental health care in a service system that respects individuals' health, safety, and dignity. DMH recognizes the right of a legally competent person to make decisions regarding medication. At the same time, DMH acknowledges that involuntary care is currently unavoidable in certain circumstances as set forth in Title 18 of the Vermont Statutes Annotated. DMH continues to work toward the development of a service system in which coercion and involuntary care will no longer be necessary. Until that ideal is achieved, DMH will strive to provide involuntary care found to be necessary in a manner that affords as much protection as possible for the respect, dignity, and rights of the individual.

2. AUTHORITY

This rule is adopted pursuant to 18 V.S.A. § 7628 and Act 27 (2023).

3. DEFINITIONS

3.1. *The Commissioner*: The Commissioner of DMH or a designee as authorized by 18 V.S.A. § 7401(13).

3.2. *Competence*: A person is competent if a person is able to make a decision regarding medication and to appreciate the consequences of that decision.

3.3. *Court Order*: An order from the criminal court or the family court authorizing the DMH to administer involuntary medication to the person named in the order.

3.4. *Designated Facility:* A hospital, forensic facility ~~(as defined by Act 27 of 2023)~~, medical psychiatric unit in a correctional facility, or other facility authorized by statute to administer nonemergency involuntary psychiatric medications. A d~~D~~esignated f~~F~~acility shall meet the requirements of this ~~protocol~~rule, including the requisite trained staff, medical personnel and physical space and ~~as~~ be designated by the Commissioner to provide care for a patient with mental illness.

3.5. *DMH:* The Department of Mental Health.

~~3.5.~~3.6. *Forensic Facility:* A residential facility, licensed as a therapeutic community residence as defined in 33 V.S.A. § 7102(11), for an individual with a mental health condition or intellectual disability, depending on what is deemed appropriate by the General Assembly, who is charged with a crime of violence against another person and the individual is assessed not competent to stand trial or was adjudicated not guilty by reason of insanity and who requires treatment or programming within a secure setting for an extended period of time, provided, however, that if a definition is added to 18 V.S.A. part 8 it shall take precedence to the extent that a conflict between the definitions exists. As

used in this definition, "secure" has the same meaning as in 18 V.S.A. § 7620.

~~3.6.~~3.7. *Impartial Evaluator:* A contracted individual not employed by DMH or under the supervision of the Commissioner, who has no prior personal knowledge of the circumstances under review.

~~3.7.~~ *Medical Personnel:* ~~A physician, physician assistant, advance practice registered nurse,~~
3.8.

a) A person licensed by the State of Vermont as a Physician, physician assistant, advance practice registered nurse, or registered nurse; or
b) a psychiatric technician/mental health specialist

~~3.8.~~3.9. *Person:* An individual who is the subject of a court order authorizing DMH to administer ~~-~~involuntary medication to that individual.

~~3.9.~~3.10. *Qualified Practitioner or QP*: An advance practice registered nurse or physician assistant who is licensed by the State of Vermont and who is appropriately credentialled to provide the psychiatric services described in this r~~R~~ule.

~~3.10.~~3.11. *Treatment Team:* The p~~P~~erson's community and/or treating psychiatrist(s), or other ~~Qualified Practitioner~~QP, case manager and any other individual the community treatment team deems clinically appropriate. If the p~~P~~erson does not have a treatment team in the community, the members of the team will be the person's inpatient or residential facility treating psychiatrist, or other ~~Qualified Practitioner~~QP, case manager and any other individual deemed clinically appropriate.

4. NOTICE OF INTENT TO ADMINISTER MEDICATION

4.1. Prior to executing a court order authorizing the administration of involuntary medication~~;~~,

4.1.1. DMH shall:

a. Allow the person's legal counsel twenty-four hours to inform the person of the court's order; and
b. Notify the person's treatment team of the court order.

4.1.2. The person's treating physician or ~~Qualifying Practitioner~~QP shall meet with the person:

a. After the person has been informed by ~~their~~ the person's legal counsel of the court order; or
b. After the person's legal counsel has had twenty-four hours to inform the person of the court order, regardless of whether the legal counsel has chosen to meet with the person.

4.1.3. The treatment team must:

a. Inform the person orally and in writing in a language and in a manner

understandable to the person of:

i. the type of medication to be administered;
ii. the dose that will be administered;
iii. the method of delivery;
iv. the route of delivery;
v. the frequency of delivery;
vi. the intended effects;
vii. any risks in keeping with standard medical practice, including likely side effects, unlikely but serious side effects, health problems that might be encountered, common drug interactions including those of street drugs and alcohol, and in the case of all women of child bearing age, the effects of neuroleptics on a fetus or nursing child; and

b. Offer the person an opportunity to take oral medication unless the court order authorizes the administration of a long-acting medication which can only be administered by injection.

