

*Patient A v. State of Vermont et al.*, - Settlement Proposal – 5/11/16

1. The Department of Mental Health (“DMH”) will train Department of Corrections’ (“DOC”) contracted mental health providers (including providers with a Master’s Degree in Social Work) to be Qualified Mental Health Professional (“QMHP”) certified to perform the screenings necessary to begin an application for emergency examination contemplated by 18 V.S.A. § 7504.
2. DMH will train physicians or other person authorized under 18 V.S.A. § 7504 employed by or under contract with DOC who have been identified as persons that DOC wishes to be able to conduct the initial certification referenced in 18 V.S.A. § 7504(a).
3. Whenever a medical or mental health provider contracted to provide medical or mental health services at a correctional facility believes, based on his or her clinical judgment, that an inmate is “a person in need of treatment” as defined at 18 V.S.A. § 7101 (17), DOC shall begin the process outlined in 18 V.S.A. § 7504.
  - a. The inmate will be evaluated by a Qualified Mental Health Professional (“QMHP”) to determine if the inmate is “a person in need of treatment.” If the QMHP determines that the inmate is “a person in need of treatment,” the QMHP shall complete the application for emergency examination required by 18 V.S.A. § 7504(a).
  - b. When an application for emergency examination is completed by the QMHP, the inmate will be examined by a physician or other person authorized by 18 V.S.A. § 7504(a) (first certification), to determine whether in his or her clinical judgment the inmate is “a person in need of treatment.”
  - c. Within 24 hours of the time of the first certification being completed, a psychiatrist must conduct an evaluation (second certification) to determine if the person is “a person in need of treatment” pursuant to 18 V.S.A. § 7508(a).
  - d. If, at any time, the person is found not to be (or no longer to be) “a person in need of treatment,” the application can be discontinued.
4. In the event that an inmate has been found to be “a person in need of treatment” through the process described above, DOC will notify the DMH Care Management Unit which will seek a hospital bed for the inmate as soon as practicable based on the inmate’s presentation, the availability of a medically appropriate bed, and in light of the medical and psychiatric needs of other patients.
5. Until such time as an inmate determined to be “a person in need of medical treatment” is transferred to a hospital, the inmate will be seen by a mental health clinician employed by or under contract with DOC at least daily, to assess the inmate’s mental health and medical needs, and to make a recommendation regarding whether the inmate’s housing assignment is medically appropriate, given the applicable restrictions on contact with

others and freedom of movement applicable to that housing assignment. Daily visits by mental health providers will include the provision of therapeutic services, and due consideration will be given to maximizing time out-of-cell for such therapy, to the extent clinically appropriate. Recreation therapy will be provided, if deemed clinically appropriate, at least two times per week. An inmate determined to be "a person in need of treatment" will be seen and evaluated at least once per week by a psychiatrist or advanced nurse practitioner. Inmates will not be denied recreation or other out-of-cell time due solely to behavior caused by mental illness, consistent with the safety and security of the individual, other offenders, and staff.

6. DOC will comply with the mental health provider's recommendations regarding appropriate housing and treatment, consistent with the operational needs of the facility, and the safety and security of the individual, other offenders, and staff.
7. In the event that an individual has remained in DOC custody for more than 72 hours after an application for involuntary treatment has been filed, DOC will notify Disability Rights Vermont ("DRVT") that an individual found to be "a person in need of treatment" has remained in DOC custody for more than 72 hours after the finding was made. Unless DRVT obtains a release from the individual, identifying information shall not be provided by DOC to DRVT.