VERMONT 2019

The Implementation of Act 114:

Fiscal Year 2019 (July 1, 2018 – June 30, 2019)

Report from the Commissioner of Mental Health to the House Committee on Judiciary, House Committee on Health Care, Senate Committee on Judiciary and the Senate Committee on Health & Welfare

VERMONT

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Vermont's 1998 Act 114 (18 V.S.A. §7624 et seq.)

Summary

Vermont's Act 114 addresses three areas of mental-health law:

- The administration of nonemergency involuntary psychiatric medication in inpatient settings for people on orders of hospitalization
- The administration of nonemergency involuntary psychiatric medication for adults on orders of non-hospitalization (community commitments), and
- Continuation of ninety-day orders of non-hospitalization

The statute allows for orders of non-hospitalization, whether ninety-day or one-year orders, to be renewed following a hearing. Prior to implementation of Act 114, ninety-day orders could not be renewed.

The Act also replaced administrative hearings on applications for non-emergency involuntary medication with judicial hearings in family court. When the statute was passed in 1998, it permitted the administration of involuntary psychiatric medication in nonemergency situations to patients committed to the care and custody of the Commissioner of Mental Health in commissioner-designated hospitals in addition to the state-operated Vermont State Hospital (VSH) in Waterbury. Until August 29, 2011, when Tropical Storm Irene forced the evacuation of the state hospital, nonemergency involuntary psychiatric medications were given only at VSH. Today, Vermont has six designated hospitals where involuntary psychiatric medications in nonemergency situations might be administered.

- The University of Vermont Medical Center (UVM-MC), in Burlington
- Rutland Regional Medical Center (RRMC), in Rutland
- The Brattleboro Retreat (BR), in Brattleboro
- Central Vermont Medical Center (CVMC), in Berlin
- The Vermont Psychiatric Care Hospital (VPCH), in Berlin
- The Veterans Administration Hospital (VA-WRJ), in White River Junction

Section 5 of Act 114 requires an annual report from the Commissioner of Mental Health on the implementation of the provisions of the act to the House Judiciary and Human Services Committees and to the Senate Committees on Judiciary, and Health and Welfare. The statute specifies the requirements for the Commissioner's report which are detailed below. Act 114 also requires an annual report from an independent research entity (Section 6). DMH continues to recommend that only one comprehensive, independent report be required in the future.

Act 114 Language Pertaining to Report Requirements[1]

Sec. 5. REPORT

(a) On January 15, 1999 and annually thereafter, the commissioner of developmental and mental health services shall report to the House and Senate Committees on Judiciary and Health and Welfare on the following:

(1) Any problems that the department, the courts, and the attorneys for the state and patient have encountered in implementing Sec. 4 of this act.

(2) The number of petitions for involuntary medication filed by the state pursuant to 18 V.S.A. § 7624 and the outcome in each case.

(3) Copies of any trial court or Supreme Court decisions, orders, or administrative rules interpreting Sec. 4 of this act.

(4) Any recommended changes in the law.

(b) Before submitting the report required in this section, the department shall solicit comments from organizations representing persons with mental illness and organizations representing families with members with mental illness, direct care providers, persons who have been subject to proceedings under 18 V.S.A. § 7624, treating physicians, attorneys for the patients, courts, and any other member of the public affected by or involved in these proceedings.

(c) The department shall also present the report required in this section and the study required in Sec. 6 of this act to its Systems Improvement Committee for analysis and recommendations to the department.

Sec. 6. STUDY AND REPORT[2]

(a) An annual independent study shall be commissioned by the Department of Mental Health which shall:

(1) evaluate and critique the performance of the institutions and staff of those institutions that are implementing the provisions of this act;

(2) include interviews with persons subject to proceedings under 18 V.S.A. § 7624, regardless of whether involuntarily medicated, and their families on the outcome and effects of the order;

(3) include the steps taken by the Department to achieve a mental health system free of coercion; and

(4) Include any recommendations to change current practices or statutes.

(b)The person who performs the study shall prepare a report of the results of the study, which shall be filed with the General Assembly and the Department annually on or before January 15.

(c) Interviews with patients pursuant to this section may be conducted with the assistance of the mental health patient representative established in 18 V.S.A. § 7253.

[1] Accessed January 23rd, 2020, found online at http://www.leg.state.vt.us/DOCS/1998/ACTS/ACT114.HTM

[2] Modified to include amended language from 2014 Act 192

https://legislature.vermont.gov/assets/Documents/2014/Docs/ACTS/ACT192/ACT192%20As%20Enacted.pdf

Introduction

This annual report on the implementation of Act 114 is submitted for your review on behalf of Vermont's Department of Mental Health (DMH). This report covers FY 2019 (July 1, 2018 – June 30, 2019).

Readers of this document will find a broad range of perspectives and feelings about the Act 114 process and the use of court-ordered involuntary psychiatric medication as part of the course of treatment for adults with the most refractory mental illnesses. The feedback given by organizations have been synthesized; the full write ups can be found in the appendix of this report. All comments by patients are left in their entirety. DMH hopes that this information will inform and elevate discussions of the use of medication as an intervention for mental illness as care providers continue to strive for optimal outcomes for the individuals they serve.

Stakeholders who received requests to respond to the Commissioner's questionnaire about their perspectives on Act 114 were Vermont Legal Aid, Disability Rights—Vermont (DRVT), the Vermont Chapter of the National Alliance on Mental Illness (NAMI—VT), Vermont Psychiatric Survivors, and representatives from the three hospitals that administered psychiatric medications under ACT 114 in FY19 (Vermont Psychiatric Care Hospital, Rutland Regional Medical Center, and Brattleboro Retreat), members of Vermont judiciary, as well as family members, peers, and friends who wish to remain anonymous sent written responses to the Department of Mental Health for this report.

Number of Psychiatric Patients Served in the Five Hospitals Designated to Perform Medication Under Act 114 During FY 19

The two tables below provide information about those individuals who were involuntarily hospitalized, *but not necessarily involuntarily medicated* (unduplicated count by hospital for involuntarily admitted patients)

a. Number of unique involuntary patients

Hospital	**Number of unique involuntary patients served in FY18**
Brattleboro Retreat (BR)	216
Central Vermont Medical Center (CVMC)	38
Rutland Regional Medical Center (RRMC)	100
University of Vermont Medical Center (UVMMC)	99
Vermont Psychiatric Care Hospital (VPCH)	87

b. Average length of stay for involuntary psychiatric population in 5 hospitals administering medication under Act 114 during FY19

	Hospital				
	BR	CVMC	RRMC	UVMC	VPCH
Total Number of Stays in FY18	234	39	109	105	91
Mean Length of Stay	37.06	24.36	27.70	20.42	94.89
Median Length of Stay	21.00	10.00	77.00	14.00	44.00
Minimum Length of Stay	1.00	1.00	1.00	1.00	2.00
Maximum Length of Stay	365.00	192.00	365.00	138.00	365.00

Number of Petitions and Outcomes for Each Case (1998 Act 114 §5(2))

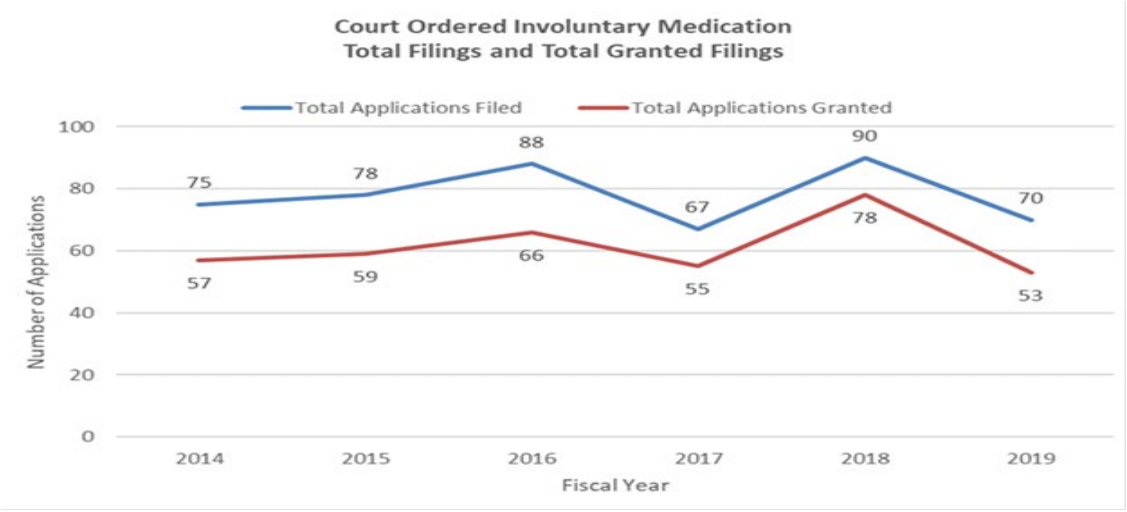
For FY19, 65 Vermonters received involuntary medications. With a population of 627,180, this accounts for 1 out of 10,000 Vermonters (0.0001 or 0.01%).

Court-Ordered Involuntary Medication Petitions FY 2019 (July 2018 – June 2019)

a. Number of Act 114 petitions **filed** during FY 19 - include number of persons for whom multiple petitions were filed.

Number of Act 114 petitions filed during FY 19	70
Number of unique patients who had at least one Act 114 petition	65
Number of unique patients who had one Act 114 petition	60
Number of unique patients who had two Act 114 petitions	5
Number of unique patients who had three Act 114 petitions	0

b. Court ordered Involuntary Medications Total Filings and Total Granted Filings under Act 114 CY14-CY19



In 2019, as the graph above shows, there was a 22% decrease in total applications filed as compared to 2018. While it is not possible to determine the cause of the decrease, a portion of the decrease may be due to use of newer, alternative treatment modalities such as the Collaborative Networks Approach[1].

Input from Advocacy Organizations and Individuals

All state entities, organization and individuals who provided comments and recommendations responded to these six questions:

1. Were you directly involved with any individuals involuntarily medicated under Act 114 in 2019?
2. Are you aware of any problems encountered in the implementation of this process?
3. What worked well regarding the process?
4. What did not work well regarding the process?
5. In your opinion was the outcome beneficial?
6. Do you have any changes to recommend in the law or procedures? If so, what are they?

Summary of Feedback

1998 Act 114 §5(1) - Any problems that the department, the courts, and the attorneys for the state and patient have encountered in implementing Sec. 4 of this act.

Input in this section comes from:

- Vermont Department of Mental Health and its attorneys
  - Mourning Fox, Deputy Commissioner, Department of Mental Health
  - Karen Godnick Barber, General Counsel, Department of Mental Health
  - Matt Viens, Senior Assistant Attorney General, Department of Mental Health Legal Division
- The Office of the Administrative Judge for Trial Courts
  - Brian J. Grearson, Chief Superior
  - Judge Kevin Griffin, Civil Division of the Chittenden Superior Court
  - Judge Timothy Tomasi, Criminal Division of the Windsor Superior Court
  - Judge Mary Miles Teachout, Civil Division of the Washington Superior Court
  - Judge Katherine Hayes, Windham Family Division, Windham Superior Court

Parties external to the Department were asked to complete a questionnaire containing the following questions:

- Were you directly involved with any individuals involuntarily medicated under Act 114 in 2019?
- What worked well regarding the process?
- What did not work well regarding the process?
- In your opinion was the outcome beneficial?
- Do you have any changes to recommend in the law or procedures? If so, what are they?

[1] A person-centered, recovery-oriented approach to treatment that incorporates aspects of need-adapted approaches (Open Dialogue, reflecting therapies), peer support, and recovery-oriented care. www.vtcpi.org

Assessment from the Vermont Department of Mental Health

From DMH's perspective, there continues to be some delay in providing timely and effective treatment to patients through the involuntary medication process. Delays most often occur due to an inability to procure witnesses or psychiatric expertise in time for court, thus resulting in requests for continuance.