5. ADMINISTRATION OF NONEMERGENCY MEDICATION

5.1. The physician or ~~Qualifying Practitioner~~QP writing the medication order for the medication shall be responsible for assessing and documenting the following:

5.1.1. The person's current physical health status;

5.1.2. Whether the person is currently taking any other medications;

5.1.3. The person's history of side effects from medication;

5.1.4. Whether the ~~person is pregnant if a woman of child bearing age;~~individual is pregnant;

5.1.5. The person's medical history, including any history of substance abuse; and

5.1.6. That the medication order is in compliance with the court's medication order with respect to the type of medication, the dosage, the length of administration and the method of administration.

5.2. The treating physician or ~~Qualified Practitioner~~QP shall conduct monthly reviews of the medication to assess the continued need for involuntary medication, the effectiveness of the medication, the existence of any side effects, and shall document this review in detail in the person's chart.

5.3. The treating physician or ~~Qualified Practitioner~~QP shall provide written notice to the court to terminate the medication order when involuntary medication is no longer required.

5.4. The treatment team shall:

5.4.1. Make best efforts to obtain the person's preference on the manner of medication

administration after the court issues an order granting the application and immediately prior to the administration of medication;

5.4.2. Consider the current, written medical history of the patient that includes whether the patient has a history of trauma;

5.4.3. Have at least one member present when the medication is administered and at the time of release; and

5.4.4. ~~Assure~~ Ensure that the person has the opportunity to choose a support person, to be present to offer emotional support when the medication is administered. If the chosen support person is not available within a reasonable period of time or interferes with the administration of medication, or the frequency of administration precludes the presence of the support person each time, medication may be administered without the support person's presence.

5.5. Location

5.5.1. Medications must be administered at a d~~D~~esignated f~~F~~acility. The medication must be administered in an area of ~~the~~ that facility that provides the person with privacy.

A sheriff may transport the person to or from the d~~D~~esignated f~~F~~acility if, and only if, the person's treating physician, ~~Qualified Practitioner~~QP, or another member of the treatment team makes an individualized determination, documented in the person's chart, that physical restraint is necessary to prevent the person from inflicting serious physical injury to themselves or others.

5.5.2. If the person is transported by a sheriff, a member of the treatment team shall be present when the sheriff picks up the person for transport and will accompany the person during the transport, if the parties agree.

5.6. Oral Medication

5.6.1. The m~~M~~edical p~~P~~ersonnel or ~~Qualified Practitioner~~QP who administers medication to the person shall be trained in the administration of medication when treating a resistant person.

5.6.2. The m~~M~~edical p~~P~~ersonnel or ~~Qualified Practitioner~~QP shall:

a. Verify that the person is the subject of a current involuntary medication order; and

~~b. Verify that the proper medication is provided to the person in the proper dosage; and~~

~~c.~~b. Follow clinically appropriate practices and procedures for the administration of oral medication.

5.6.3. The Medical Personnel or Qualified Practitioner may perform a mouth check to verify that the person has swallowed the medication.

a. If the person refuses to comply with a mouth check, then the treatment team is not required to offer voluntary oral medication the next time medication is administered but may do so at their discretion.

b.

5.6.4. After administering the medication, a ~~facility~~ staff member shall personally observe the person long enough to ensure there are no adverse side effects and to

ensure safety.

5.7. Injectable Medication

~~5.7.1.~~ The m~~M~~edical p~~P~~ersonnel or ~~Qualified Practitioner~~QP who administers the medication to the person shall be

5.7.1. trained in the administration of administration of medication when treating a resistant person.

5.7.2. The m~~M~~edical p~~P~~ersonnel or ~~Qualified Practitioner~~QP shall:

a. Verify that the person is the subject of a current involuntary medication order;
b. Verify that the proper medication is prepared in the proper dosage;
c. Fully inform the person of all aspects of the procedure;
d. Give the person a choice of clinically appropriate injection sites and follow that preference if medically safe;
e. Follow clinically appropriate practices and procedures for the administration of injectable medication;
f. Be of the gender chosen by the person receiving the medication if at all possible;
g. Ensure that a physician is immediately accessible; and
h. Be responsible for assuring that a support person of the person's choosing is present when the medication is administered, unless the support person interferes with the administration of the medication or, the frequency of administration precludes the presence of the support person each time.

5.7.3. The m~~M~~edical p~~P~~ersonnel or ~~Qualified Practitioner~~QP shall be accompanied by at least one health professional of the gender chosen by the person~~.~~.

5.7.4. After administering the medication, a ~~facility~~ staff member shall:

a. personally observe the person long enough to ensure there are no adverse side effects endangering safety;
b. offer emotional support to the person.

5.7.5. All procedures shall be documented in accordance with standard medical practice.

6. FUTURE ADMINISTRATION OF INVOLUNTARY MEDICATION

6.1. Where the court's medication order authorizes future administration of involuntary medication, the treating physician shall execute and file with the Commissioner a certification executed under penalty of perjury stating the following:

6.1.1. The person has refused medication;

6.1.2. The person is not competent to make a decision regarding medication and to

appreciate the consequences;

6.1.3. The proposed medications, the dosage range, length of administration and method of administration; and

6.1.4. The substantial probability that in the near future the person will pose a danger of harm to self or others if not involuntarily medicated.

