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**State of Vermont**

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## **MEMORANDUM**

**TO:** Orders of Non-Hospitalization Study Committee

**FROM:** Mourning Fox, DMH Deputy Commissioner  
Melissa Bailey, DMH Commissioner

**DATE:** October 25, 2018

**RE:** Ideas that DMH is considering putting forward

We received the request from the ONH Committee to come to the October 25<sup>th</sup> meeting to present and discuss potential ideas the Department of Mental Health is considering putting forward during this upcoming legislative session that relate to the work being done by this committee. Unfortunately, both the Commissioner and I are unable to attend this meeting. We also understand the limited amount of time this committee has, so we wanted to provide this update for your review and we welcome your feedback. Again, these are areas/topics we are thinking about, not actual legislative requests at this time.

- Currently all court ordered Forensic Evaluations (for those believed to suffer from a mental illness) performed by DMH contracted clinicians are done by psychiatrists, per statute. There are only four in the state that have been willing to contract with DMH to provide these evaluations. DMH is wondering if expanding this option to psychologists would improve access to these evaluations and help with delays.
- Also related to criminal court cases – having the cases be moved to DMH Assistant Attorneys General and the Mental Health Law Project (from states attorneys and defense attorneys) once, and if, a case moves toward a hospitalization hearing, so that the attorneys with better understanding of the mental health system and people with mental health needs can litigate this section of a person’s criminal court proceedings.
- Allowing for Psychiatrist to testify via teleconference, or telephone, to the courts. This would help minimize any delays based on psychiatrist availability to testify in person and would also no longer require the psychiatrist to not practice medicine for the court day, thus causing less disruption to services as well.

- Requesting that there be a set timeframe within which judges have to issue findings and orders in involuntary hospitalization, medication, and revocations cases after hearings. This would help prevent any unnecessary delays in a person receiving active treatment in a timely fashion. This does not happen often, but when it does, there can be significant impact for the individual, family members, and providers.
- DMH is considering a pilot project around the use of non-emergency involuntary medications in the community setting for individuals on orders of non-hospitalization. Current statute and administrative regulation permit the Commissioner to seek involuntary medication orders for individuals who have a history of previous involuntary hospitalization and who are currently refusing medications. 18 V.S.A. §§ 7624(a)(2) and 7627(g); Vermont Administrative Code 12-6-3. The Department is considering procedures to augment these authorities for use with residents refusing medication at the Middlesex Therapeutic Community Residence (MTCR) and who are decompensating in that environment. The goal is to avoid unnecessary hospitalization or a prolonged hospitalization. Under certain situations, brief hospitalizations at the Vermont Psychiatric Care Hospital, may be needed for medication administration and monitoring purposes.
- Amend 13 V.S.A. § 4822(a) such that orders of commitment (hospitalization and non-hospitalization) can be for no longer than 90 days (remove “indeterminate period” language to make consistent with initial orders under Title 18. Also, considering requesting elimination of the ability of a Judge in criminal court to require a discharge hearing before someone is discharged from the Commissioner’s custody.