Fewer Delays to Receive Treatment

DMH believes that certain changes to the involuntary medication statute enacted through Act 192 have produced positive results. They include permitting an expedited hospitalization hearing under 18 V.S.A. § 7615(a)(2) that may be consolidated with an application for involuntary medication, as well as that allowing a consolidated hospitalization and medication hearing for a patient who has been held on an application for involuntary treatment for longer than 26 days under § 7624(a)(6).

DMH believes these changes have, while still a work in progress, allowed patients to receive medication when recommended as a part of overall treatment, in a timelier fashion.

Assessment from Flint Springs Associates

The Vermont statue governing administration of involuntary nonemergency psychiatric medications to clients of the public mental health system committed to the care and custody of the Commissioner of Mental Health is 18 V.S.A. 7624 et seq. The statute requires two annual assessments of the act's implementation. The first is conducted by the Department of Mental Health and the second must be conducted by an independent reviewer. The independent review for FY19 has been conducted by Flint Springs Associates.

Flint Springs Associates (FSA) offers the following recommendations:

All recommendations taken verbatim from FSA Report submitted to the Department of Mental Health 1/10/2020

<u>Training:</u>

While nursing staff generally receive formal training on the provisions of Act 114, other staff, in particular physicians, do not receive formal training. FSA recommends that physicians receive formal training on both the provisions of Act 114, including the "waiting period" as well as on the importance of documenting adherence to those provisions through the Patient Information Form and the Implementation Form.

<u>Hospital Practices:</u>

FSA recommends that staff at hospitals administering Act 114 medication continue efforts to help patients understand the reasoning behind the decision to seek an order for involuntary medication and to invest time in talking with patients about the process and available options.

In order to maintain clear records for documenting implementation of Act 114 in accordance with provision of the statue, all hospitals have followed past FSA recommendations that each hospital maintain an electronic file or section within the electronic file for persons reeving medication under

Act 114. This practice should continue, and files should contain:

- Copy of court order
- Copy of Patient Information Form- including a place for patients' signatures and explanation for lack of signatures
- Copies of every implementation of Court-Ordered Medication Form
- Copy of 7-Day Reviews
- Copies of Support Person Letter, if used
- Copies of Certificate of Need (CON) or other documentation of emergency procedure, if needed
- Summary of medications based on court order
- Specific timeline of court order based language of court order

Act 114 Assessment:

FSA recommends that the following steps continue to be used in future assessment of Act 114:

- Provide a financial incentive for the participation of individuals who have received court-ordered medication to participate in the independent assessment of Act 114 implementation.
- Request input from individuals through extensive outreach efforts to any person who received medication under Act 114 in previous years, not just the year under review, in order to learn about longer term outcomes including individuals' engagement in treatment and their lives in the community as well as experiences receiving medication under Act 114 orders.
- Ask persons interviewed if they would like any family members to be interviewed and pursue these as permitted.
- The Legislature and DMH should determine the value of two annual reports on the implementation of Act 114: an independent assessment and DMH assessment.

Assessment from Vermont Judiciary

For the 2019 Commissioner's Report to the General Assembly on Act 114, Chief Superior Judge Brian J. Grearson submitted responses from four Vermont judges "who regularly presided over the largest number [of] Involuntary Medication requests" in calendar year 2019. Those judges were:

- Judge Kevin Griffin, Civil Division of the Chittenden Superior Court;
- Judge Timothy Tomasi, Criminal Division of the Windsor Superior Court;
- Judge Mary Miles Teachout, Civil Division of the Washington Superior Court; and
- Judge Katherine Hayes, Family Division of the Windham Superior Court

Judge Kevin Griffin, who presides over Chittenden County, stated that Chittenden was effective in expediting cases. He believes that attorneys from the Attorney General's office and Mental Health Law Project in Chittenden worked well together and feels the process went smoothly. Judge Kevin Griffin stated that combining court-ordered involuntary medication and AIT hearings has been a positive change and is efficient.

Judge Timothy Tomasi presides over Washington County, which is home to the Vermont Psychiatric Care Hospital. He states the system overall is working well and echoes Judge Griffin's statement that the State and Legal Aid, "work together in a collaborative fashion to triage the cases, make agreements where they can, and bring the matters to prompt contested hearing as needed."

Judge Tomasi highlights that expedited requests for involuntary medications can, "make it difficult for the Respondent to seek an independent expert opinion in time for the hearing," which can lead to "tension between allowing for that additional evaluative process and what is often determined to be a significant need for mediation." He also brings attention to the issue of requesting telephonic testimony (usually by the State) and whether such requests "meet the demands of Civil Rule 43.1 and any potential constitutional concerns."

Judge Mary Miles Teachout, who presided in Washington County for three years, stated, "From my perspective, which was as the judge hearing the cases involving Vermont Psychiatric Care Hospital (VPCH) patients in Berlin for more than a year, the process worked well. We were able to schedule promptly and usually in conjunction with a merits hearing."

Judge Teachout recommends that, "The mental health docket [should become] a state-wide docket so that all files concerning a single patient are available in whatever county a matter gets filed. The patient moves between residences, hospitals, and step-down facilities, all in different counties, so that each county has different files on the same patient, and there is a need for a lot of change of venue, which can sometimes result in delays in getting to a hearing."

Judge Katherine Hayes, who presides over Windham County with a high volume of cases due to the proximity of Brattleboro Retreat, states that consolidated AIT and IM hearings generally work well.

Judge Hayes believes that the "limited number of effective medications that can be administered by injection, lack of any such medications for individuals with bipolar disorder" as well as, "no effective way to order long-acting injections for patients who would benefit greatly from having them (only can be ordered while inpatient)," are examples of what is not working well with the Act 114 process.

Judge Hayes recommends, "some ability to order long-acting injections for patients who refuse medications shortly after discharge and return to the hospital over and over again. There should be some carefully circumscribed method for ordering effective IM for patients who are on ONHs when there is a history of cycling into the hospital every few months due to stopping medications AMA (against medical advice)."

Solicited Comments from Organizations and Individuals

> 1998 Act 114 §5(b) - Before submitting the report required in this section, the department shall solicit comments from organizations representing persons with mental illness and organizations representing families with members with mental illness, direct care providers, persons who have been subject to proceedings under 18 V.S.A. § 7624, treating physicians, attorneys for the patients, courts, and any other member of the public affected by or involved in these proceedings.

Act 114 requires DMH to solicit comments from organizations representing persons with mental illness and organizations representing families with members with mental illness, direct-care providers, persons who have been subject to proceedings under 18 V.S.A. §7624, treating physicians, attorneys for the patients, courts, and any other member of the public affected by or involved in these proceedings.

To meet this requirement, DMH solicited comments from Vermont Legal Aid, the Judiciary, the National Alliance on Mental Illness-Vermont and its members, and Vermont Psychiatric Survivors. In addition, individuals who oversee Vermont Psychiatric Care Hospital, Brattleboro Retreat, and Psychiatric Services Inpatient Unit (PSIU) at Rutland Regional Medical Center were solicited for comments.

Assessment from Disability Rights Vermont

Email from A.J. Ruben, Supervising Attorney – see appendix for attachment of scanned email

Disability Rights Vermont (DRVT) recommends that the law be amended to require the Department to implement a robust outcome study of the impact of these orders on people. We also recommend that the Department make stronger efforts to limit the number, as opposed to the recent trend of large increases in the numbers, of the uses of these forced medication orders, at least until the above-recommended outcome study demonstrates that no more harm than good is resulting from these proceedings.

DRVT also suggests that the Department advocate for more funding for Mental Health Law Project (MHLP) to hire additional staff and expert witnesses in order to avoid the appearance that, due to the increase in forced medication petitions and the lack of similar increases in MHLP funding, the ability of MHLP to adequately represent their clients is at risk of significant decline.

DRVT suggests again that the goal of more prompt forced medication orders held by the Department and the Hospitals can be attained more reasonably by increasing the resources available to the attorneys and the courts, including the availability of independent expert review, rather than conflating hearings for commitment and forced medication into one hearing in an effort to speed up the process.

Finally, DRVT recommends the Department require all designated agencies and contracted professionals to educate consumers about their rights to execute an Advance Directive and make medication decisions in their Advance Directives and report on relevant data in this regard.

Assessment from Vermont Legal Aid, Inc. (Mental Health Law Project)

Email from Jack McCullough, Project Manager- see appendix for attachment of scanned email

Jack (John) McCullough cites short lead times for case preparation as a current issue with the implementation process. There is often only 3-4 day notice given to prepare which makes it "difficult for respondents' counsel to review several hundred pages of records, obtain an independent psychiatric examination, and adequately prepare for trial," which gives the Department an advantage in the situation as it "has complete control over when it files these cases."

Mr. McCullough brings attention to frequent rescheduling of expedited court cases and the inconvenience it causes for all involved, "This year there have been several (AIT) cases in which the Department moved to continue the trial for some reason… This practice disrupts the work of the two offices involved, inconveniences courts, and may result in delays in other cases when they are 'bumped' to accommodate an AIT or medication hearing that winds up not happening as scheduled. We suggest that the Department should filling motions for expedited hearing or involuntary medication applications unless it is prepared to proceed on the date the cases will be scheduled."

In order to demonstrate the effectiveness and efficacy of forced medication Mr. McCullough suggests, "We continue to believe that Vermont needs a study of the long-term outcome of people who are subjected to forced medication."

Mr. McCullough's final recommendations to improve the Act 114 are:

"Involuntary medication is an affront to the human dignity and natural autonomy of persons in the States' custody, and it should be used only as a last resort. As written and as applied, the current statute makes it unreasonably difficult for patients to present an effective defense and eliminating the provision of 18 V.S.A. § 7625 (a) that requires hearings to be held in seven days would be a positive change. The changes in the law adopted as a part of Act 192 have generally made the situation worse by forcing the courts to schedule both involuntary medication and initial commitment cases unreasonably quick. These provisions should be repealed. In addition, the State should adopt restrictions on the use of long-acting involuntary medications as a standard and routine treatment modality."

"Fundamentally, though, the most important change in the practices of Vermont' mental health system is that the Department, and the entire mental health system, should begin to take seriously the idea that people have rights, that the things the system does to people in the name of helping them are often painful and devastating, and do more harm than good, and that the people the Department is established to serve are human beings who deserve to have their rights and wishes respected."

Assessment from Vermont Psychiatric Survivors

Email from Isaac Lezcano, Patient Representative – see appendix for attachment of email

Isaac Lezcano works directly with patients receiving involuntary medication under Act 114 as a patient representative for Vermont Psychiatric Survivors. Mr. Lezcano states that expedited procedures are indicative of this method of treatment being relied upon too soon and is in direct opposition of the DMH's stated goal of a mental health system free of coercion.

Mr. Lezcano relays that "some patients have reported an increase in wellbeing after being forced to take medications," but strongly questions if a process that works some of the time is worth the violation to human autonomy and the trauma it can potentially cause to the individual. Mr. Lezcano states, "Many patients understandably become fixated on the terror and injustice, the intense feelings of violation and powerlessness of their situation."

In closing, Mr. Lezcano asks that those involved in this process question if the potential outcome is worth "the moral cost of violating basic tenets of human decency." He recommends that the standards for implementing involuntary procedures be raised and that our system be designed to have other methods of care and support so as to mitigate the use of involuntary procedures.

Assessment from NAMI-VT

Email from Laurie Emerson, Executive Director – see appendix for attachment of email

Laurie Emerson shared Act 114 questions with NAMI-VT members to request their feedback.

NAMI's recommendations for changing the Act 114 process:

Provide trauma-based training for health care providers.

- Provide a copy of the involuntary hospitalization/medication process to individuals (or their families). They may not understand their rights or the process.
- Increase options for crisis intervention in the community to divert inpatient hospitalization.
- Ensure continuity of care: Include the person's preferred family members/friends and psychiatrist/prescribing primary care physician on the treatment team and in decision-making. Involve them in discharge planning.
- Provide more opportunities to provide input on Act 114 throughout the year
- Provide the Act 114 questions to every patient (who was subject to court-ordered involuntarily medication) as they get released from the hospital to respond with a self-addressed and stamped envelope.
- Include a debrief session with the patient and an advocate/non-hospital person for a person who received court-ordered involuntary medication before they are discharged; and ask the Act 114 questions to ensure the patient has the opportunity to provide input.
- It may be difficult for a patient to respond to questions upon discharge. Send a follow up 6 months later with the Act 114 questions – comments and insight may change as the person has been in recovery for a while.