6.2. Within 24 hours of receipt of the physician's certification, the Commissioner shall provide the amount of notice required by the court order to the person, the person's legal counsel and the court.

6.2.1. The notice shall state that the person may request an immediate hearing to contest the order.

6.2.2. The person may be admitted to a dDesignated fFacility on the date specified in the notice for up to 72 hours in order to administer involuntary medication.

6.3. The procedures set forth in Section 6 of these rules shall be followed for any person subject to a future administration of involuntary medication.

7. USE OF RESTRAINTS WHEN ADMINISTERING NONEMERGENCY INVOLUNTARY MEDICATION

7.1. Restraints may be used only pursuant to the Regulation Establishing Standards for Emergency Involuntary Procedures which can be found on DMH's website.

8. DISCHARGE OF PERSON NOT SUBJECT TO ORDER OF HOSPITALIZATION

8.1. If a person is brought into the dDesignated fFacility only pursuant to a medication order, a physician or ~~Qualified Practitioner~~QP must determine the amount of time that the person will be required to stay at ~~the~~ that facility prior to discharge, but in no case longer than the time period allowed in the court order. This decision shall be based on appropriate clinical practices and procedures regarding the discharge of a person who has received the type of medication administered to the person.

8.2. Prior to discharge, the person shall receive the necessary counseling and assistance to support the person's comfort.

8.3. Prior to discharge, a member of the treatment team shall provide the person with written instructions regarding:

8.3.1. Side effects;

8.3.2. Required after-care;

8.3.3. A name and phone number to contact if the person has any questions or

concerns or starts to experience side effects;

8.3.4. Grievance procedures; and

8.3.5. Follow-up with the community mental health center.

8.4. A physician or ~~Qualified Practitioner~~QP must approve the person's release after making a determination that there are minimal clinical risks.

8.5. A member of the treatment team shall arrange transportation to return the person to their residence. If the person does not have housing available, a member of the treatment team shall arrange temporary housing for the person.

9. COMPLIANCE AND ENFORCEMENT

9.1. A member of the treatment team shall report to the Commissioner every time a person is administered involuntary medication in a designated facility within seventy-two hours of entering the facility.

9.2. The Commissioner shall review on a periodic basis every instance of a person being administered involuntary medication in a designated facility.

9.3. The Commissioner shall conduct periodic reviews of every person who is subject to an involuntary medication order.

9.4. The Commissioner may revoke a facility's designated status for noncompliance with this rule.

9.5. Any person who is subject to an involuntary medication order may file a grievance with the appropriate agency alleging a violation of this protocol. The grievance must be filed within ninety (90) days of the action that is being grieved. This time limit may be extended if the person did not know or understand the right to appeal. The agency shall report the filing and substance of a grievance to the Commissioner within seventy-two hours of receiving the grievance.

9.6. Within thirty (30) days of receiving the grievance, the d~~D~~esignated f~~F~~acility shall notify the person of its decision in writing, in a language and manner understandable to the person, including the reasons for the decision.

9.7. The decision made by the d~~D~~esignated f~~F~~acility concerning the grievance may be appealed to the Commissioner. Any such appeal must be filed within thirty (30) days of the day the person received written notice of the decision.

9.8. Upon receipt of the appeal, the Commissioner shall assign an impartial evaluator to conduct a review of the appealed incident. Within thirty (30) days of receipt of the appeal assignment, the evaluator shall recommend to the Commissioner whether to affirm or change the decision of the agency or designated facility. Within ten (10) days of receiving the evaluator's decision, the Commissioner shall notify the person of the

Commissioner's decision in writing, in a language and manner understandable to the person, including the reasons for the decision.

Effective Date: August 18, 1999, amended effective _____

RULES
for the
ADMINISTRATION OF NONEMERGENCY INVOLUNTARY PSYCHIATRIC MEDICATIONS

1. POLICY STATEMENT

The Department of ~~Developmental and Mental Health Services~~Mental Health (DMH) is committed to providing voluntary mental health care in a service system that respects ~~consumers'~~ individuals' health, safety, and dignity. ~~The Department~~DMH recognizes the right of a legally competent person to make decisions regarding medication. At the same time ~~the Department~~ DMH acknowledges that involuntary care is currently unavoidable in certain circumstances as set forth in ~~the Mental Health Act~~Title 18 of the Vermont Statutes Annotated. ~~The Department~~DMH continues to work toward the development of a service system in which coercion and involuntary care will no longer be necessary. Until that ideal is achieved, ~~the Department~~DMH will strive to provide involuntary care found to be necessary in a manner that affords as much protection as possible for the respect, ~~dignity~~dignity, and rights of the individual.

2. AUTHORITY

Thi~~se~~se rule~~s~~ is~~are~~ adopted pursuant to~~authorized by~~ 18 V.S.A. § 7628 and Act 27 (2023).

