Vermont Involuntary Medication Statutes
Westlaw

18 V.S.A. § 7624

§ 7624. Application for involuntary medication

Currentness

(a) The Commissioner may commence an action for the involuntary medication of a person who is refusing to accept psychiatric medication and meets any one of the following six conditions:

(1) has been placed in the Commissioner's care and custody pursuant to section 7619 of this title or subsection 7621(b) of this title;

(2) has previously received treatment under an order of hospitalization and is currently under an order of nonhospitalization, including a person on an order of nonhospitalization who resides in a secure residential recovery facility;

(3) has been committed to the custody of the Commissioner of Corrections as a convicted felon and is being held in a correctional facility which is a designated facility pursuant to section 7628 of this title and for whom the Departments of Corrections and of Mental Health have determined jointly that involuntary medication would be appropriate pursuant to 28 V.S.A. § 907(4)(H);

(4) has an application for involuntary treatment pending for which the court has granted a motion to expedite pursuant to subdivision 7615(a)(2)(A)(i) of this title;

(5)(A) has an application for involuntary treatment pending;

(B) waives the right to a hearing on the application for involuntary treatment until a later date; and

(C) agrees to proceed with an involuntary medication hearing without a ruling on whether he or she is a person in need of treatment; or

(6) has had an application for involuntary treatment pending pursuant to subdivision 7615(a)(1) of this title for more than 26 days without a hearing having occurred and the treating psychiatrist certifies, based on specific behaviors and facts set forth in the certification, that in his or her professional judgment there is good cause to believe that:

(A) additional time will not result in the person establishing a therapeutic relationship with providers or regaining competence; and

(B) serious deterioration of the person's mental condition is occurring.

(b)(1) Except as provided in subdivisions (2), (3), and (4) of this subsection, an application for involuntary medication shall be filed in the Family Division of the Superior Court in the county in which the person is receiving treatment.

(2) If the application for involuntary medication is filed pursuant to subdivision (a)(4) of this section:

(A) the application shall be filed in the county in which the application for involuntary treatment is pending; and
(B) the court shall consolidate the application for involuntary treatment with the application for involuntary medication and rule on the application for involuntary treatment before ruling on the application for involuntary medication.
(3) If the application for involuntary medication is filed pursuant to subdivision (a)(5) or (a)(6) of this section, the application shall be filed in the county in which the application for involuntary treatment is pending.
(4) Within 72 hours of the filing of an application for involuntary medication pursuant to subdivision (a)(6) of this section, the court shall determine, based solely upon a review of the psychiatrist's certification and any other filings, whether the requirements of that subdivision have been established. If the court determines that the requirements of subdivision (a)(6) of this section have been established, the court shall consolidate the application for involuntary treatment with the application for involuntary medication and hear both applications within ten days of the date that the application for involuntary medication is filed. The court shall rule on the application for involuntary treatment before ruling on the application for involuntary medication. Subsection 7615(b) of this title shall apply to applications consolidated pursuant to this subdivision.
(c) The application shall include a certification from the treating physician, executed under penalty of perjury, that includes the following information:
(1) the nature of the person's mental illness;
(2) that the person is refusing medication proposed by the physician;
(3) that the person lacks the competence to decide to accept or refuse medication and appreciate the consequences of that decision;
(4) the necessity for involuntary medication;
(5) any proposed medication, including the method, dosage range, and length of administration for each specific medication;
(6) a statement of the risks and benefits of the proposed medications, including the likelihood and severity of adverse side effects and its effect on:
(A) the person's prognosis with and without the proposed medications; and
(B) the person's health and safety, including any pregnancy;
(7) the current relevant facts and circumstances, including any history of psychiatric treatment and medication, upon which the physician's opinion is based;
(8) what alternate treatments have been proposed by the doctor, the patient, or others, and the reasons for ruling out those alternatives, including information on the availability of any appropriate alternatives; and

(9) whether the person has executed an advance directive in accordance with the provisions of chapter 231 of this title and the identity of the agent or agents designated by the advance directive.
(d) A copy of the advance directive, if available, shall be attached to the application.