- Involve supportive family members who were involved during a hospitalization, involving court-ordered involuntary medication, to complete the questions when a patient is discharged. Additionally, send a follow up 6 months later with the same questions. NAMI Vermont is able to send out the questions to our membership, however there are many more families that have been involved with the process that we are unable to reach.
- Continuously make improvements to the process through fact-based decision making so that patients receive the right care at the right time and in the right place to experience lives of resiliency, recovery, and inclusion.

Individuals representing inpatient settings were asked to complete a questionnaire containing the following eight questions:

- How well overall do you think the protocol for involuntary psychiatric medications works?
- Which of the steps work well? Why?
- Which steps pose problems? Why?
- What efforts did you make in an attempt to have the patient take psychiatric meds before making the decision to utilize the Act 114 application for involuntary treatment through the court system?
- How long did you work with the patient on the topic of medication before deciding to go through the courts?
- How helpful (if at all) was it to be able to administer the medications when you did? In what ways?
- What do you think the outcome(s) for the patient who were given involuntary medication would have been if they had not received these medications?
- Do you have any recommendations for the changes in Act 114? If so, what are they?

Assessment from Vermont Psychiatric Care Hospital

Email from Emily Hawes, Chief Executive Officer – see appendix for attachment of email

Emily Hawes reports that the protocol for involuntary psychiatric medication works well in most cases and states a step that is working well is, “Expedited AIM/AIT hearings… They work well due to being able to get to court within a short period of time.”

Emily cites that the process still causes detrimental delays in treatment, “When an individual is admitted on a court order the facility must additionally EE them and apply for meds or wait for the person to be hospitalized through the court process which could take months. Any delay in providing necessary treatment leads to longer recovery time, poorer outcomes, and can have long-lasting impacts on someone’s mental and physical and overall quality of life.”

Emily further adds that the lack of availability of psychiatrists has also contributed to delays and led to negative outcomes for the patients, “There have been at least 2 cases in the last year when an expedited AIM/AIT could not be heard due to the availability of a legal aid psychiatrist. This led to increased emergency involuntary procedures and potential staff injuries.”

At Vermont Psychiatric Care Hospital, staff “makes every effort to work with patients, their support systems, and their outpatient providers to implement holistic plans of care that align with patient’s

preferences, desires, and recovery needs. At times, the need for medication is unavoidable and VPCH providers are sure to include this possibility from the first treatment discussion and continually work to educate patients and all involved in their care on the disease and the various treatment, medication, and dosing options," prior to making the decision to utilize the Act 114 application.

Emily states that staff at Vermont Psychiatric Care Hospital opt for court order medication under the following circumstances, "court ordered medications are pursued as a last resort, if treatment options cannot be agreed upon, patient-preferred treatment methods have proven unsuccessful in treating the underlying condition, and/or the risk of not treating would put the patient and others in grave and imminent danger."

The timeframe on how long the staff at Vermont Psychiatric Care Hospital works with patients prior to utilizing the courts varies, "depending on the patient, their preferences, the severity of the illness, and the severity of other corresponding risk factors."

When asked if the ability to administer medications was helpful, if at all, Emily replies, "Rarely do we find medications are ineffective in treating the underlying condition. We generally see patients' condition stabilize and they are able to return home or transition to less restrictive care settings."

Emily believes that the outcomes for patients who were the recipients of court-ordered involuntary medications would, "likely still be hospitalized with declining mental and physical health and poor quality of life," had the patients not received these medications.

Vermont Psychiatric Care Hospital recommends the following changes to the Act 114 process:

"Greater supports/pressures to implement Act 114 outside of the hospital setting."

Assessment from Rutland Regional Medical Center

Email from Lesa Cathcart, Director of Nursing-PSIU – see appendix for attachment of email

Lesa Cathcart believes that the protocol for involuntary psychiatric medications has gotten better over the past years. Lesa states there continue to be opportunities to expedite the process.

When asked which steps work well, Lesa replied, "It works well to have the hearings here in our organization whenever possible. I think that it is easier for the patient because staff can bring them to the hearing, remain with them during the hearing, and then bring them back to the unit."

The step Lesa feels poses the largest problem in the process is the time period it takes to get a court date and to receive the decision of the court, "Recently it has also seemed that it has been taking longer to hear the decision of the court so there is a delay in the initiation of involuntary court ordered medication."

Lesa states that Rutland Regional Medical Center takes the following steps in an attempt to have the patient take psychiatric medications prior to utilizing an Act 114 application, "Our staff including physicians work very hard to establish relationships that are respectful and supportive. They provide

education to the patients about medications and work with the patient in hopes that they will decide to accept medications without having to go through the court."

Lesa cannot give a specific timeframe of how long medication is discussed with the patient prior to making the decision to involve the courts as it varies depending on the patient. She states that staff at Rutland Regional Medical Center begin discussing medication at admission and may become a more focused topic of conversation as the staff gets to know the patient through the treatment planning process.

Overall the ability to administer medications at the point in treatment that the staff were able to is seen as helpful. Lesa writes, "It is heart wrenching to see someone extremely ill and not be able to help them, especially when you know that medications may make a difference in their recovery. As a result of court ordered involuntary medications, we have seen patients get better, and be able to return to their communities and their lives."

Finally, when asked what the outcome(s) for the patients who were given involuntary medications would have been had the patients not received medications Lesa believes there are many situations where the patient would have become more ill thus lengthening their inpatient stay.

Rutland Regional Medical Center recommends that court dates are scheduled more quickly, and that the decision of the court be delivered in a timelier manner.

Assessment from Brattleboro Retreat

Email from Meghan Baston, Chief Nursing Officer – see appendix for attachment of email

Meghan Baston states, "The concept of needing a legal decision to treat an individual against their will makes sense." The steps that are working well in the process are the ability to combine commitment and involuntary medication hearings and the requirement for seven-day evaluations.

When asked which steps pose problems, Meghan cites that prolonged wait periods for court dates as well as the determination being made by judicial bodies rather than a non-clinical party as problem areas, "Prolonged wait periods where we keep people for court dates, often against their will, there has been a medical determination related to need for medication to the symptoms and illness that they are exhibiting, but we cannot manage and treat using scientific evidence based treatment until a non-medical entity approves it."

As it pertains to Brattleboro Retreat, Meghan adds that having court offsite, "makes it difficult for individuals to be involved in the process."

At Brattleboro Retreat, the staff use their clinical expertise to manage the patients to engage with them and any support person in their life. The staff provide education and support to exhaust all available options in an attempt to engage their patients in the process prior to making the decision to utilize the Act 114 application for involuntary treatment through the court system.

When asked how long the staff at Brattleboro Retreat work with the patient on the topic of

medication prior to accessing the courts, Meghan reports that the staff "wait the required period before filing, then we wait additionally for a court date; this causes months to go by. This should be determined by the individual and their clinical presentation vs a specified timeframe."

About whether administering medications at the time in treatment they were able to is beneficial, if at all, Meghan reports, "providing treatment, and observing improvement after watching an impaired person suffer with their mental illness symptoms is quite amazing. The rate of improvement is often quite dramatic."

Meghan believes that the patients who were given involuntary medications would have likely had, "prolonged hospitalization," and "progression of illness," had they never received these medications.

Brattleboro Retreat has the following recommendations for changes in Act 114:

- Continue to work toward a quicker process for court dates and determinations.
- Having the type and dose of medication management of an individual be a Doctors decision vs the court having that decision-making authority.
- Hearings on site.
- Allowance for properly supervised Nurse Practitioners and Tele Psychiatrists to be engaged with the legal process

Input from Individuals

All commenters requested anonymity – see appendix for scanned copies of all submissions

Surveys were sent to forty-nine individuals. DMH received comments from six individuals (12.2%). If specific names and locations were mentioned, they were redacted to maintain confidentiality. Original hardcopies of surveys are available upon request.

Individuals who received involuntary treatment were asked to complete a questionnaire containing the following six questions:

- Do you think you were fairly treated even though the process is involuntary?
  Yes____ No_____

  If your answer is no, please describe what you felt was unfair about the process. If you went to court for your medication hearing, please tell about court first, then tell about your experience in the hospital.

  In court:

  At the hospital:

- Do you feel that the advantages and disadvantages of taking medications were explained clearly enough to help you make a decision about whether or not to take them?
  Yes____ No____
- Why did you decide not to take psychiatric medications?

- Now that you are on medication, do you notice any differences (improved or worse) in your health (mental or physical) compared to how you felt when you were not taking medications? Yes____ No_____

  If your answer is yes, please tell about the differences that you notice.
- Was anyone particularly helpful? Anyone could include hospital staff or a community mental health center, a friend, a family member, a neighbor, an advocate, someone else who is hospitalized at the hospital where you are (or were). Yes No

  If your answer is yes, please tell about who was helpful. (You do not have to give names of people. You might just say a nurse, a doctor, a friend, etc.)

  In what way were they helpful?
- Do you have any suggestions for changes in the law called Act 114?

Input from Individual 1

- Do you think you were fairly treated even though the process is involuntary?
  Yes____ No___x__

  If your answer is no, please describe what you felt was unfair about the process. If you went to court for your medication hearing, please tell about court first, then tell about your experience in the hospital.

  In court:

  At the hospital:

  In court at the hospital, unfair legal aid defender refused to speak when she was the only one who could and did it purposely because of current lawsuit against mental health and lost me court because of it.
- Do you feel that the advantages and disadvantages of taking medications were explained clearly enough to help you make a decision about whether or not to take them?
  Yes____ No__x__

  Couldn't, didn't have a choice as I lost court and had no chance and was forced to take needle medication.
- Why did you decide not to take psychiatric medications?

  Because that's how I got there to begin with.
- Now that you are on medication, do you notice any differences (improved or worse) in your health (mental or physical) compared to how you felt when you were not taking medications? Yes__x__ No_____

If your answer is yes, please tell about the differences that you notice.

Worse mental + physical (forced to take

- Was anyone particularly helpful? Anyone could include hospital staff or a community mental health center, a friend, a family member, a neighbor, an advocate, someone else who is hospitalized at the hospital where you are (or were). Yes___x__ No_____

If your answer is yes, please tell about who was helpful. (You do not have to give names of people. You might just say a nurse, a doctor, a friend, etc.)

Staff was better and understandable then [redacted], the nurse.

In what way were they helpful?

Respectful and honest.

- Do you have any suggestions for changes in the law called Act 114?

Add sleeping medication to the warning if Act 114 is Lutda(?).

Input from Individual 2

- Do you think you were fairly treated even though the process is involuntary?
  Yes____ No___x__

If your answer is no, please describe what you felt was unfair about the process. If you went to court for your medication hearing, please tell about court first, then tell about your experience in the hospital.

In court: I was not allowed to present a defense. The doctor who testified committed perjury when she told the court she spoke with my daughter.

At the hospital: The ER was unclear to me as to why I was there.

- Do you feel that the advantages and disadvantages of taking medications were explained clearly enough to help you make a decision about whether or not to take them?
  Yes____ No__x__

RMHS assigned me to their temp employees. I was assigned a new doctor every few months, when RMHS finally hired a permanent doctor I was unable to schedule an appointment for several months.

- Why did you decide not to take psychiatric medications?

I was not off my meds. My meds are bubble packed. While I was at CSID I had to give them my meds and they administered them wrong, I know this and would not take them wrong.

- Now that you are on medication, do you notice any differences (improved or worse) in your health (mental or physical) compared to how you felt when you were not taking medications? Yes__x__ No_____

  If your answer is yes, please tell about the differences that you notice.

  I have lost mobility and strength. I am weaker than usual.