~~3. AVAILABILITY~~

~~A copy of these rules shall be made available to any person who requests a copy.~~

4.3. DEFINITIONS

~~4.1.~~3.1. *The Commissioner*: The Commissioner of ~~the Department of Developmental and Mental Health Services~~DMH or a designee as authorized by 18 V.S.A. § 7401(13).

~~4.2.~~3.2. *Competence*: A person is competent if a person is able to make a decision regarding medication and to appreciate the consequences.

~~4.3.~~3.3. *Court Order*: An order from the criminal court or the family court authorizing ~~the Department of Developmental and Mental Health Services~~DMH to administer involuntary medication to the person named in the order.

~~4.4. *The Department:* The Department of Developmental and Mental Health Services.~~

3.4. *Designated Facility:* A hospital, forensic facility (as defined by Act 27 of 2023), ~~or~~ medical psychiatric unit in a correctional facility, or other facility authorized by statute to administer nonemergency involuntary psychiatric medications. A Designated Facility shall ~~demonstrating the ability to~~ meet the requirements of this protocol, including the requisite trained staff, medical personnel and physical space and as designated by the Commissioner to provide care for a patient with mental illness.

3.5. *DMH:* The Department of Mental Health.

3.6. *Impartial Evaluator:* A contracted individual not employed by DMH or under the supervision of the Commissioner, who has no prior personal knowledge of the circumstances under review.

~~4.5.~~3.7. *Medical Personnel ~~Staff~~:* A physician, physician assistant, advance practice registered nurse, registered nurse, or psychiatric technician/mental health specialist.

3.8. *PatientPerson:* An individual who is the subject of a court order authorizing ~~the Department of Developmental and Mental Health Services~~ DMH to administer involuntary medication to that individual.

3.9. *Qualified Practitioner*: An advance practice registered nurse or physician assistant who is licensed by the State of Vermont and who is appropriately credentialled to provide the psychiatric services described in this Rule.

~~4.7.~~3.10 *Treatment Team:* The ~~patient's~~ Person's community and/or treating psychiatrist(s), or other Qualified Practitioner, case manager and any other individual the community treatment team deems clinically appropriate. If the person does not have a treatment team in the community, the members of the team will be the Person's inpatient or residential facility treating psychiatrist, or other Qualified Practitioner, case manager and any other individual deemed clinically appropriate.

~~4.8. Impartial Evaluator: A contracted individual not employed by the Department nor under the supervision of the Commissioner, who has no prior personal knowledge of the circumstances~~ under review.

~~5.4.~~ NOTICE OF INTENT TO ADMINISTER MEDICATION

~~5.1.4.1.~~ Prior to executing a court order authorizing the administration of involuntary medication,

~~5.1.1.4.1.1.~~ ~~The Department~~DMH shall:

a. Allow the ~~patient's~~person's legal counsel twenty-four hours to inform the ~~patient~~ person of the court order; and
b. Notify the ~~patient's~~ person's treatment team of the court order.

~~5.1.2.4.1.2.~~ The ~~patient's~~ person's treating physician or Qualifying Practitioner shall meet with the ~~patient~~person:

a. After the ~~patient~~ person has been informed by ~~his or her~~ their legal counsel of the court order; or
b. After the ~~patient's~~ person's legal counsel has had twenty-four hours to inform the ~~patient~~ person of the court order, regardless of whether the legal counsel has chosen to meet with the ~~patient~~ person.

~~5.1.3.4.1.3.~~ The treatment team must:

a. Inform the ~~patient~~ person orally and in writing in a language and in a manner understandable to the ~~patient~~person of:

i. the type of medication to be administered;
ii. the dose that will be administered;
iii. the method of delivery;
iv. the route of delivery;
v. the frequency of delivery;
vi. the intended effects;
vii. any risks in keeping with standard medical practice, including likely side effects, unlikely but serious side effects, health problems that might be encountered, common drug interactions including those of street drugs and alcohol, and in the case of all women of child bearing age, the effects of neuroleptics on a fetus or nursing child; and

b. Offer the ~~patient~~person an opportunity to take oral medication unless the court order authorizes the administration of a long-acting medication which can only be administered by injection.

~~6.5.~~ ADMINISTRATION OF NONEMERGENCY MEDICATION

~~6.1.5.1.~~ The physician or Qualifying Practitioner writing the medication ~~Physician's~~ o~~O~~rder for the medication ~~at the hospital~~ shall be responsible for assessing and documenting the following ~~which shall then be provided to the facility administering the medication~~:

~~6.1.1.5.1.1.~~ The ~~patient's~~ person's current physical health status;

~~6.1.2.5.1.2.~~ Whether the ~~patient~~ person is currently taking any other medications;

~~6.1.3.5.1.3.~~ The ~~patient's~~ person's history of side effects from medication;

~~6.1.4.5.1.4.~~ Whether the ~~patient~~person is pregnant if a woman of child bearing age;

~~6.1.5.5.1.5.~~ The ~~patient's~~person's medical history, including any history of substance abuse; and

~~6.1.6.5.1.6.~~ That the ~~physician's~~ medication order is in compliance with the court's medication order with respect to the type of medication, the dosage, the length of administration and the method of administration.