Credits

1997, Adj. Sess., No. 114, § 4; 2005, Adj. Sess., No. 174, § 40; 2007, No. 15, § 22, eff. July 1, 2007; 2009, Adj. Sess., No. 154, § 238(c)(8), eff. July 1, 2010; 2011, Adj. Sess., No. 160, § 5, eff. May 17, 2012; 2013, Adj. Sess., No. 192, §§ 12, 25, eff. July 1, 2014.

Editors' Notes

For validity of this section, see Hargrave v. Vermont, 2003, 340 F.3d 27.

18 V.S.A. § 7625

§ 7625. Hearing on application for involuntary medication; burden of proof

Currentness

(a) Unless consolidated with an application for involuntary treatment pursuant to subdivision 7624(b)(2) or (b)(4) of this title, a hearing on an application for involuntary medication shall be held within seven days of filing and shall be conducted in accordance with sections 7613, 7614, and 7616 and subsections 7615 (b)-(e) of this title.
(b) In a hearing conducted pursuant to this section, section 7626, or section 7627 of this title, the Commissioner has the burden of proof by clear and convincing evidence.
(c) In determining whether or not the person is competent to make a decision regarding the proposed treatment, the court shall consider whether the person is able to make a decision and appreciate the consequences of that decision.

Credits

1997, Adj. Sess., No. 114, § 4; 2013, Adj. Sess., No. 192, §§ 13, 25, eff. July 1, 2014.

Notes of Decisions (16)

18 V.S.A. § 7625, VT ST T. 18 § 7625

The statutes are current through acts of the Adjourned Session of the 2017-2018 Vermont General Assembly (2018) effective upon passage through July 1, 2018, and through Act 10 of the First Special Session of the Adjourned Session of the 2017-2018 Vermont General Assembly (2018).

18 V.S.A. § 7626

§ 7626. Advance directive

Currentness

(a) If a person who is the subject of an application filed under section 7624 of this title has executed an advance directive in accordance with the provisions of chapter 231 of this title, the court shall suspend the hearing and enter an order pursuant to subsection (b) of this section, if the court determines that:

(1) the person is refusing to accept psychiatric medication;

(2) the person is not competent to make a decision regarding the proposed treatment; and

(3) the decision regarding the proposed treatment is within the scope of the valid, duly executed advance directive.

(b) An order entered under subsection (a) of this section shall authorize the Commissioner to administer treatment to the person, including involuntary medication in accordance with the direction set forth in the advance directive or provided by the agent or agents acting within the scope of authority granted by the advance directive. If hospitalization is necessary to effectuate the proposed treatment, the court may order the person to be hospitalized.

(c) Repealed by 2013, Adj. Sess., No. 192, § 14, eff. July 1, 2014.

(d)(1) The Commissioner of Mental Health shall develop a protocol for use by designated hospitals for the purpose of educating hospital staff on the use and applicability of advance directives pursuant to chapter 231 of this title[1] and other written or oral expressions of treatment preferences pursuant to subsection 7627(b) of this title.

(2) Prior to a patient's discharge or release, a hospital shall provide information to a patient in the custody or temporary custody of the Commissioner regarding advance directives, including relevant information developed by the Vermont Ethics Network and Office of the Mental Health Care Ombudsman.

Credits

1997, Adj. Sess., No. 114, § 4; 2013, Adj. Sess., No. 192, §§ 14, 25, eff. July 1, 2014.

Notes of Decisions (6)

Footnotes

1 18 V.S.A. § 9700 et seq.

18 V.S.A. § 7626, VT ST T. 18 § 7626

The statutes are current through acts of the Adjourned Session of the 2017-2018 Vermont General Assembly (2018) effective upon passage through July 1, 2018, and through Act 10 of the First Special Session of the Adjourned Session of the 2017-2018 Vermont General Assembly (2018).