- Was anyone particularly helpful? Anyone could include hospital staff or a community mental health center, a friend, a family member, a neighbor, an advocate, someone else who is hospitalized at the hospital where you are (or were). Yes___x__ No_____

  If your answer is yes, please tell about who was helpful. (You do not have to give names of people. You might just say a nurse, a doctor, a friend, etc.)

  Disability Rights Vermont

  In what way were they helpful?

  They were supportive of my situation.

- Do you have any suggestions for changes in the law called Act 114?

  (left blank)

Input from Individual 3

- Do you think you were fairly treated even though the process is involuntary?
  Yes____ No___x__

  If your answer is no, please describe what you felt was unfair about the process. If you went to court for your medication hearing, please tell about court first, then tell about your experience in the hospital.

  In court: I have a back injury which prevent me from sitting straight for a length of time. A childhood injury.

  At the hospital: (left blank)

- Do you feel that the advantages and disadvantages of taking medications were explained clearly enough to help you make a decision about whether or not to take them?
  Yes____ No__x__

- Why did you decide not to take psychiatric medications?

  Because I am not a threat to the public.

- Now that you are on medication, do you notice any differences (improved or worse) in your health (mental or physical) compared to how you felt when you were not taking medications? Yes__x__ No_____

  If your answer is yes, please tell about the differences that you notice.

  (left blank)

- Was anyone particularly helpful? Anyone could include hospital staff or a community mental health center, a friend, a family member, a neighbor, an advocate, someone else who is hospitalized at the hospital where you are (or were). Yes_____ No__x____

  If your answer is yes, please tell about who was helpful. (You do not have to give names of people. You might just say a nurse, a doctor, a friend, etc.)

  (left blank)

  In what way were they helpful?

  (left blank)

- Do you have any suggestions for changes in the law called Act 114?

  (left blank)

Input from Individual 4

- Do you think you were fairly treated even though the process is involuntary?
  Yes__x__ No____

  If your answer is no, please describe what you felt was unfair about the process. If you went to court for your medication hearing, please tell about court first, then tell about your experience in the hospital.

  In court: (left blank)

  At the hospital: (left blank)

- Do you feel that the advantages and disadvantages of taking medications were explained clearly enough to help you make a decision about whether or not to take them?
  Yes__x__ No___

- Why did you decide not to take psychiatric medications?

  (left blank)

- Now that you are on medication, do you notice any differences (improved or worse) in your health (mental or physical) compared to how you felt when you were not taking medications? Yes__x__ No_____

  If your answer is yes, please tell about the differences that you notice.

  (left blank)

- Was anyone particularly helpful? Anyone could include hospital staff or a community mental health center, a friend, a family member, a neighbor, an advocate, someone else who is hospitalized at the hospital where you are (or were). Yes__x___ No_____

  If your answer is yes, please tell about who was helpful. (You do not have to give names of people. You might just say a nurse, a doctor, a friend, etc.)

  (left blank)

  In what way were they helpful?

  (left blank)

- Do you have any suggestions for changes in the law called Act 114?

  (left blank)

Input from Individual 5

- Do you think you were fairly treated even though the process is involuntary? Yes____ No__x__

  If your answer is no, please describe what you felt was unfair about the process. If you went to court for your medication hearing, please tell about court first, then tell about your experience in the hospital.

  In court: I was ordered by an impersonator for a judge. [redacted] was not a real judge, and he ordered that I be injected with Aristada at 882 mg. ea.

  At the hospital: The hospital has injected me with duds and loosened earned muscular hamstrings without any medicine in the syringe.

- Do you feel that the advantages and disadvantages of taking medications were explained clearly enough to help you make a decision about whether or not to take them?
  Yes____ No_x__

- Why did you decide not to take psychiatric medications?

  Because I wasn't legally diagnosed by an Existential Psychoanalysis Model Diagnosis. I was and am disease free.

- Now that you are on medication, do you notice any differences (improved or worse) in your health (mental or physical) compared to how you felt when you were not taking medications? Yes____ No___x___

  If your answer is yes, please tell about the differences that you notice.

  They are partially not medicating me, and [redacted], the Klansman may have had them on mafia obligation, so they injected me with nothing.

- Was anyone particularly helpful? Anyone could include hospital staff or a community mental health center, a friend, a family member, a neighbor, an advocate, someone else who is hospitalized at the hospital where you are (or were). Yes__x___ No_____

  If your answer is yes, please tell about who was helpful. (You do not have to give names of people. You might just say a nurse, a doctor, a friend, etc.)

  5 Psychologists and the order [redacted] at the [redacted] on the phone diagnosed me disease free in March 2019 and 2018.

  In what way were they helpful?

  They gave me a professional paid legitimate diagnosis disease free.

- Do you have any suggestions for changes in the law called Act 114?

  Enforce Existential Psychoanalysis Model Diagnosis wherever the patient is questioning the prescribed medicine.

Input from Individual 6

To whom it may concern: I am filling this out for my husband, who has Schizophrenia and would not do it himself. He has a lot of delusions, and also has anosognosia.

- Do you think you were fairly treated even though the process is involuntary?
  Yes____ No__x__ He does not believe he is ill so considers it unfair.

If your answer is no, please describe what you felt was unfair about the process. If you went to court for your medication hearing, please tell about court first, then tell about your experience in the hospital.

In court: My husband did not go to the court hearing, but I did as a witness, and was allowed to stay to hear the other witnesses testify, which was informative for me.

At the hospital: My husband is very paranoid and hates being in the hospital, so he would be very negative about it. He complained about the constant "badgering" to take meds.

- Do you feel that the advantages and disadvantages of taking medications were explained clearly enough to help you make a decision about whether or not to take them?
  Yes____ No___ (left blank)

  I don't know what was or was not explained to him about medications. I <u>was</u> present when the ECT doctor explained about the potential benefits- he was excellent, but my husband declined treatment.

- Why did you decide not to take psychiatric medications?

  My husband believes that they are ruining his health, they are not good for you, and he does not believe he needs them. He believes God does not want him to take them.

- Now that you are on medication, do you notice any differences (improved or worse) in your health (mental or physical) compared to how you felt when you were not taking medications? Yes____ No_____ (left blank)

  I can't answer that for him, can only say he <u>seems</u> better.

If your answer is yes, please tell about the differences that you notice.

He is not doing strange, irrational things.

- Was anyone particularly helpful? Anyone could include hospital staff or a community mental health center, a friend, a family member, a neighbor, an advocate, someone else who is hospitalized at the hospital where you are (or were). Yes__x___ No_____

  If your answer is yes, please tell about who was helpful. (You do not have to give names of people. You might just say a nurse, a doctor, a friend, etc.)

  I visited my husband 3x/week- it's a 1 ½ hr. drive- and I believe he truly appreciated that. I brought him food treats and clean clothes. I tried to support the staff while still being empathetic to his situation.

  In what way were they helpful?

There was a man on night staff that made a connection with my husband and chatted with him.

- Do you have any suggestions for changes in the law called Act 114?

I understand that mentally ill people have the same rights as all of us, but I can't begin to tell you how frustrating it is to be powerless to help someone you love just because they have the right to be mentally ill! Are (their rights) more important than the person's well-being?! It is like watching someone drown and they can't see the lifeline you are throwing them, and the system can't throw in other ones because they haven't got permission from the drowning person!

Before this latest hospitalization my husband was at Brattleboro Retreat for 3 months. After a 5 day wait in an ER, it was 7 weeks before the court proceedings were finished, and they began treatment.

1) It should not take that long.
2) Why can't court hearing for involuntary hospitalizations and treatments be combined?
3) It should not be so difficult to help a mentally ill person and be involved in their treatment.

Opportunities for System Improvement to further Reduce Coercion

Payment Reform

In efforts to improve engagement with individuals who may have need for mental health services, as well as support more predictable financial stability for designated mental health provider agencies, on January 1st, 2019, the Department of Mental Health (DMH) implemented a major payment reform initiative. This initiative, developed in partnership with the Department of Vermont Health Access (DVHA), the state Medicaid Authority, and with input of Designated Agencies, developed a new payment methodology for a significant portion of those mental health services funded by DMH and DVHA for these providers. The new payment mechanism shifted away from Designated Agency (DA) payment driven by the number of services delivered and varying income monthly to one of a predictable annual allocation of equally divided monthly payments based on historic cost trends and projected numbers of persons served. This payment methodology affords greater financial stability for the provider, more flexibility to provide persons served with the services necessary, and an increasing focus on improved outcomes for persons served over time. A large piece of this reform was extending, where appropriate, the menu of services available across multiple adult and child programs allowing DAs to customize their services to the individuals they serve rather than only categorical eligibility. Additionally, there is an expected long-term positive impact for individuals over the course of their treatment and individual recovery.

2019 Listening Tours and Visioning Activities

The Department of Mental Health engaged in a robust stakeholder engagement process during the summer of 2019 in order to create the outline of a 10-year vision for an integrated and holistic system of of care spanning children, youth, families and adults, accompanied by clear action steps for

achievement.

Beginning with ten Listening Sessions held in five communities around the state (Rutland, Burlington, St. Johnsbury, Randolph and Brattleboro), DMH staff sought broad community input on the needs of communities from the more than 300 people who attended the sessions. Department staff facilitated small group discussions in order to get detailed input on what Vermont's future integrated health system of care should be – what it should look like, how it should function, what the priorities should be and more. Group discussion, based in an appreciative inquiry model for informing system change, brought together a wide and varied audience of stakeholders contributing to copious information compiled by DMH personnel for the purposes of a second phase development of the comments and recommendations resulting from each session.

From early fall through early winter, DMH sought input from members of a "Think Tank", comprised of people with lived experience, peer support specialists, providers, legislators and others interested in the mental health system of care. The Think Tank met a total of 5 times to create the contents of a 10-year plan for an integrated system of health care. The plan includes short term, mid-term and long-term strategies for the system of care that support goals identified by Vermonters during the Listening Tour and Think Tank planning sessions.

DMH prioritized the issue of coercion by engaging stakeholders in identifying actionable ways to reduce coercion through the Act 200 Listening Tour and subsequent Think Tank and Think Tank Advisory Committee. DMH and Committee members targeted one of the seven workgroups in the Think Tank to specifically focus on the reduction of coercion. This group, along with the other workgroups have created strategies to reduce coercion which have been woven throughout the Vision 2030 report for the legislature. DMH has outlined specific strategies in two main topic areas, Action Area 6: Peer Services are Accessible at All Levels of Care and Action Area 7: Ensuring Service Delivery is Person Led.

Additionally, Action Area 8: Committing to Workforce Development and Payment Parity outlines specific strategies to reduce coercion through workforce training. The Department of Mental Health is committed to the reduction of coercion through enhancing peer service delivery, ensuring a person-led service system of care and training the workforce on trauma informed and evidence-based practices.

Links to materials generated throughout this process and a final report can be found at: https://mentalhealth.vermont.gov/about-us/department-initiatives/10-year-planning-process-mental-health-think-tank

Collaborative Networks Approach (Open Dialogue)
Open Dialogue is an evidence-based service delivery model with demonstrated effectiveness in decreasing rates of hospitalization and medication use for individuals with schizophrenia. Key differences of the dialogic approach include a shift to longitudinal care, utilizing a social network for meetings, and the tolerance of uncertainty whereby the there is no expert who has undisputable knowledge.

Vermont, with major contributions from Dr. Sandra Steingard and Leslie Nelson of Howard Center, has

adopted its own iteration of the dialogic approach. Open Dialogue has become the Collaborative Network Approach (CNA) as it draws from various individuals' contributions to the dialogic model and to be accessible, cost effective, sustainable, and allows for trainers to be embedded in places like Designated Agencies and Hospitals.

The tenets of the Collaborative Network Approach:

1) Collaborative- This way of working is deeply respectful of everyone involved. People are invited in and hospitality is a key element of the practice. We respect everyone's perspective. WE use their language in discussing the situation.

2) Network- The work values the social network and is embedded in a belief that they are vital to gaining a full understanding of the problem. At the first meeting a person is asked, "Who would be important to helping us gain an understanding of this situation?"

3) Approach- While there is much to learn, this is not a manually driven way of working. Approach is intended to capture that this is as much about attitude and technique.