~~6.2.5.2.~~ The treating physician or Qualified Practitioner shall conduct monthly reviews of the medication to assess the continued need for involuntary medication, the effectiveness of the medication, the existence of any side effects, and shall document this review in detail in the ~~patient's~~ person's chart.

~~6.3.5.3.~~ The treating physician or Qualified Practitioner shall provide written notice to the court to terminate the medication order when involuntary medication is no longer required.

~~6.4.5.4.~~ The treatment team shall:

~~6.4.1.5.4.1.~~ Make best efforts to obtain the ~~patient's~~ person's preference on the manner of medication administration after the court issues an order granting the application and immediately prior to the administration of medication;

~~6.4.2.5.4.2.~~ ~~Provide the facility administering the medication with a~~Consider the current, written medical history of the patient that includes whether the patient has a history of trauma;

~~6.4.3.5.4.3.~~ Have at least one member present when the medication is administered and at the time of release; and

~~6.4.4.5.4.4.~~ Assure that the ~~patient~~ person has the opportunity to choose a support person, to be present to offer emotional support when the medication is administered. If the chosen support person is not available within a reasonable period of time or interferes with the administration of medication, or the frequency of administration precludes the presence of the support person each time, medication may be administered without the support person's presence.

~~6.5.5.5.~~ Location

~~6.5.1.~~ Medications must be administered at a Designated Facility. ~~the Vermont State Hospital or at a facility designated by the Commissioner of the Department of Developmental and Mental Health Services as a hospital where involuntary medication may be administered.~~

~~6.6.2.5.6.2.~~ The ~~person who gives the medication to the~~ Medical Personnel or Qualified Practitioner ~~patient~~ shall:

a. Verify that the ~~patient~~ person is the subject of a current involuntary medication order;
b. Verify that the proper medication is provided to the ~~patient~~ person in the proper dosage; and
c. Follow clinically appropriate practices and procedures for the administration of oral medication.

5.6.3. The ~~person who gives the medication to the patient~~ Medical Personnel or Qualified Practitioner may perform a mouth check to verify that the ~~patient~~ person has swallowed the medication.

a. If the person refuses to comply with a mouth check, then the treatment team is not required to offer voluntary oral medication the next time medication is

administered but may do so at their discretion.

~~d.~~b.

~~6.6.3.~~5.6.4. After administering the medication, a ~~hospital~~ facility staff member shall personally observe the ~~patient~~ person long enough to ensure there are no adverse side effects and to ensure ~~patient~~ safety.

~~6.6.4. If the patient refuses to comply with a mouth check then, in the discretion of the treatment team, voluntary oral medication may not be offered the next time medication is administered.~~

~~6.7.~~5.7. Injectable Medication

~~6.7.1.~~5.7.1. The Medical Personnel or Qualified Practitioner ~~person~~ who administers the medication to the ~~patient~~ person shall be~~:~~

~~a. A licensed nurse or doctor~~trained in the administration of administration of medication when treating a resistant person.~~; and~~

~~b. Trained in the administration of medication when treating a resistant patient.~~

~~6.7.2.~~5.7.2. The ~~person who administers the medication~~ Medical Personnel or Qualified Practitioner ~~-~~shall:

a. Verify that the ~~patient~~ person is the subject of a current involuntary medication order;
b. Verify that the proper medication is prepared in the proper dosage;
c. Fully inform the ~~patient~~ person of all aspects of the procedure;
d. Give the ~~patient~~ person a choice of clinically appropriate injection sites and follow that preference if medically safe;
e. Follow clinically appropriate practices and procedures for the administration of injectable medication;
f. Be of the gender chosen by the person receiving the medication if at all possible;
g. Ensure that a physician is immediately accessible; and
h. Be responsible for assuring that a support ~~person~~ of the ~~patient's~~ person's choosing is present when the medication is administered, unless the support person interferes with the administration of the medication or, the frequency of administration precludes the presence of the support person each time.

~~6.7.3.~~5.7.3. The ~~person~~ Medical Personnel or Qualified Practitioner ~~who administers the medication~~ shall be accompanied by at least one health professional of the gender chosen by the person ~~patient~~.

~~6.7.4.~~5.7.4. After administering the medication, a facility staff member shall:

a. personally observe the ~~patient~~ person long enough to ensure there are no adverse side effects endangering ~~patient~~ safety;
b. offer emotional support to the ~~patient~~person.

~~6.7.5.~~5.7.5. All procedures shall be documented in accordance with standard medical practice.