18 V.S.A. § 7627

§ 7627. Court findings; orders

Currentness

(a) The court shall issue an order regarding all possible findings pursuant to this section, and for persons subject to an application pursuant to subdivision 7624(a)(3) of this title, the court shall first find that the person is a person in need of treatment as defined by subdivision 7101(17) of this title.

(b) If a person who is the subject of an application filed under section 7625 of this title has not executed an advance directive, the court shall follow the person's competently expressed written or oral preferences regarding medication, if any, unless the Commissioner demonstrates that the person's medication preferences have not led to a significant clinical improvement in the person's mental state in the past within an appropriate period of time.

(c) If the court finds that there are no medication preferences or that the person's medication preferences have not led to a significant clinical improvement in the person's mental state in the past within an appropriate period of time, the court shall consider at a minimum, in addition to the person's expressed preferences, the following factors:

(1) the person's religious convictions and whether they contribute to the person's refusal to accept medication;

(2) the impact of receiving medication or not receiving medication on the person's relationship with his or her family or household members whose opinion the court finds relevant and credible based on the nature of the relationship;

(3) the likelihood and severity of possible adverse side effects from the proposed medication;

(4) the risks and benefits of the proposed medication and its effect on:

(A) the person's prognosis; and

(B) the person's health and safety, including any pregnancy; and

(5) the various treatment alternatives available, which may or may not include medication.

(d) As a threshold matter, the court shall consider the person's competency. If the court finds that the person is competent to make a decision regarding the proposed treatment or that involuntary medication is not supported by the factors in subsection (c) of this section, the court shall enter a finding to that effect and deny the application.

(e) As a threshold matter, the court shall consider the person's competency. If the court finds that the person is incompetent to make a decision regarding the proposed treatment and that involuntary medication is supported by the factors in subsection (c) of this section, the court shall make specific findings stating the reasons for the involuntary medication by referencing those supporting factors.
(f)(1) If the court grants the application, in whole or in part, the court shall enter an order authorizing the Commissioner to administer involuntary medication to the person. The order shall specify the types of medication, the permitted dosage range, length of administration, and method of administration for each. The order for involuntary medication shall not include electroconvulsive therapy, surgery, or experimental medications. A long-acting injection shall not be ordered without clear and convincing evidence, particular to the patient, that this treatment is the most appropriate under the circumstances.
(2) The order shall require the person's treatment provider to conduct weekly reviews of the medication to assess the continued need for involuntary medication, the effectiveness of the medication, the existence of any side effects, and whether the patient has become competent pursuant to subsection 7625(c) of this title and shall also require the person's treatment provider to document this review in detail in the patient's chart. The person's treatment provider shall notify the Department when he or she determines that the patient has regained competence. Within two days of receipt, the Department shall provide a copy of the notice to the patient's attorney.
(g) For a person receiving treatment pursuant to an order of hospitalization, the Commissioner may administer involuntary medication as authorized by this section to the person for up to 90 days, unless the court finds that an order is necessary for a longer period of time. Such an order shall not be longer than the duration of the current order of hospitalization. If at any time the treating psychiatrist finds that a person subject to an order for involuntary medication has become competent pursuant to subsection 7625(c) of this title, the order shall no longer be in effect.
(h) For a person who had received treatment under an order of hospitalization and is currently receiving treatment pursuant to an order of nonhospitalization, if the court finds that without an order for involuntary medication there is a substantial probability that the person would continue to refuse medication and as a result would pose a danger of harm to self or others, the court may order hospitalization of the person for up to 72 hours to administer involuntary medication as ordered under this section.
(i) The court may authorize future 72-hour hospitalizations of a person subject to an order under subsection (h) of this section to administer involuntary medication for 90 days following the initial hospitalization, unless the court finds that an involuntary medication order is necessary for a longer period of time. Such an order shall not be longer than the duration of the current order of nonhospitalization.