In 2019, DMH continued to use the funds from the Mental Health Block Grant to support ongoing Collaborative Network Approach trainings throughout the state, in both inpatient and outpatient settings. At Vermont Psychiatric Care Hospital, the Collaborative Network Approach (Open Dialogue) has been implemented, inviting patients to attend treatment team meetings. In the community, Dr. Steingard and Leslie Nelson continue to hold trainings for individuals working across the state in community mental health settings.

Appendix

Copies of Any Trial Court or Supreme Court Decisions, Orders, or Administrative Rules Interpreting 1998 Act 114 §4

There were no relevant court decisions in 2019.

Individual Responses Received

Response from Vermont Superior Court

Submitted by Honorable Judge Brian Grearson, Chief Superior Judge, via email 12/20/2019

VERMONT SUPERIOR COURT

Brian J. Grearson
Chief Superior Judge

VERMONT SUPREME COURT
109 STATE STREET
MONTPELIER, VT 05609-0701
Tel: 802-828-3278

Office of the Chief Superior Judge

December 20, 2019

Frank Reed, LICSW
Director of Mental Health Services
Department of Mental Health
280 State Drive, NOB 2 North
Waterbury, VT 05671-2010

Dear Mr. Reed,

I am writing in response to your letter of November 1, 2019, requesting comments from the judiciary regarding the experience with the implementation of Act 114 during the last year.

The letter requested a response to specific questions relating to the judiciary's experience with Involuntary Medication proceedings. Due to the small number of medical facilities that address the needs of the patients involved in such proceedings, the responses were correspondingly limited to the relatively small number of judges who routinely preside over these cases. The following responses are from the judges who regularly presided over the largest number Involuntary Medication requests.

The majority of the comments from judges were in narrative form as opposed to the individual question and response and all had presided over IM cases. In general, they believed the process went well and there were no notable concerns but with a qualification by a few of the judges who believed the system would benefit from a state-wide docket system. The specific comments follow:

- From Judge Kevin Griffin in Chittenden County, in the cases with an IM component, Chittenden was good at bringing the cases to the immediate attention of the court because the process was so expedited. The attorneys from the AG's office and MHLP worked well together to triage pending cases to identify those most in need of immediate hearing time. I can't recall an instance where things did not go smoothly, and combining the IM and AIT hearings is much more efficient, since the fact presentations are so similar, except for the medication piece.

- From Judge Timothy Tomasi who presides in Washington County which includes the Vermont Psychiatric Care Hospital, TT: Our system works well. The typical cases involve counsel from the State and Legal Aid who have significant knowledge and expertise in this area of the law. They work together in a collaborative fashion to triage the cases, make agreements where they can, and bring the matters to prompt contested hearings as needed. We often deal with requests to expedite consideration of requests for involuntary medications. That can make it difficult for the Respondent to seek an independent expert opinion in time for the hearing. So, there is sometimes a tension between allowing for that additional evaluative process and what is often determined to be a significant need for mediation. The expedited nature of such proceedings also sometimes results in requests for telephonic testimony, usually by the State. There have been a number of contested motions as to whether such requests meet the demands of Civil Rule 43.1 and any potential constitutional concerns.

  In general, the docket works very well. Given the accelerated nature of the proceedings, though, we have customarily allowed motions, etc., to be filed electronically, with originals to follow. In the absence of such an allowance, I'm not sure the timelines could be met.

- From Judge Teachout who presided in Washington County for a three-year period, From my perspective, which was as the judge hearing the cases involving VPCH patients in Berlin for more than a year, the process worked well. We were able to schedule promptly and usually in conjunction with a merits hearing. The one change I would recommend is one I have made before: that the mental health docket become a state-wide docket so that all files concerning a single patient are available in whatever county a matter gets filed. The patients move around between residences, hospitals, and step-down facilities, all in different counties, so that each county has different files on the same patient, and there is a need for a lot of changes of venue, which can sometimes result in delays in getting to a hearing.

- From Judge Katherine Hayes who presides in Windham County with a high volume of cases due to the proximity of the Brattleboro Retreat.

1. Direct involvement with IM—
   Yes.
2. Aware of any problems?
   No.
3. What worked?
   Consolidated AIT and IM hearings generally do work well.

4. What did not work well?
    a. Limited number of effective medications that can be administered by injection, lack of any such medications for bipolar illness.
    b. No effective way to order long-acting injections for patients who would benefit greatly from having them (only can be ordered while inpatient, but NEEDED when they are outpatient).
5. Was outcome beneficial?
    a. Yes—patients discharged from hospital sooner when IM is ordered—without it, could be staying in hospital for many months.
6. Recommendations for change:
    a. See 4(b) above—some ability to order long-acting injections for patients who refuse medications shortly after discharge and return to the hospital over and over again. There should be some carefully circumscribed method for ordering effective IM for patients who are on ONHs when there is a history of cycling into the hospital ever few months due to stopping medications AMA.

I trust this responds to your inquiry but if you require further information, or clarification of any of the above information, please contact my office.

Very truly yours,

Brian J. Grearson

Brian J. Grearson
Chief Superior Judge

Response from Legal Aid Vermont, Inc.
Submitted by Jack McCullough, Project Manager, via email 12/6/2019

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OFFICES:
MONTPELIER
SPRINGFIELD

December 6, 2019

Frank Reed
Director of Mental Health Services
Department of Mental Health
280 State Dr., NOB 2 North
Waterbury, Vt. 05671-2010

Re: Annual Act 114 study

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.
18 V.S.A. § 7629(c)

Dear Frank:

Thank you for asking me to participate in this year's study of the State's use of involuntary psychiatric medications. Involuntary psychiatric medication is the most extreme invasion of personal liberty the State of Vermont can engage in, it is vital that the State honor the human rights of psychiatric patients and the policies established by law to protect those rights.

Ever since 1998 the law in the State of Vermont has been clear. "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." 18 V.S.A. § 7629(c). Unfortunately, the State, and in particular the Department of Mental Health, has failed to follow this policy. This has resulted in a continuous increase in the use of involuntary medications precisely at a time when the routine and lifelong use of psychiatric medications, which is the ideology of Vermont's involuntary mental health system, has come under serious question. In my view, the State should be looking seriously at alternatives to involuntary medication and should be reducing its reflexive reliance on this extremely intrusive practice.

Our records show that the Department of Mental Health has filed sixty-seven involuntary medication cases in calendar year 2019 to date, which would be a reduction from recent years. As of this writing four of those cases are still

pending. Since 2008 the number of involuntary medication cases filed by the State has more than tripled, and it has more than doubled since 2011, the year the State Hospital closed.

YEAR	INVOLUNTARY MEDICATION CASES FILED
2008	23
2009	30
2010	31
2011	39
2012	45
2013	64
2014	77
2015	79
2016	82
2017	80
2018 FY	89
2019	67

Were you directly involved with any individuals involuntarily medicated under Act 114 in 2019? The Mental Health Law Project was appointed by the Superior Court to represent the respondents in all of these cases. To my knowledge there were no cases in which the respondent was either represented by outside counsel or pro se.

Are you aware of any problems encountered in the implementation of this process? We have encountered a number of problems in attempting to represent our clients in these proceedings, many of which arise out of the extremely short time frames in which these cases are scheduled. The court process, as set forth by statute, imposes scheduling limitations that interfere with the patients' ability to defend themselves. The courts have often scheduled hearings with as little as three or four days' notice, which makes it extremely difficult for respondents' counsel to review several hundred pages of records, obtain an independent psychiatric examination, and adequately prepare for trial.

While the statute allows for a continuance for good cause, the Department generally opposes requests for continuance filed by the MHLP in these cases, regardless of the grounds or merits for the continuance request. It is important to note that the Department has the advantage in this situation, since it has complete control over when it files these cases.

What worked well regarding the process? Act 114, and the availability of court-appointed counsel to represent the patients in the State's custody, is the only mechanism available to either prevent unjustified use of involuntary

medication or to restrict the State's psychiatrists from administering medications or doses that would likely be harmful to the patients. Consistent with previous years, in 2019 a large fraction of the involuntary medication cases filed resulted in a denial by the court, a dismissal by the State, or an order from the court limiting the medications sought or the method of administration; in other cases, the State, after hearing from the independent psychiatrist, agrees to exclude a requested medication or reduce the requested dose.

In every one of these cases, if the hospital had had its way, free of judicial review and an effective defense, the patient would have been forcibly medicated, but the court process allowed the patient to successfully defend against what was determined to be an unwarranted or excessive intrusion.

One pattern we have noted is the state's increased use of the statutory process to consolidate an application for involuntary treatment (AIT) with a medication application under 18 V.S.A. § 7624(a)(6), which allows a combined hearing in cases where the AIT has been pending for more than twenty-six days. This is often accomplished by agreement of the parties, and results in a more efficient scheduling process than might otherwise be possible.

This year there have been several of these cases in which the Department moved to continue the trial for some reason, such as the Department's failure to have witnesses available for the scheduled trial date. This practice disrupts the work of the two offices involved, inconveniences the courts, and may result in delays in other cases when they are "bumped" to accommodate an AIT or medication hearing that winds up not happening as scheduled. We suggest that the Department should not be filing motions for expedited hearing or involuntary medication applications unless it is prepared to proceed on the date the cases will be scheduled.

What did not work well regarding the process? In the past few years we have noticed a trend for the State to routinely request authorization to involuntarily administer long-acting medications. A few years ago when the statute was changed to raise the legal standard for long-acting medications we observed that courts took the mandate of the law seriously and were less likely to approve these applications; as a result it appeared that the state became more selective concerning the cases in which it requested long-acting medications. The tide seems to have turned, though, and the state seems to be relying more frequently on this extremely intrusive measure with no more substantial basis than the patient's history of "noncompliance". Since "noncompliance", or refusal of prescribed medications, must be present whenever there is an application for involuntary medications, basing an application on this is the opposite of the individualized showing the statute requires. As I note below, this practice demonstrates the general hostility on the part of the State and the State's

psychiatrists toward patient autonomy and self-determination, which is inimical to the values of patient rights and voluntary treatment embodied in the statutes.

In your opinion, was the outcome beneficial? In the cases in which the court either denied or limited the involuntary medication order the outcome was decidedly beneficial because it supported the patients' right to direct their own treatment or to ensure that they will not be subjected to harmful treatment.

It is much more difficult to say that an order granting involuntary medication was beneficial. The entire process of involuntary medication undermines the opportunity for patients to develop mutually respectful relationships with their treatment providers: the message of the involuntary medication process is that the patient's wishes are of no concern to the mental health system, and that the system exists not to help patients but to do things to them. By so quickly moving to forced medication, by treating it as a first, rather than a last resort, the State has abandoned any effort to establish a trusting relationship with the patient in favor of simply overpowering them through the court process.

It is well established that the great majority of patients who receive antipsychotic medications eventually discontinue their use, either because of intolerable side effects or other unacceptable results. This means that every case of involuntary medication must be viewed as no more than a temporary resolution. Unless the State can demonstrate that there are significant and long-lasting benefits to involuntary medication, it is difficult to see how the temporary benefits that involuntary medication may provide outweigh the cost to patient self-determination and autonomy in any regime of forced treatment.

In addition, a growing body of evidence demonstrates that in the long run, keeping patients on psychotropic medications does not result in improved functional outcomes. Pursuing forced treatment is a choice by the mental health system to favor immediate convenience over the long-term good of the patient. We continue to believe that Vermont needs a study of the long-term outcomes of people who are subjected to forced medication.

Finally, as I noted above, the State has chosen to rely more and more heavily on forced medication. While the policy of the State of Vermont is "to work towards a mental health system that does not require coercion or the use of involuntary medication" (18 V.S.A. § 7629(c)), this dramatic increase and the Department's successful advocacy for legislative proposals to even further expand and accelerate involuntary medication demonstrate that the Department has abandoned this policy and chosen to pursue forced medication as its predominant method of treatment. I would urge the Department to take the legislative policy seriously and work to reduce coercion in every component of the mental health system.