~~7.~~6. FUTURE ADMINISTRATION OF INVOLUNTARY MEDICATION

~~7.1.6.1.~~ Where the court's medication order authorizes future administration of involuntary medication, the treating physician shall execute and file with the Commissioner a certification executed under penalty of perjury stating the following:

~~7.1.1.6.1.1.~~ The ~~patient~~ person has refused medication;

~~7.1.2.6.1.2.~~ The ~~patient~~ person is not competent to make a decision regarding medication and to appreciate the consequences;

~~7.1.3.6.1.3.~~ The proposed medications, the dosage range, length of administration and method of administration; and

~~7.1.4.6.1.4.~~ The substantial probability that in the near future the person will pose a danger of harm to self or others if not ~~hospitalized and~~ involuntarily medicated.

~~7.2.~~6.2. Within 24 hours of receipt of the physician's certification, the Commissioner shall provide the amount of notice required by the court order to the ~~patient~~person, the ~~patient's~~ person's ~~attorney~~ legal counsel and the court.

~~8.6.3. Any other pertinent factors.~~

~~8.7. A Certificate of Need for emergency restraints shall be entered into the patient's record that documents the emergency circumstances requiring the use of restraints.~~

~~8.8. Legal counsel for the patient shall be notified and provided with a copy of the Certificate of Need within twenty-four hours following administration of medication.~~

~~8.9. The least restrictive method of restraint must be used and applied in a manner which provides for padding and protection of all parts of the body where pressure areas might occur by friction and shall:~~

~~8.9.1. Be adjusted to eliminate the danger of gangrene, sores and paralysis;~~

~~8.9.2. Allow room for healthy breathing; and~~

~~8.9.3. Allow the patient as much freedom as possible.~~

~~8.10. Restraints shall be applied under direct supervision of a nurse who is trained in the use of restraints. The following should not be used under any circumstances: a) face down restraint with back pressure; b) any technique that obstructs the airway or impairs breathing, c) any technique that obstructs vision, d) any technique that restricts the recipient's ability to communicate.~~

~~8.11. Medical staff must constantly observe a patient in restraints. Vital signs should be checked initially and regularly thereafter (every fifteen minutes at a minimum) if abnormal.~~

~~8.12.7.2. A patient in restraints shall be encouraged to take liquids, be allowed reasonable opportunity for toileting and shall be provided appropriate food, lighting, ventilation and clothing or covering. An individual being restrained should always be informed about what is happening, verbally and during the restraint period. Information should include what events or behaviors precipitated the use of restraint, and when and under what circumstances the patient can expect to be released.~~

~~8.13. A patient shall be removed from restraints as soon as it is determined that safety reasons no longer necessitate the use of restraints. Restraint orders should always be time-limited, and should be removed as soon as it becomes safe to do so, even if the time-limited order has not expired. Every hour, a nurse shall review the need for continued restraint. No physician's order for the use of restraints shall extend beyond a two-hour period.~~

9.3.8.3. Prior to discharge, a member of the treatment team shall provide the patient person with written instructions regarding:

~~8.14. Medical staff shall examine a patient for injuries immediately after being released from restraints.~~

9.3.1.8.3.1. Side effects;

9.3.2.8.3.2. Required after-care;

~~8.15. Following the removal of restraints, medical staff must inquire if the patient wishes to have a particular person notified of the use of restraints. If so, medical staff must notify that person within twenty-four hours of the restraint.~~

~~8.16. Patient and staff debriefing should be required after every incident of seclusion or restraint, both separately and together. Gender concerns should be addressed as part of the debriefing.~~

~~9.8.~~ DISCHARGE OF ~~PATIENT~~ PERSON NOT SUBJECT TO ORDER OF HOSPITALIZATION

9.1.8.1. If a person is brought into the ~~hospital~~ Designated Facility only pursuant to a medication order, a physician or Qualified Practitioner must determine the amount of time that the ~~patient~~ person will be required to stay at the ~~hospital~~facility.

prior to discharge, but in no case longer than the time period allowed in the court order. This decision shall be based on appropriate clinical practices and procedures regarding the discharge of a ~~patient~~ person who has received the type of medication administered to the ~~patient~~person.

9.2.8.2. Prior to discharge, the ~~patient~~ person shall receive ~~any support and~~ the necessary counseling and assistance to support the ~~necessary to ensure the patient's~~ person's comfort.

9.3.8.3. Prior to discharge, a member of the treatment team shall provide the ~~patient~~ person with written instructions regarding:

~~9.3.1.~~8.3.1. Side effects;

~~9.3.2.~~8.3.2. Required after-care;

~~9.3.3.~~8.3.3. A ~~person's or persons'~~ name and phone number to contact if the ~~patient~~ person has any questions or concerns or starts to experience side effects;

~~9.3.4.~~8.3.4. Grievance procedures; and

~~9.3.5.~~8.3.5. Follow-up with the community mental health center.

~~9.4.~~8.4. A physician or Qualified Practitioner must approve the ~~patient's~~ person's release after making a determination that there are minimal clinical risks.

~~9.5.~~8.5. A member of the treatment team shall arrange transportation to return the ~~patient~~ person to their residence. If the ~~patient~~ person does not have housing available, a member of the treatment team shall arrange temporary housing for the ~~patient.~~person.