(j) A future administration of involuntary medication authorized by the court under subsection (i) of this section shall occur as follows:

(1) The treating physician shall execute and file with the Commissioner a certification executed under penalty of perjury that states all the following:

(A) the person has refused medication;

(B) the person is not competent to make a decision regarding medication and to appreciate the consequences;

(C) the proposed medications, the dosage range, length of administration, and method of administration; and

(D) 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.

(2) Depending on the type of medication ordered, the Commissioner shall provide two to 14 days' notice, as set forth in the initial court order, to the court, the person, and the person's attorney. The notice shall be given within 24 hours of receipt by the Commissioner of the physician's certification and shall state that the person may request an immediate hearing to contest the order. The person may be hospitalized in a designated hospital on the date specified in the notice for up to 72 hours in order to administer involuntary medication.

(k) An order for involuntary medication issued under this section shall be effective concurrently with the current order of commitment issued pursuant to section 7623 of this title.

(l) The treating physician shall provide written notice to the court to terminate the order when involuntary medication is no longer necessary.

(m) At any time, the person may petition the court for review of the order.

(n) As used in this section, “household members” means persons living together or sharing occupancy.

Credits

1997, Adj. Sess., No. 114, § 4; 2013, Adj. Sess., No. 192, §§ 15, 25, eff. July 1, 2014.

Notes of Decisions (1)

18 V.S.A. § 7627, VT ST T. 18 § 7627

The statutes are current through acts of the Adjourned Session of the 2017-2018 Vermont General Assembly (2018) effective upon passage through July 1, 2018, and through Act 10 of the First Special Session of the Adjourned Session of the 2017-2018 Vermont General Assembly (2018).

18 V.S.A. § 7628

§ 7628. Protocol

Currentness

The Department of Mental Health shall develop and adopt by rule a strict protocol to ensure the health, safety, dignity and respect of patients subject to administration of involuntary psychiatric medications in any designated hospital. This protocol shall be followed by all designated hospitals administering involuntary psychiatric medications.

Credits

1997, Adj. Sess., No. 114, § 4.

18 V.S.A. § 7628, VT ST T. 18 § 7628

The statutes are current through acts of the Adjourned Session of the 2017-2018 Vermont General Assembly (2018) effective upon passage through July 1, 2018, and through Act 10 of the First Special Session of the Adjourned Session of the 2017-2018 Vermont General Assembly (2018).

18 V.S.A. § 7629

§ 7629. Legislative intent

Currentness

(a) It is the intention of the General Assembly to recognize the right of a legally competent person to determine whether or not to accept medical treatment absent an emergency or a determination that the person is incompetent and lacks the ability to make a decision and appreciate the consequences.

(b) The General Assembly adopts the goal of high-quality, patient-centered health care, which the Institute of Medicine defines as “providing care that is respectful of and responsive to individual patient preferences, needs, and values and ensuring that patient values guide all clinical decisions.” A substitute decision-maker is sometimes necessary to make a decision about care when a person is incompetent and lacks the ability to make a decision and appreciate the consequences. Even when a person lacks competence, health care that a person is opposing should be avoided whenever possible because the distress and insult to human dignity that result from compelling a person to participate in medical treatment against his or her will are real, regardless of how poorly the person may understand the decision.

(c) It is the policy of the General Assembly to work toward a mental health system that does not require coercion or the use of involuntary medication.

(d) This chapter protects the rights and values described in this section through a judicial process to determine competence prior to an order for nonemergency involuntary medication and by limiting the duration of an order for involuntary treatment to no more than one year. The least restrictive order consistent with the person's right to adequate treatment shall be provided in all cases.

Credits

1997, Adj. Sess., No. 114, § 1; 2013, Adj. Sess., No. 192, § 16, eff. July 1, 2014.

Notes of Decisions (1)

18 V.S.A. § 7629, VT ST T. 18 § 7629

The statutes are current through acts of the Adjourned Session of the 2017-2018 Vermont General Assembly (2018) effective upon passage through July 1, 2018, and through Act 10 of the First Special Session of the Adjourned Session of the 2017-2018 Vermont General Assembly (2018).