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MEMORANDUM

TO: **Senate Committee on Health and Welfare**

FROM: **Emily Hawes, Commissioner, Department of Mental Health**

DATE: **April 30, 2026**

RE: **Written Testimony on H.573**

The Department of Mental Health (DMH) supports the shared goal of H.573 – ensuring timely access to emergency care for individuals with acute health needs. No one should have to wait unduly for assessment or treatment in a healthcare emergency, whether physical or mental. Mental health is healthcare, and timely access matters deeply. H.573 seeks to address a perceived access gap for individuals—both youth and adults—being considered for involuntary inpatient psychiatric hospitalization.

However, DMH cannot support H.573 as currently drafted, for the following reasons:

1. Parity and Due Process Concerns:

   A first certification is one of the only processes that temporarily removes an individual's right to liberty based solely on medical criteria and medical decision-making. That reality demands the highest clinical standards and safeguards. H.573 would universally lower the threshold of medical training required to make this first, critical determination by expanding authority to complete first certifications to Physician Assistants (PAs). While PAs are extremely valued and important, knowledgeable members of the health care workforce, the education and clinical preparation required of PAs differs substantially from physicians.

   Any changes to licensure or authority should be applied consistently across health care disciplines and grounded in evidence and patient safety. From a parity and equity perspective, the Department of Mental Health does not support lowering professional standards or broadening scope of practice exclusively within mental health, particularly in the context of first certifications, when health care decisions impact individuals' fundamental right to liberty and have profound legal, medical, and ethical consequences. Due process protections do, by design, slow down or create barriers for involuntary processes – reducing due process will always increase the speed and ease of reducing a person's liberty.

It is important to note that the process of first certification is designed to rule out any other medical cause for an individual's presentation. Before the certification process is completed, it is not proven that the individual's health crisis is due to mental health – it could be due to other, potentially complex, medical issues such as traumatic brain injury (TBI), urinary tract infection (UTI), or other strictly physical conditions that impact brain function. Individuals facing involuntary hospitalization are often among our most vulnerable. Many present with complex psychiatric and medical conditions, including age-related and co-occurring physical health challenges. These individuals deserve the highest level of clinical expertise and rigor, particularly because their rights are at stake. Anything less reinforces stigma, deepens inequity, and risks harm.

2. Data-informed Approach:

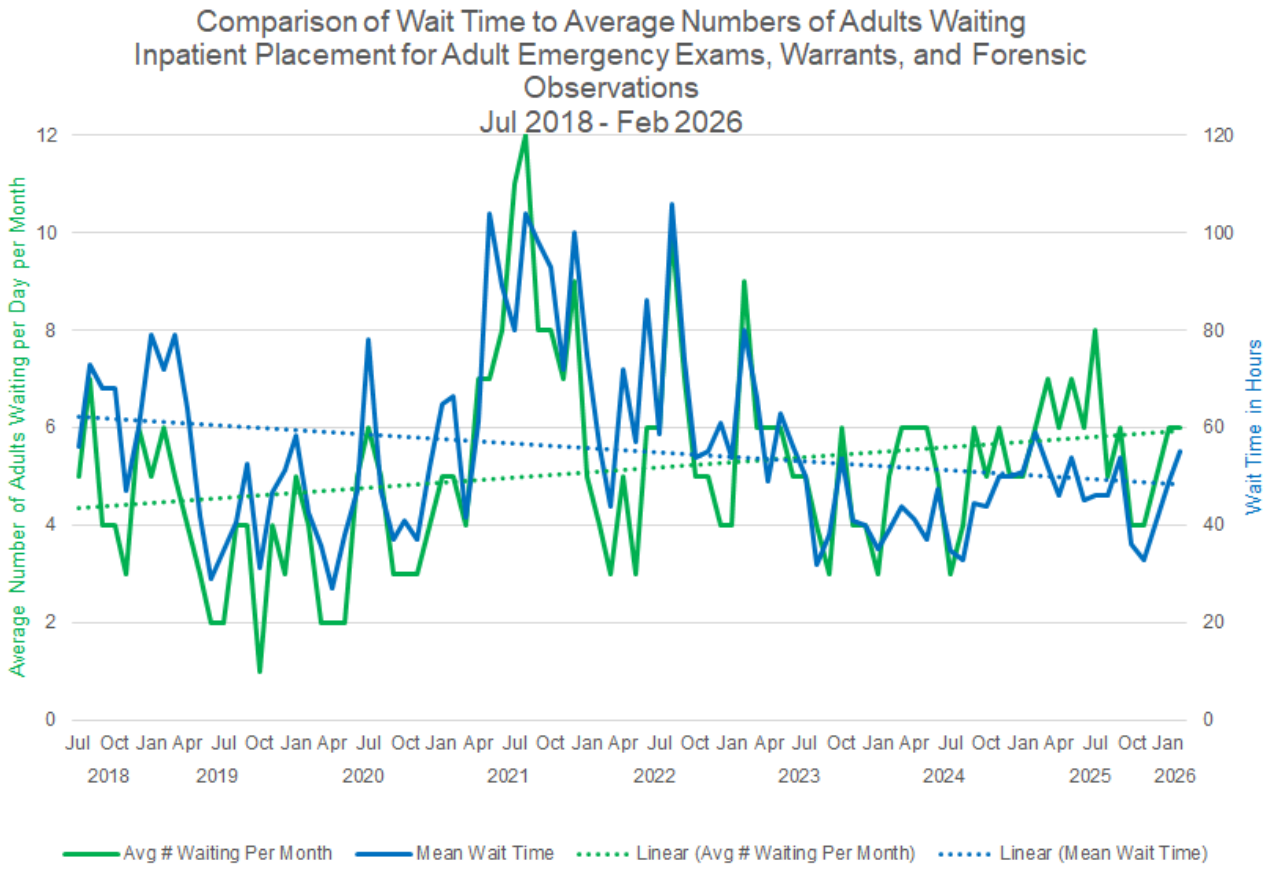
DMH fully recognizes, and experiences, the immense strain of healthcare workforce shortages and rising healthcare costs. However, the Department cannot support this change to the process of first certification, and a reduction in due process for involuntary care, based on these factors alone. While testimony has underlined difficulty, in specific hospital settings, with having a physician or Advanced Practice Registered Nurse (APRN) available to perform first certifications, DMH has not seen sufficient data indicating that delayed first certification is common across Vermont's hospital system, or that this change would greatly increase access to care.