~~10.~~9. COMPLIANCE AND ENFORCEMENT

~~10.1.~~9.1. A member of the treatment team shall report to the Commissioner every time a ~~patient~~ person is administered involuntary medication in a designated facility within seventy-two hours of entering the ~~hospital~~facility.

~~10.2.~~9.2. The Commissioner shall review on a periodic basis every instance of a ~~patient~~ person being administered involuntary medication in a designated facility.

~~10.3.~~9.3. The Commissioner shall conduct periodic reviews of every ~~patient~~ person who is subject to an involuntary medication order.

~~10.4.~~9.4. ~~A facility's designation shall depend upon strict compliance with this protocol.~~The Commissioner may revoke a facility's designated status for noncompliance with this rule.

~~10.5.~~9.5. Any ~~patient~~ person who is subject to an involuntary medication order may file a grievance with the appropriate agency alleging a violation of this protocol. The grievance must be filed within ninety (90) days of the action that is being grieved. This time limit may be extended if the patient person did not know or understand the right to appeal. The agency shall report the filing and substance of a grievance to the Commissioner within seventy-two hours of receiving the grievance.

~~10.6.~~9.6. Within thirty (30) days of receiving the grievance, the ~~community mental health center or~~ Ddesignated Ffacility shall notify the ~~patient~~ person of its decision in writing, in a language and manner understandable to the ~~patient~~person, including the reasons for the decision.

~~10.7.~~9.7. The decision made by the ~~community mental health center or~~ Ddesignated Ffacility concerning the grievance may be appealed to the Commissioner. Any such appeal must be filed within thirty (30) days of the day the ~~patient~~ person received written notice of the decision.

~~10.8.~~9.8. Upon receipt of the appeal, the Commissioner shall assign an impartial evaluator to conduct a review of the appealed incident. Within thirty (30) days of receipt of the appeal assignment, the evaluator shall recommend to the Commissioner whether to affirm or change the decision of the agency or designated facility. Within ten (10) days of receiving the evaluator's decision, the Commissioner shall notify the ~~patient~~ person of ~~his/her~~ the Commissioner's decision in writing, in a language and manner understandable to the ~~patient~~person, including the reasons for the decision.

Effective Date: August 18, 1999, amended effective

State of Vermont
Agency of Administration
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Kristin L. Clouser, Secretary

INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

Meeting Date/Location: January 8, 2024, virtually via Microsoft Teams
Members Present: Chair Sean Brown, Jared Adler, Jennifer Mojo, Diane Sherman, Michael Obuchowski, and Nicole Dubuque
Members Absent: John Kessler
Minutes By: Melissa Mazza-Paquette

- 2:00 p.m. meeting called to order, welcome and introductions.
- Review and approval of minutes from the November 13, 2023 meeting.
- No additions/deletions to agenda. Agenda approved as drafted.
- No public comments made.
- Presentation of Proposed Rules on pages 2-12 to follow.
  1. Administration of Nonemergency Involuntary Psychiatric Medications, Department of Mental Health, page 2
  2. Vital Records Rule, Department of Health, page 3
  3. VPharm Coverage, Department of Vermont Health Access, page 4
  4. Rules Governing the Importation of Domestic Animals, Including Livestock and Poultry, Vermont Agency of Agriculture, Food & Markets, page 5
  5. Antidegradation Implementation Rule, Agency of Natural Resources, page 6
  6. Reach Up Eligibility Rules, Department for Children and Families, page 7
  7. Reach Up Services Rules, Department for Children and Families, page 8
  8. Reach First Rules, Department for Children and Families, page 9
  9. Postsecondary Education Program Rules, Department for Children and Families, page 10
  10. Private Nonmedical Institution Rules Simplification, Department of Vermont Health Access, page 11
  11. Nursing Home Reimbursement Rule Simplification, Department of Vermont Health Access, page 12
- Next scheduled meeting is Monday, February 23, 2024 at 1:00 p.m.
- 3:38 p.m. meeting adjourned.

Proposed Rule: Administration of Nonemergency Involuntary Psychiatric Medications, Department of Mental Health

Presented By: Karen Barber

Motion made to accept the rule as presented without any recommendations by Sean Brown, seconded by Nicole Dubuque, and passed unanimously except for Jared Adler who abstained.

Proposed Rule: Vital Records Rule, Department of Health

Presented By: Natalie Weill

Motion made to accept the rule by Jared Adler, seconded by Diane Sherman, and passed unanimously with the following recommendations:

1. Proposed Coversheet:
    a. #8: Begin by stating what the overall rule does - can use language from the purpose of the rule.
    b. #12: Include the group of individuals who are incarcerated out-of-state here and in the Economic Impact Analysis.
    c. #14: Update dates per the APA process.

