Disability Rights Vermont

House Committee on Health Care
Disability Rights Vermont Testimony
Lindsey St.Amour, Executive Director
February 26, 2026
H.573: An act relating to the first certification of an emergency examination

Good morning, my name is Lindsey St.Amour, and I am the Executive Director at Disability Rights Vermont. I have been with the organization for over thirteen years. For those of you less familiar with Disability Rights Vermont, we are the Protection and Advocacy agency for the entire state of Vermont. The Protection and Advocacy system was established after much attention in the media of horrific and negligent treatment of people with disabilities at a place operated by the State of New York that was supposed to be providing care to these individuals. The abuse and neglect was profound and shocking. As a result, P&As across the country receive a variety of federal grants to investigate and remedy abuse, neglect and serious rights violations impacting individuals with disabilities and perpetrated by state actors, facilities, caregivers, employers and others. Given our role as the P&A, Disability Rights Vermont is also designated by the Governor as Vermont's Mental Health Care Ombudsman[1]. Additionally, I also serve as the Vice President of the Vermont Coalition for Disability Rights. The Vermont Coalition for Disability Rights (VCDR) is a statewide coalition of member organizations advancing the human and civil rights of Vermonters with disabilities.

First, DRVT's commitment to holding the State accountable for complying with the legal mandates of the Americans with Disabilities Act, the Integration Mandate and the Supreme Court decision of Olmstead remains steadfast and strong. DRVT asserts that despite our best efforts, and the efforts of others, there remains a huge gap in the investment in and attention to community based services and preventative services that would likely prevent undue harm, crises and costs throughout our state. Nevertheless, DRVT is also acutely mindful of the reality that many people experiencing a mental health crisis face when they find themselves in need of care.

Presently, in Vermont, access to mental health inpatient level of care is funneled through our emergency departments, despite most of our emergency departments being ill-equipped, ill-staffed and ill-trained to provide acute mental health care

[1] Please read out MHCO Annual Reports, https://legislature.vermont.gov/assets/Legislative-Reports/MHCO-Annual-Report-SF2025-1.30.26.pdf https://legislature.vermont.gov/assets/Legislative-Reports/MHCO-Annual-Report-2024-For-Submission.pdf

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services. While DRVT continues to advocate for the least restrictive settings possible to meet a person's needs, DRVT must also support a reality that mitigates the most harm to those same vulnerable people. Our current system, without this legislative change, is exacerbating avoidable harms to our communities and its members.

Expanding the definition of a "health care professional" to include "'a physician licensed pursuant to 26 V.S.A. chapter 23 or 33, an advanced practice registered nurse licensed pursuant to 26 V.S.A. chapter 28,'" or **an emergency department** physician assistant licensed pursuant to 26 V.S.A. chapter 31 (emphasis added and recommended revision in bold)'" would allow for a more expeditious review of whether or not a person's constitutional right to freedom of movement should be infringed upon. In consultation with respected professionals in the field, this expedited review would not only confirm whether or not a person should be held temporarily against their will more quickly, but it would also more quickly trigger the other procedural due process timeframes that are built into the law, but that do NOT get triggered until this first certification can be accomplished.

After consulting with various stakeholders, including the Mental Health Law Project, DRVT is supportive of a variation of this bill that expands the authority to a reasonable set of providers that can help alleviate the burden on hospitals and the harm to patients that currently results from long waits for a physician to perform the initial certification.

For years, DRVT has been opposed to legislation that has given the appearance of possibly expanding the population of individuals who may be subjected to our involuntary treatment laws, including expanding the world of practitioners that can initiate the process that would involuntarily treat a person in need of care. This opposition was rooted in the valid concern that more and more Vermonters would be subject to involuntary treatment and the possible involuntary, harmful, procedures that can go along with it, while the State continues to miss the mark on expanding and investing in preventative community based alternatives. However, after years of personal and professional observations of this system at work, it is obvious that something needs to change. People deserve better care and faster care. There is exceptional work that goes on in an Emergency Department, however, it should never have been nor should it continue to be where we expect people in need of psychiatric care to be served. But it is our reality and until our reality is successfully changed, DRVT is committed to minimizing harm and advocating for equitable service delivery across all systems. These two positions are not in conflict. DRVT both opposes unnecessarily institutionalizing people with disabilities AND supports the appropriate and timely treatment to those individuals who find themselves institutionalized.

Expanding the universe of providers ever so slightly and thoughtfully will hopefully result in individuals moving through the process more expeditiously AND

appropriately. A faster initial certification may not always mean a faster track to a second certification and then a potential involuntary treatment application, it could just as easily mean a faster track to discharge if the initial certification is done by an appropriately trained and qualified provider. However, DRVT hears and understands the concern that the system may unnecessarily certify more people for involuntary treatment. Therefore, in addition to the support for the limited expansion to "emergency department physician assistants," DRVT recommends the following considerations:

1. All Initial Certifications, whether denied or approved for a second certification should be filed and reported to the Department of Mental Health and/or the Mental Health Care Ombudsman (DRVT).[2]

2. Revise 18 V.S.A. 7510 to require preliminary hearings be held, unless expressly waived by the individual subject to the involuntary treatment hold. Presently, the law puts the responsibility on the person in crisis to keep track of timeframes and assert their rights, when in any other context, this due process comes automatically (criminal justice, juvenile justice, etc.).

Proposal:

18 V.S.A. 7510(a): Within five days after a person is admitted to a designated hospital for emergency examination, ~~he or she may request~~ the Superior Court ~~to~~ must ~~conduct~~ schedule a preliminary hearing to determine whether there is probable cause to believe that he or she was a person in need of treatment at the time of his or her admission, unless expressly waived in writing by the person admitted.

This committee has an enormous amount of important work and considerations before you. I appreciate your time and attention to this straightforward bill that could have wide sweeping implications, and I am always available to answer any further questions or provide additional information.

Thank you,

Lindsey St.Amour

[2] At least reported to the MHCO if DMH does not have the capacity to receive these reports. And details could be worked out to protect the private health information of the individuals.