Hospitals vary in both their staffing patterns and in the number of first certifications they currently perform. Typically, smaller hospitals which may have more difficulty maintaining 24/7 access to a physician in the ED are also performing fewer first certifications.

First Certs 4/1/25-3/31/26	8	
Hospital ED	**Total**	**1st Certs Per Month**
BMH - ED	61	5.08
Copley - ED	41	3.42
CVMC - ED	48	4.00
Gifford - ED	14	1.17
Grace Cottage - ED	6	0.50
Mt Ascutney - ED	11	0.92
NMC - ED	27	2.25
North Country - ED	37	3.08
NVRH - ED	49	4.08
Porter - ED	16	1.33
RRMC - ED	64	5.33
Springfield - ED	25	2.08
SVMC - ED	59	4.92
UVM MC - ED	175	14.58
VA - ED	0	0.00

DMH strives to ensure timely access to care, including involuntary care, and wait-times for involuntary inpatient placement have decreased over the past several years, even as inpatient capacity has tightened. Wait-times for involuntary mental health treatment in Vermont are lower now than they were prior to the COVID-19 pandemic. While wait-times have decreased, the

complexity of cases has increased—making access to physician-level clinical expertise more, not less, critical.



Analysis conducted by the Vermont Department of Mental Health Research & Statistics Unit. Analysis based on data maintained by the VPCH admissions department from paperwork submitted by crisis, designated agency, and hospital screeners. Wait times are defined from determination of need for admission to disposition, less time for medical clearance, for persons on court ordered forensic observations, on warrant for immediate examination, or applications for emergency exam. Wait times are point in time and based on month of disposition for persons who had a disposition to a psychiatric inpatient unit. Average number waiting per day is based on the same VPCH admissions' unit data entry.

3. Unintended impacts to accessing involuntary care:

DMH has some concerns that H.573 may, unintendedly, reduce DMH's ability to provide involuntary mental health care when clinically indicated. The first certification is an element of the evidentiary process required for DMH to pursue custody of an individual needing involuntary mental health care, a decision made by the Courts. Reducing the training and licensure requirements to perform a first certification could, potentially, reduce the weight that a court places on both that document and the testimony that may be provided by the medical professional who completed the certification.

4. Limiting parties able to initiate an application for an Emergency Examination:

Finally, as Passed by the House, H.573 replaces the term "interested party" with "qualified mental health professional," (page 1, line 17) which removes the ability of a physician or mental health professional not designated as a Qualified Mental Health Professional (QMHP) by DMH to begin the process of application.

Qualified Mental Health Professional is a statutorily defined role, designated by the Commissioner of Mental Health and subject to specific training requirements and demonstration of skills:

- "(2) "Qualified mental health professional" means a person with professional training, experience, and demonstrated competence in the treatment of mental conditions or psychiatric disabilities or serious functional impairments who is a physician, psychiatrist, psychologist, social worker, nurse, or other qualified person determined by the Commissioner of Mental Health."
- Qualified Mental Health Professional (QMHP) Manual and Standards

While most emergency examinations are drafted by QMPHs, which DMH has specifically trained on the legal and clinical thresholds, DMH believes it is important that we not limit this ability to solely those that have taken the DMH training, which is primarily available just to Designated Agency personnel.

DMH would request that the language on page 1, line 17, remains "interested party" or is changed to "mental health professional."

5. Alternate pathway to expand authority of PAs:

DMH recognizes APRNs' authority to complete first certifications under the broad authority granted in 26 V.S.A. § 1616, together with additional specialized training developed by DMH. If PA scope of practice was broadened in a similar manner (applied universally throughout health care in Vermont) DMH would work within its ability to ensure adequate training for PAs to be designated – although DMH is not able to provide training in general medical practice.

Thank you for your consideration of these concerns as you continue to review H.573. DMH recognizes and shares the goal of ensuring that Vermonters in crisis can access the care they need in as timely a manner as possible, without reducing due process or lowering professional requirements only for mental health. We are happy to continue conversations on how to expand access to care.