End Homelessness Vermont
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Testimony to the Legislative Committee on Administrative Rules on the Vermont Homelessness Response Continuum Emergency Rules

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For the record, I am Brenda Siegel, Executive Director of End Homelessness Vermont. We are a statewide organization led by people with lived experience. We work with Vermonters experiencing homelessness and housing insecurity, primarily people living with disabilities and complex needs, and all of our staff are people with lived experience who also live with disabilities. We help our clients apply for and keep shelter, we communicate on their behalf, and we represent hundreds of people in fair hearings as non-attorney advocates.

I supported Act 143 because it offered a path to a better system, and because it built protection for people with disabilities into every section of the statute. I was in the room every day while this Legislature wrote it.

Over the last six weeks, I have seen the most direct violation of the rights of people living with disabilities, the highest barriers, and the least flexibility that I have ever seen in this work. I am asking the Committee to object to these emergency rules under 3 V.S.A. § 844(e)(1) and file that objection with the Secretary of State. They are beyond the authority of the agency, contrary to the intent of the Legislature, arbitrary, and not necessitated by an imminent peril. Here are five of the most serious problems, among many others. I have included a complete list in my written testimony.

1. A needs assessment the statute never created

The statute says “brief” twice. The only assessment it allows is “a brief, standardized initial assessment form that may be completed by hand, electronically, or by telephone” (§2216(5); see also §2204(1)). The rule and practice add a needs assessment interview that stands between an eligible household and help (Part 3, Section 2.00), and a screening tool, not in the rule, that ranks people inside the six priority groups the Legislature chose (Part 1, Section 5.00). In practice, applicants go through three assessments before they get services.

We have a client with insulin-dependent diabetes who has been warned he could lose his legs. He was denied an extension because he could not complete the needs assessment. We asked for a paper copy and for an accommodation. Both were denied. This **exceeds the rulemaking authority**, is **contrary to legislative intent**, and is leaving someone outside to potentially, and even likely, lose his legs.

2. The disability protections are stripped out

The Legislature built disability protections into every section of the statute: disability as a priority group (§2211(a)); self-attestation of a disability (§2211(b)(1)(C)); reasonable modifications, effective communication, and accessible placements, including plain language (§2211(c));

protection from isolation in separate placements (§2207(2)(B)); participation "to the extent of the eligible household's ability" (§2207(3)); an intake form that may be completed "by hand, electronically, or by telephone" (§2216(5)); and extensions when there is no reasonable alternative accessible placement (§2212(b)(3)). These rules do not carry those protections into the processes that decide whether someone is sheltered, and in practice, rules are not being modified. Requests for a paper copy of the assessment and for accommodations are regularly denied.

We have a client in Burlington who is eligible. He has neuropathy, and his psychiatric disabilities are so severe he cannot hold a conversation long enough to complete the assessment. Our requests for a paper copy and an accommodation were denied. He remains outside. As of October 9, he had been hospitalized five times since the start of September. This **violates the statute**, and a rule whose stated purpose is to connect people to shelter (Part 1, Section 2.00) but keeps eligible people with disabilities outside is **arbitrary**.

3. Extensions are narrowed

The statute grants extensions "including for" four grounds (§2212(b)). "Including" sets a minimum. Had the Legislature meant only those four, it would have said "only." The rule narrows even those, measuring extensions by "housing plan progress" the statute never mentions (Part 8, Sections 5.02 and 5.05). The Department had no authority to further limit the grounds. The Department has told End Homelessness Vermont that extensions require "uniformity." The statute's intent and purpose, and section after section of the statute, direct the Department to meet people's specific needs, to only require things of households to the extent of their ability, and to modify program rules for people with disabilities (Act 143, Secs. 2 and 3; §2207(3); §2211(c)). It was the intent of the Legislature to have one program with the flexibility to meet the needs of the people it serves. Uniformity is not even allowed in this legislation.

We have a client who is on oxygen, has severe liver disease, and uses a wheelchair. She clearly meets the statute's grounds. She was given less than 10 business days to submit a "more detailed housing plan," and the Department had not told us what it needs. As of Tuesday, she was granted another 7 days, with the instruction that we are not giving them a detailed enough plan. This is a person with massive barriers to housing. We cannot perform miracles, and a detailed housing plan is not a requirement for an extension in the statute. Her housing plan has nothing to do with whether she can survive outside. Last summer, a client of ours on oxygen died sleeping in her car. This **violates the statute and legislative intent**.

4. A 12-month period of ineligibility

The statute lets the Department remove a household for specific reasons (§2210) and authorizes only "a process for reinstatement of services" (§2216(10)). The rule turns that into a 12-month punishment (Part 10, Section 3.02(a)). The Legislature discussed a period of ineligibility and chose not to enact one. Keeping someone out for a year makes homelessness longer, the opposite of "rare, brief, and nonrecurring" (Act 143, Sec. 2). This **exceeds the rulemaking authority**, is **contrary to legislative intent**, and has no factual basis, which makes it **arbitrary**.

5. Continued benefits are not being granted

Section 2215(d) requires services to continue "without interruption" when a household appeals within 14 days, in all but two narrow circumstances. The Department is largely not continuing shelter while people appeal. In fair hearings, it argues that each level of the continuum is a separate benefit, to cut off continued services. Act 143 created one program, not a set of separate benefits.

Our client with diabetes is eligible for the continuum, is in the appeals process, and is not accused of fraud or a safety risk. Under the statute, he should be sheltered until his hearing is decided. He is outside. This **violates the statute**.

There is no way to get relief

Hearing officers at the Human Services Board believe they can no longer order housing while an appeal is pending, or even order that a preliminary recommendation be followed. Prior to September 1, and since the 1980s, emergency housing appeals were expedited, and the Department followed a hearing officer's recommendation right away. It no longer commits to that before the Board's final decision, and the Board meets once a month. The Legislature did not intend to change anything in the appeals process beyond what it named in the statute, and yet the Department has. When the rules and practice violate the statute, our clients have no way to get relief in time.

No imminent peril required this

The Legislature deemed an emergency for rules carrying out Act 143 (Sec. 8(a)(1)). It did not direct an intensive set of new restrictions for Level 4, the level it intended to rely on least (§2207(1)). None of these restrictions was required. They create a peril, by keeping eligible Vermonters with disabilities outside. If nothing changes, we will see more loss of life than we have ever seen due to homelessness.

Closing

This is not tenable for providers. We are drowning. We cannot lose more staff. Since June, our staff have more than doubled their outreach to Vermonters, up 125% over last year. In August, incoming calls and texts were up 45%, and in September, incoming phone calls alone were up 38%.

I am asking the Committee to object to these rules. There needs to be a clear message that these rules do not comport with the statute and are not meeting legislative intent. In order for us to access the rights of the people we serve under the statute, we need that to be clear. At this moment, our tools to stop the harm being caused are limited, and people will not survive if this does not change. This cannot wait.