Do you have any changes to recommend in the law or procedures? If so, what are they? Involuntary medication is an affront to the human dignity and natural autonomy of persons in the State's custody, and it should be used only as a last resort. As written and as applied, the current statute makes it unreasonably difficult for patients to present an effective defense, and eliminating the provision of 18 V.S.A. § 7625(a) that requires hearings to be held in seven days would be a positive change. The changes in the law adopted as a part of Act 192 have generally made the situation worse by forcing the courts to schedule both involuntary medication and initial commitment cases unreasonably quickly. These provisions should be repealed. In addition, the State should adopt restrictions on the use of long-acting involuntary medications as a standard and routine treatment modality.

Fundamentally, though, the most important change in the practices of Vermont's mental health system is that the Department, and the entire mental health system, should begin to take seriously the idea that people have rights, that the things the system does to people in the name of helping them are often painful and devastating, and do more harm than good, and that the people the Department is established to serve are human beings who deserve to have their rights and wishes respected.

Thank you for your attention to these comments. I hope that you take them seriously, and that they result in an improvement in patient care and respect for patients' rights.

Very truly yours,

John J. McCullough III

John J. McCullough III
Project Director

Response from Disability Rights Vermont

Submitted by A.J. Ruben, Supervising Attorney, via email 11/19/2019

DISABILITY RIGHTS VERMONT

formerly Vermont Protection & Advocacy
(800) 834-7890 (Toll Free)
(802) 229-1355 (Voice)
(802) 229-2603 (TTY)
(802) 229-1359 (Fax)

141 Main Street, Suite # 7, Montpelier, VT 05602

November 19, 2019

Ms. Kaysha Coccia
Department of Mental Health
280 State Drive
NOB 2 North
Waterbury, VT 05671-2010

Re: **2017 DRVT Act 114 Comments**

Dear Ms. Coccia,

DRVT wishes to thank the Department for reaching out to us again this year for comments and input regarding our experience working with patients subject to the Act 114 Non-Emergency Involuntary Medication process. As you know, Disability Rights Vermont (DRVT) is the federally authorized disability protection and advocacy system in Vermont pursuant to 42 U.S.C. 10801 et seq., as well as being the Mental Health Care Ombudsman for the State of Vermont pursuant to 18 V.S. A. §7259. The following are responses to the specific questions posed in the Department's November 1, 2019 letter to DRVT on this subject.

1. Were you directly involved with any individuals involuntarily medicated under Act 114 in 2019?

Yes, DRVT staff that monitor inpatient psychiatric units regularly had contact with and provided advocacy services to patients subject to non-emergency involuntary medication.

2. Are you aware of any problems encountered in the implementation of this process?

Yes. As DRVT has stated annually in response to this survey, again in 2019 DRVT staff witnessed, and/or reviewed medical records of, many episodes of non-emergent forced medication injections on psychiatric units around Vermont and regularly heard complaints from patients both about the fact of being forcibly medicated and about the fact that protections and procedures, such as the right to have a support person present during forced injections, were not followed. See http://mentalhealth.vermont.gov/sites/dmh/files/misc/Rules-Regs/Rules%20Implementig%20the%20Act%20Relating%20to%20Involuntary%20Medication%20f%20Mental%20Health%20Patients.pdf. In those cases, DRVT staff informs the patient and

their supporters with consent about these regulations and advocate to secure the patients' rights in these areas.

Again in 2019 the most glaring problem with the Act 114 process remains the failure to identify and implement reasonable alternatives to forced medication, often limited by staffing and funding. Often episodes of forced non-emergent medications were accompanied by traumatic uses of force to implement the Orders and DRVT's experience has been that several patients under forced medication orders continued to struggle and object to the injections for weeks after they began. The failure to actually decrease the use of forced medication orders is a sign that the State is failing to live up to the stated mandate to move towards a less coercive mental health treatment system. See 18 V.S. A. §7629.

Overall, in 2019 DRVT did not see significant progress towards the statutory goal of working toward a system that does not rely upon forced medication and coercion. DRVT's experience has been that people who are subjected to forced medication orders sometimes do not improve quickly and stay on the unit for long periods of time even after the orders are implemented. We continue to hear that patients are genuinely afraid of being subjected to forced medication orders and the disruption that causes in their relationship with their treatment providers. People tell us that they do not seek voluntary treatment because of this fear. Unfortunately, there remains a perception in our community that patients receiving mental health inpatient care will be subjected to involuntary medication that they do not want, they believe causes them harm, and which they will discontinue at the earliest opportunity. This situation is at odds with the legislative mandate to move to a non-coercive mental health system.

A 2017 patient subject to a forced medication order gave DRVT permission to share with the Department the following statements about his experience that remain relevant today:

"I've been backed into corners all of my life and this [forced, non-emergency medication] is no different – I want to get restraining orders against all these evil oppressors" (referring to hospital staff).

"I feel like I'm caught in a nightmare, even when I'm awake" due to taking the medications.

"I don't want anybody to go through what I've been through ever again" regarding being forced to take medications the patient did not want.

In addition to this patient's statements, DRVT participated in the Brattleboro Retreat's Consumer Advisory Committee meeting in July 2017 during which members engaged in a robust dialogue about non-emergency involuntary medication recommendations/orders by physicians and the negative impacts those petitions have on rapport building between patients and their providers; the need for shared decision making; and the lack of availability for alternative treatment options.

DRVT remains concerned that, despite legitimate concerns about the long-term impact on patients of these Act 114 Orders, DMH has yet to follow through on commencing a study to determine the outcome for patients forcibly medicated going out five years, a plan that has

been universally accepted as appropriate and necessary in order to have an effective and informed policy on this practice. DRVT urges DMH to follow up on this suggestion and promptly implement such a study.

3. What worked well regarding the process?

DRVT's understanding from colleagues at the MHLP is that Court's regularly modify DMH requests for Act 114 orders based on MHLP attorney and expert witness testimony, and DRVT believes that having a robust legal representation for patients subject to Act 114 proceedings is crucial and is a positive aspect of the current system.

Also, the very recent Vermont Supreme Court decision in In Re G.G., vacating the trial court's Order of involuntary medication over the patient's Advance Directive mandates, is a positive development in terms of empowering people with mental health conditions to avoid involuntary medication when it is their decision to do so. DRVT urges the Department to renew its focus on public and professional education about how using Advance Directives can improve outcomes for people with mental health conditions, including the ability to prevent unwanted forced, non-emergency medications.

4. *What did not work well?*

As noted above, lack of alternatives to forced medication, in part due to overreliance on highly marketed medications, and in part due to lack of adequate capacity in the overall mental health system resulting in patients being held in inpatient units unnecessarily, remains a significant problem with our mental health system. In addition, as noted above, often hospital staff do not know or do not implement patient protections and preferences during the forced medication administration. Also, the continuing lack of a five-year study of outcomes for people subjected to these forced medications orders is an aspect of the process that has not worked well over the last year. Overall, the Department's track record of increasing the use of coercion in the system, in terms of speeding up medication orders, increasing the number of locked, non-inpatient facilities, and relying more on ONH's requiring medication compliance, instead of putting more resources into peer supports, step down facilities, one on one community supports, and alternatives to involuntary placements, appears to be a major cause for the problems DRVT staff and our clients have identified.

5. In your opinion was the outcome favorable?

DRVT staff have found some patients for which Act 114 Orders result in a prompt improvement of their presentation, but as often as not, patients subject to these orders do not stabilize and improve quickly, and feel extremely disempowered, humiliated and victimized by the Orders. It is DRVT's opinion based on our experience that in many cases, the outcome of forced medications is not favorable in terms of short or long-term improvement, but often effective to simply sedate the patient in order to support discharge into community. The long-term benefits to the patients, anecdotally, are also questionable as many DRVT clients attempt to get off the medications when out the hospital and perseverate for years afterward about the trauma of being forced medicated.

6. Do you have any changes to recommend in the law or procedures?

DRVT recommends that the law be amended to require the Department to implement a robust outcome study of the impact of these orders on people. We also recommend that the Department make stronger efforts to limit the number, as opposed to the recent trend of large increases in the numbers, of the uses of these forced medication orders, at least until the above-recommended outcome study demonstrates that no more harm than good is resulting from these proceedings. DRVT also suggests that the Department advocate for more funding for MHLP to hire additional staff and expert witnesses in order to avoid the appearance that, due to the increase in forced medication petitions and the lack of similar increases in MHLP funding, the ability of MHLP to adequately represent their clients is at risk of significant decline. DRVT suggests again that the goal of more prompt forced medication orders held by the Department and the Hospitals can be attained more reasonably by increasing the resources available to the attorneys and the courts, including the availability of independent expert review, rather than conflating hearings for commitment and forced medication into one hearing in an effort to speed up the process. Finally, DRVT recommends the Department require all designated agencies and contracted professionals to educate consumers about their rights to execute an Advance Directive and make medication decisions in their Advance Directives and report on relevant data in this regard.

Thank you again for this opportunity to share our perspective on Act 114 implementation in 2019 and please contact me if you wish additional information or clarification.

Sincerely,

A.J. Ruben
Supervising Attorney

Cc: Jack McCullough, MHLP

Response from Vermont Psychiatric Survivors

Submitted by Isaac Lezcano, Patient Representative, via email 12/18/2019

Name: Isaac Lezcano
Organization: Vermont Psychiatric Survivors
Position: Peer Advocate / Patient Rep

1. Were you directly involved with any individuals involuntarily medicated under Act 114 in 2019?

Yes

2. Are you aware of any problems encountered in the implementation of this process?

The fact that 87% percent of petitions by providers are granted suggests to me that the process is somewhat weighted in favor of the petitioner and insufficiently adversarial in nature. The fact that petitions are being filed sooner and more often suggests that the process is being relied upon as an earlier course of action as providers realize how easy it is to have a petition granted. More crucially, the objectively coercive nature of the process goes against DMH's stated goal of a mental health system free of coercion.

3. What worked well regarding the process?

Some patients report an increase in wellbeing after being forced to take medications. However, a process working *some* of the time seems to me an unacceptably low bar when evaluating a procedure that violates a human being's bodily autonomy.

4. What did not work well regarding the process?

Being held against your will and forced to ingest drugs is unsurprisingly a traumatic experience for many. Many patients understandably become fixated on the terror and injustice, the intense feelings of violation and powerlessness of their situation. I find it unlikely that this is therapeutic.

5. In your opinion was the outcome beneficial?

Sometimes, sometimes not. As I said before, an action being potentially beneficial is a very low bar for considering actions that breach human rights. Waterboarding suspected terrorists occasionally leads to beneficial outcomes. How people feel about waterboarding typically is determined by what standard they weigh the likelihood of a potential beneficial outcome against the moral cost of violating basic tenets of human decency.

6. Do you have any changes to recommend in the law or procedures? If so, what are they?

I recommend that a high standard be set for measuring whether forced drugging is indeed the "least restrictive" method possible in a given scenario. Our state's procedures should be designed to mitigate as much as possible the possibility of patients being forcibly drugged in scenarios when other methods of care and support are possible.

Isaac Jose Lezcano
Patient Representative

(802) 417-2362

Pronouns: He/Him/His

Vermont Psychiatric Survivors, Inc.
22 Browne Court, Suite 111 | Brattleboro, VT 05301
www.vermontpsychiatricsurvivors.org

Response from NAMI-VT

Submitted by Laurie Emerson, Executive Director, via email 12/16/2019

December 16, 2019

Frank Reed

Department of Mental Health

280 State Drive, NOB 2 North

Waterbury, VT 05671-2010

Dear Mr. Reed,

Thank you for the opportunity for the National Alliance on Mental Illness of Vermont (NAMI Vermont) to provide comment to the Department of Mental Health for your report on Act 114. Additionally, NAMI Vermont shared the Act 114 questions with our membership to request their feedback if they have been involved with the process. The Department of Mental Health may have received comments directly from individuals or families.

NAMI Vermont has an 800 Resource Referral Line where we receive calls from family members or individuals seeking information or services related to mental health. We heard from one individual who was on an Order of Non-Hospitalization (ONH) in the community. The comments below reflect that discussion.