Proposed Rule: VPharm Coverage, Department of Vermont Health Access

Presented By: Danielle Fuoco

Motion made to accept the rule by Nicole Dubuque, seconded by Mike Obuchowski, and passed unanimously with the following recommendations:

1. Proposed Filing – Coversheet:
    a. #8: Define 'VPharm' at the end of the 1st sentence.
    b. #12 and #3 of the Economic Impact Statement: Use consistent language in both responses.
    c. #14: Update dates per APA process.

Proposed Rule: Rules Governing the Importation of Domestic Animals, Including Livestock and Poultry, Vermont Agency of Agriculture, Food & Markets

Presented By: Kaitlynn Levine

Motion made to accept the rule by Mike Obuchowski, seconded by Sean Brown, and passed unanimously except for Nicole Dubuque who abstained, with the following recommendations:

1. Title Page: Proposed rule must be signed by Agency Secretary Anson Tebbetts prior to moving forward with LCAR.
2. Economic Impact Analysis, #3: Include the estimated costs and benefits anticipated. May use language from #8, Concise Summary on the Proposed Coversheet, and address the cost neutral balance.
3. Public Input Maximization Plan, #3: Define the stakeholders and distribution lists.

Proposed Rule: Antidegradation Implementation Rule, Agency of Natural Resources

Presented By: Hannah Smith, Peter LaFlamme, and Bethany Sargent

Motion made to accept the rule by Sean Brown, seconded by Jared Adler, and passed unanimously except for Jen Mojo who abstained, with the following recommendations:

1. Proposed Filing – Coversheet:
    a. #8: Define 'WQS' if spacing allows.
    b. #9: Remove '1' prior to 'states' in 1st sentence.
2. Public Input Maximization Plan, #3: Clarify who the stakeholders are.

Proposed Rule: Reach Up Eligibility Rules, Agency of Human Services, Department for Children and Families

Presented By: Heidi Moreau and Erin Oalican

Motion made to accept the rule by Jen Mojo, seconded by Mike Obuchowski, and passed unanimously with the following recommendation:

1. Public Input Maximization Plan, #3: Include participants noted in #4.

Proposed Rule: Reach Up Services Rules, Agency of Human Services, Department for Children and Families

Presented By: Heidi Moreau and Erin Oalican

Motion made to accept the rule by Sean Brown, seconded by Diane Sherman, and passed unanimously with the following recommendation:

1. Public Input Maximization Plan, #3: Include participants noted in #4.

Proposed Rule: Reach First Rules, Agency of Human Services, Department for Children and Families

Presented By: Heidi Moreau and Erin Oalican

Motion made to accept the rule by Sean Brown, seconded by Mike Obuchowski, and passed unanimously with the following recommendation:

1. Public Input Maximization Plan, #3: Include participants noted in #4.

Proposed Rule: Postsecondary Education Program Rules, Agency of Human Services, Department for Children and Families

Presented By: Heidi Moreau and Erin Oalican

Motion made to accept the rule by Diane Sherman, seconded by Jen Mojo, and passed unanimously with the following recommendations:

1. Proposed Filing – Coversheet, #8: Define 'PSE'.
2. Public Input Maximization Plan, #3: Include participants noted in #4.

Proposed Rule: Private Nonmedical Institution Rules Simplification, Department of Vermont Health Access

Presented By: James LaRock

Motion made to accept the rule by Sean Brown, seconded by Jared Adler, and passed unanimously except with the following recommendations:

1. Proposed Filing – Coversheet:
    a. #7: Provide a detailed explanation of where the authority is to adopt this without rulemaking,
    b. #8: Include more detail; a summary of substantive changes. Clarify why the rule is necessary. Define what is being kept in the rule and what is going into the manual.
2. Throughout the proposed rule filing: Clarify where necessary that you're retaining part of the rule.

Proposed Rule: Nursing Home Reimbursement Rule Simplification, Department of Vermont Health Access

Presented By: James LaRock

Motion made to accept the rule by Sean Brown, seconded by Nicole Dubuque, and passed unanimously with the following recommendations:

1. Proposed Filing – Coversheet:
    a. #7: Provide a detailed explanation of where the authority is to adopt this without rulemaking,
    b. #8: Include more detail; a summary of substantive changes. Clarify why the rule is necessary. Define what is being kept in the rule and what is going into the manual.
2. Throughout the proposed rule filing: Clarify where necessary that you're retaining part of the rule.

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JENNEY SAMUEl.SON
SECRETARY

TODD W. DALOZ
DEPUIY SECRETARY

STATE OF VERMONT
AGENCY OF HUMAN SERVICES

MEMORANDUM

TO: Sarah Copeland Hanzas, Secretary of State

FROM: Jenney Samuelson, Secretary, Agency of Human Services

DATE: August 6, 2024

SUBJECT: Signatory Authority for Purposes of Authorizing Administrative Rules

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I hereby designate Kristin McClure, Interim Deputy Secretary, Agency of Human Services as signatory to fulfill the duties of the Secretary of the Agency of Human Services as the adopting authority for administrative rules as required by Vermont's Administrative Procedures Act, 3. V.S.A § 801 et seq.

CC: KristinMcClure@vermont.gov