1. Were you directly involved with any individuals involuntarily medicated under Act 114 in 2019?

- NAMI Vermont was contacted by an individual who identified as being on an Order of Non-Hospitalization (ONH) with the requirement to take their psychotropic medicine.

2. Are you aware of any problems encountered in the implementation of this process?

- The individual did not want to continue taking the medicine due to the side effects and

wanted to understand the possible consequences of this action and if they would be returned to the hospital.

3. What worked well regarding the process?

- The individual agreed to the ONH in order to get out of the hospital.

4. What did not work well regarding the process?

- The individual did not want to comply with medication adherence and did not feel comfortable sharing their concerns with the Designated Agency in charge of overseeing their care.

5. In your opinion, was the outcome beneficial?

- Although the patient was able to leave the hospital and a plan was in place for their treatment, compliance needs to come from the individual in order to ensure long term treatment is followed. Building a trusting relationship with the patient would help in the treatment process.

6. Do you have any changes to recommend in the law or procedures? If so, what are they?

On behalf of NAMI Vermont, we would like to highlight our previous recommendations:

- All transporters need to be provided with soft restraints and educated about the use of them. Collecting data on all transports will help ensure oversight.

- Provide trauma-based training for emergency department staff and transporters.

- Provide an array of timely treatment options in the emergency room.

- Provide a copy of the involuntary hospitalization/medication process to individuals (or their families) who are in the emergency department. They may not understand their rights or the process.

- Increase options for crisis intervention in the community to divert inpatient hospitalization.

- Upon inpatient admission, provide the option for patients to sign paperwork so that family members/other providers can receive information from the hospital and treatment team.

- Ensure continuity of care: Include the person's preferred family members/friends and psychiatrist/prescribing primary care physician on the treatment team and in decision-making. Involve them in discharge planning.

- Provide more opportunities to provide input on Act 114 throughout the year

- Provide the Act 114 questions to every patient (who was involuntarily medicated) as they get released from the hospital to respond with a self-addressed and stamped envelope.

- Include a debrief session with the patient and an advocate/non-hospital person before they are discharged and ask the Act 114 questions to ensure every patient has the opportunity to provide input.

- It may be difficult for a patient to respond to questions upon discharge. Send a follow up 6 months later with the Act 114 questions – comments and insight may change as the person has been in recovery for a while.

- Involve supportive family members to complete the questions when a patient is discharged. Additionally, send a follow up 6 months later with the same questions. NAMI Vermont is able to send out the questions to our membership, however there are many more families that have been involved with the process that we are unable to reach.

- Continuously make improvements to the process through fact-based decision making so that patients receive the right care at the right time and in the right place to experience lives of resiliency, recovery, and inclusion.

Thank you

Laurie Emerson, Executive Director

NAMI Vermont

Response from Vermont Psychiatric Care Hospital

Submitted by Emily Hawes, Chief Executive Officer, via email 12/31/2019

1. How well overall do you think the protocol for involuntary psychiatric medication works?

In most cases well for individuals who are hospitalized through the civil court. When an individual is admitted on a court order the facility must additionally EE them and apply for meds or wait for the person to be hospitalized through the court process which could take months. Any delay in providing necessary treatment leads to longer recovery time, poorer outcomes, and can have long-lasting negative impacts on someone's mental and physical health and overall quality of life.

2. Which of the steps are work well? Expedited AIM/AIT hearings work well in most cases. Why? They work well due to being able to get to court within a short period of time.

3. Which steps pose problems? There have been at least 2 cases in the last year when an Expedited AIM/AIT could not be heard due to the availability of a legal aid psychiatrist. This led to increased emergency involuntary procedures and potential staff injuries as a result. Why? Appropriate workforce availability.

4. What efforts did you make in an attempt to have the patient take psychiatric meds before making the decision to utilize the Act 114 application for involuntary treatment through the court system? VPCH makes every effort to work with patients, their support systems, and their outpatient providers to implement holistic plans of care that align with patient's preferences, desires, and recovery needs. At times, the need for medication is unavoidable and VPCH providers are sure to include this possibility from the first treatment discussion and continually work to educate patients and all involved in their care on the disease and the various treatment, medication, and dosing options. Court ordered medications are pursued as a last resort, if treatment options cannot be agreed upon, patient-preferred treatment methods have proven unsuccessful in treating the underlying condition, and/or the risk of not treating would put the patient and others in grave and imminent danger.

5. How long did you work with the patient on the topic of medication before deciding to go through the courts? The timeframe can really vary depending on the patient, their preferences, the severity of the illness, and the severity of other corresponding risk factors.

6. How helpful (if at all) was it to be able to administer the medications when you did? In what ways? Rarely do we find medications are ineffective in treating the underlying

condition. We generally see patients' conditions stabilize and they are able to return home or transition to less restrictive care settings.

7. What do you think the outcome(s) for the patients who were given involuntary medications would have been if they had not received these medications? Many would likely still be hospitalized with declining mental and physical health and poor quality of life.

8. Do you have any recommendations for the changes in Act 114? If so, what are they?

A recommendation would be to address the individuals who have been admitted for a competency/sanity evaluation who need medication. Should not have to have cases in both the civil and criminal court in order to get appropriate treatment.

Greater supports/pressures to implement act 114 outside of the hospital setting – the greater frequency of med implementation and discontinuation, the more severe relapses can become and the more difficult to successfully treat.

Response from Rutland Regional Medical Center

Submitted by Lesa Cathcart, Director of Nursing-PSIU, via email 11/1/2019

9. How well overall do you think the protocol for involuntary psychiatric medication works? Though I think that the process has gotten a little better over the past years, I still think that there are some opportunities for expediting the process. Once the hearing has occurred and there is a decision made, I think the process goes smoothly.

10. Which of the steps are work well? Why? I think that when that it works well to have the hearings here in our organization whenever possible. I think it is easier for the patient because staff can bring them to the hearing, remain with them during the hearing, and then bring them back to the unit.

11. Which steps pose problems? Why?

I think that in some situations, it still takes a significant period of time to get a court date. This has certainly gotten better over the past few years, but it seems there may still be opportunities in this area. Recently it has also seemed that it has been taking longer to hear the decision of the court so there is a delay in the initiation of involuntary court

ordered medication.

12. What efforts did you make in an attempt to have the patient take psychiatric meds before making the decision to utilize the Act 114 application for involuntary treatment through the court system? Our staff (including physicians) work very hard to establish relationships that are respectful and supportive. They provide education to patients about medications and work with the patient in hopes that they will decide to accept medications without having to go through the court to get an order for non-emergency court ordered medication.

13. How long did you work with the patient on the topic of medication before deciding to go through the courts? I can't give a definitive response to question because I think it can vary depending on the patient. Nursing education begins at admission and may become more focused as we get to the know patient and develop a treatment plan.

14. How helpful (if at all) was it to be able to administer the medications when you did? In what ways? I think that the times that we have received court orders for involuntary medications have been very helpful. It is heart wrenching to see someone extremely ill and not be able to help them, especially when you know that medications may make a difference in their recovery. As a result of court ordered involuntary medications, we have seen patients get better, and be able to return their communities and their lives.

15. What do you think the outcome(s) for the patients who were given involuntary medications would have been if they had not received these medications? I think in many situations if the patient didn't receive court ordered involuntary medication, they would have become even more ill than they already were, and their hospitalization would have been even longer than it was.

16. Do you have any recommendations for the changes in Act 114? If so, what are they? Quicker court dates and a quicker response about the court's decision.

Response from Brattleboro Retreat

Submitted on behalf of Meghan Baston, Chief Nursing Officer, via email 12/6/2019

1. How well overall do you think the protocol for involuntary psychiatric medication works?

The concept of needing a legal decision to treat an individual against their will makes

sense. Our State of Vermont process continues to delay treatment, creating a situation where we are holding very ill people for prolonged periods of time, and non-medical people essentially make final decisions on the medications used.

2. Which of the steps are work well? Why?

Having the ability to now combine Commitment and Involuntary Medication Hearings has helped.

There should be quicker time frame for this process for this process to occur.

Requirement of the 7 day evaluation makes sense

3. Which steps pose problems? Why?

Prolonged wait periods where we keep people for court dates, often against their will, there has been a medical determination related to need for medication related to the symptoms and illness that they are exhibiting but we cannot manage and treat using scientific evidence based treatment until a non-medical entity approves it.

Court is not onsite and it makes it difficult for individuals to be involved in the process

4. What efforts did you make in an attempt to have the patient take psychiatric meds before making the decision to utilize the Act 114 application for involuntary treatment through the court system?

   We use our clinical expertise to manage the patients and to engage with them and any support person. Provide education and support exhaust all available options in an attempt to engage them in the process.

5. How long did you work with the patient on the topic of medication before deciding to go through the courts?

   We wait the required period before filing, then we wait an additional for a court date this causes months to go by.

   This should be determined by the individual and their clinical presentation vs a specified time frame.

6. How helpful (if at all) was it to be able to administer the medications when you did? In what ways?

Providing treatment, and observing improvement, after watching an impaired person suffer with their mental illness symptoms is amazing. The rate of improvement is often quite dramatic.

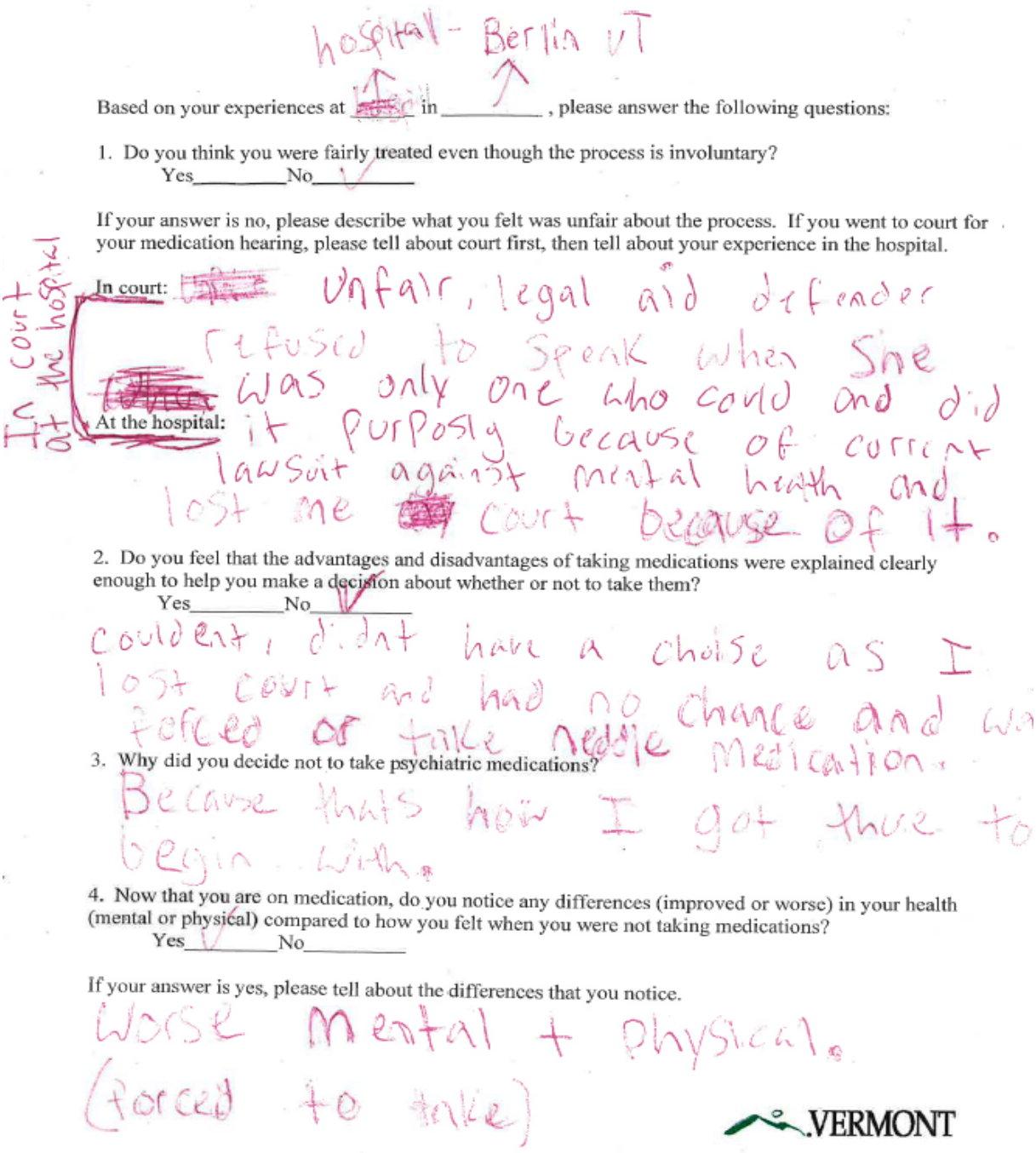
7. What do you think the outcome(s) for the patients who were given involuntary medications would have been if they had not received these medications?

Prolonged hospitalization, progression of illness. It makes no clinical sense for an individual to be confined for long periods of time and not receive treatment.

8. Do you have any recommendations for the changes in Act 114? If so, what are they?

   - Continue to work toward a quicker process for court dates and determinations.
   - Having the type and dose of medication management of an individual be a Doctors decision vs the court having that decision-making authority.
   - Hearings on site.
   - Allowance for properly supervised Nurse Practitioners and Tele Psychiatrists to be engaged with the legal process

Response from Individual 1



hospital - Berlin VT

Based on your experiences at [redacted] in _____, please answer the following questions:

1. Do you think you were fairly treated even though the process is involuntary?
Yes_____No_✓_____

If your answer is no, please describe what you felt was unfair about the process. If you went to court for your medication hearing, please tell about court first, then tell about your experience in the hospital.

In court at the hospital:

In court: [redacted] Unfair, legal aid defender refused to speak when she was only one who could and did it purposly because of current lawsuit against mental health and lost me [redacted] court because of it.

At the hospital:

2. Do you feel that the advantages and disadvantages of taking medications were explained clearly enough to help you make a decision about whether or not to take them?
Yes_____No_✓_____

couldn't, didn't have a choise as I lost court and had no chance and was forced or take needle Medication.

3. Why did you decide not to take psychiatric medications?

Because thats how I got thure to begin with.

4. Now that you are on medication, do you notice any differences (improved or worse) in your health (mental or physical) compared to how you felt when you were not taking medications?
Yes_✓_____No_____

If your answer is yes, please tell about the differences that you notice.

Worse Mental + Physical.
(forced to take)

VERMONT

5. Was anyone particularly helpful? Anyone could include hopistal staff or a community mental health center, a friend, a family member, a neighbor, an advocate, someone else who is hospitalized at the hospital where you are (or were). Yes ✓ No_____

If your answer is yes, please tell about who was helpful. (You do not have to give names of people. You might just say a nurse, a doctor, a friend, etc.)

Staff was better and understandable then Natasha the nurse.

In what way were they helpful?

respectful and honest

6. Do you have any suggestions for changes in the law called Act 114?

add Sleeping medication to the Warning If act 114 is. lutda.

Response from Individual 2

Based on your experiences at CSID in Rutland please answer the following questions:

1. Do you think you were fairly treated even though the process is involuntary?
Yes_____No__X__

If your answer is no, please describe what you felt was unfair about the process. If you went to court for your medication hearing, please tell about court first, then tell about your experience in the hospital.

In court: I was not allowed to present a Defence. The Doctor who testified commented Purgury when she told the court She spoke with my Daughter.

At the hospital: The ER ~~made~~ was unclear to me as to why I was there.

2. Do you feel that the advantages and disadvantages of taking medications were explained clearly enough to help you make a decision about whether or not to take them?
Yes_____No__X__

RMHS assigned me to there Temp Employees. I was assigned a new Doctor every few months, When RMHS finally hired a permanet Doctor I was unable to schedule an appointment for several months.

3. Why did you decide not to take psychiatric medications?

I was not ok's my meds. My meds are bubble packed. while I was at CSID I had to give them my meds and they administered them wrong, I knew this and wouldn't take them voraraly.

4. Now that you are on medication, do you notice any differences (improved or worse) in your health (mental or physical) compared to how you felt when you were not taking medications?
Yes__X__No_____ I have lost mobility and strength.

If your answer is yes, please tell about the differences that you notice.

I have weaker than usual.

VERMONT

5. Was anyone particularly helpful? Anyone could include hopistal staff or a community mental health center, a friend, a family member, a neighbor, an advocate, someone else who is hospitalized at the hospital where you are (or were). Yes__X__No_____

If your answer is yes, please tell about who was helpful. (You do not have to give names of people. You might just say a nurse, a doctor, a friend, etc.)

Disability rights VT.

In what way were they helpful? They were supportive of my situation.

6. Do you have any suggestions for changes in the law called Act 114?

Response from Individual 3

Based on your experiences at Rutland Mental Health in Rutland Vermont, please answer the following questions:

1. Do you think you were fairly treated even though the process is involuntary?
Yes_____No__✓__

If your answer is no, please describe what you felt was unfair about the process. If you went to court for your medication hearing, please tell about court first, then tell about your experience in the hospital.

In court: I have a back injury which prevents me from sitting up straight for a length of time a childhood injury

At the hospital:

2. Do you feel that the advantages and disadvantages of taking medications were explained clearly enough to help you make a decision about whether or not to take them?
Yes_____No__✓__

3. Why did you decide not to take psychiatric medications?

because I am not a threat to the public

4. Now that you are on medication, do you notice any differences (improved or worse) in your health (mental or physical) compared to how you felt when you were not taking medications?
Yes_____No__✓__

If your answer is yes, please tell about the differences that you notice.

VERMONT

5. Was anyone particularly helpful? Anyone could include hopistal staff or a community mental health center, a friend, a family member, a neighbor, an advocate, someone else who is hospitalized at the hospital where you are (or were). Yes__✓__No_____

If your answer is yes, please tell about who was helpful. (You do not have to give names of people. You might just say a nurse, a doctor, a friend, etc.)

In what way were they helpful?

6. Do you have any suggestions for changes in the law called Act 114?

Response from Individual 4

#4

Based on your experiences at HCRS in Springfield, please answer the following questions:

1. Do you think you were fairly treated even though the process is involuntary?
Yes X No

If your answer is no, please describe what you felt was unfair about the process. If you went to court for your medication hearing, please tell about court first, then tell about your experience in the hospital.

In court:

At the hospital:

2. Do you feel that the advantages and disadvantages of taking medications were explained clearly enough to help you make a decision about whether or not to take them?
Yes X No

3. Why did you decide not to take psychiatric medications?

4. Now that you are on medication, do you notice any differences (improved or worse) in your health (mental or physical) compared to how you felt when you were not taking medications?
Yes X No

If your answer is yes, please tell about the differences that you notice.

VERMONT

5. Was anyone particularly helpful? Anyone could include hopistal staff or a community mental health center, a friend, a family member, a neighbor, an advocate, someone else who is hospitalized at the hospital where you are (or were). Yes X No

If your answer is yes, please tell about who was helpful. (You do not have to give names of people. You might just say a nurse, a doctor, a friend, etc.)

In what way were they helpful?

6. Do you have any suggestions for changes in the law called Act 114?

Response from Individual 5

Based on your experiences at _____ in _____ , please answer the following questions:

1. Do you think you were fairly treated even though the process is involuntary?
Yes_____No__✓__

If your answer is no, please describe what you felt was unfair about the process. If you went to court for your medication hearing, please tell about court first, then tell about your experience in the hospital.

In court:
I was ordered by a impersonator for a judge. [redacted] was not a real judge, and he ordered that I be injected with Aristada at 882 mg. ea. month.

At the hospital:
The hospital has injected me with duds and loosened earned muscular hamstrings without any medicine in the syringe.

2. Do you feel that the advantages and disadvantages of taking medications were explained clearly enough to help you make a decision about whether or not to take them?
Yes_____No__✓__

3. Why did you decide not to take psychiatric medications?
Because I wasn't legally diagnosed by an Existential Psychoanalysis Model Diagnoses. I was and am disease free.

4. Now that you are on medication, do you notice any differences (improved or worse) in your health (mental or physical) compared to how you felt when you were not taking medications?
Yes_____No__✓__

If your answer is yes, please tell about the differences that you notice.
They are partially not medicating me, [redacted] may have had them on meds obligation, so they injected me with nothing.

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5. Was anyone particularly helpful? Anyone could include hopistal staff or a community mental health center, a friend, a family member, a neighbor, an advocate, someone else who is hospitalized at the hospital where you are (or were). Yes ✓ No

If your answer is yes, please tell about who was helpful. (You do not have to give names of people. You might just say a nurse, a doctor, a friend, etc.)

5 Psychologists under the order [redacted] at the Psychology Order of Human Development Ctr, on the phone diagnosed me disease free in March 2019 and 2018

In what way were they helpful?

They gave me a professional paid legitimate diagnosis Disease free.

6. Do you have any suggestions for changes in the law called Act 114?

Enforce Existential Psychoanalysis Model Diagnosis wherever the patient is questioning the prescribed medicine.

Response from Individual 6

We do not want an honorarium

#6

To whom it may concern:

I am filling this out for my husband, who has schizophrenia and would not do it himself. He has a lot of delusions, and also has anasognosia

Based on your experiences at UVM medical in Oct., please answer the following questions:

1. Do you think you were fairly treated even though the process is involuntary?

Yes_____No__✓__ He does not believe he is ill so considers it unfair.

If your answer is no, please describe what you felt was unfair about the process. If you went to court for your medication hearing, please tell about court first, then tell about your experience in the hospital.

In court: My husband did not go to the court hearing, but I did as a witness, and was allowed to stay to hear the other witnesses testify, which was informative for me.

At the hospital: My husband is very paranoid and hates being in the hospital, so he would be very negative about it. He complained about the constant "badgering" to take meds.

2. Do you feel that the advantages and disadvantages of taking medications were explained clearly enough to help you make a decision about whether or not to take them?

Yes_____No_____

I don't know what was or was not explained to him about medications. I was present when the ECT doctor explained about the potential benefits - he was excellent but my husband declined the treatment.

3. Why did you decide not to take psychiatric medications?

My husband believes that they are ruining his health, they are not good for you, and he does not believe he needs them. He believes God does not want him to take them.

4. Now that you are on medication, do you notice any differences (improved or worse) in your health (mental or physical) compared to how you felt when you were not taking medications?

Yes_____No_____ I can't answer that for him, can only say he seems better. He is not doing strange, irrational things.

If your answer is yes, please tell about the differences that you notice.

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5. Was anyone particularly helpful? Anyone could include hopistal staff or a community mental health center, a friend, a family member, a neighbor, an advocate, someone else who is hospitalized at the hospital where you are (or were). Yes ✓ No

If your answer is yes, please tell about who was helpful. (You do not have to give names of people. You might just say a nurse, a doctor, a friend, etc.)

I visited my husband 3 x/week - it's a 1/2 hr. drive - and I believe he truly appreciated that. I brought him food treats and clean clothes. I tried to support the staff while still being empathetic to his situation.

In what way were they helpful?

There was a man on the night staff that made a connection with my husband and chatted with him.

6. Do you have any suggestions for changes in the law called Act 114?

I understand that mentally ill people have the same rights as all of us, but I can't begin to tell you how frustrating it is to be powerless to help someone you love just because they have the right to be mentally ill! Are they (the rights) more important than the person's well-being?! It is like watching someone drown and they can't see the lifeline you are throwing them, and the system can't throw in other ones because they haven't got permission from the drowning person!

Before this latest hospitalization my husband was at Brattleboro Retreat for 3 months. After a 5 day wait in an ER, it was 7 weeks before the court proceedings were finished and they began treatment.

1) It should not take that long.
2) Why can't court hearings for involuntary hospitalizations and treatments be combined?
3) It should not be so difficult to help a mentally ill person and be involved in their treatment.

VERMONT