



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

January 8, 2020

Michael Barber, General Counsel
Green Mountain Care Board

Via Email to: Michael.Barber@vermont.gov

Re: Request for Intervenor or, in the Alternative, Amicus Curiae Status in the Northwestern Medical Center Emergency Department Renovation CON Process, Docket No. GMCB-003-19

Dear Attorney Barber,

Pursuant to GMBC Rule 4.406 please accept this letter as Disability Rights Vermont (DRVT)'s formal request to be granted Intervenor Status, or in the alternative to have Amicus Curiae status, in the above-referenced proceeding regarding the CON for the NWMC emergency department renovations. As indicated in our January 3, 2020 letter to the GMBC on this topic, DRVT is an independent, private, non-profit agency mandated by federal law to protect and advance the rights of individuals with disabilities. See Protection and Advocacy for Individuals with Mental Illness Act, 42 U.S.C. § 10801 et seq; 42 C.F.R. Part 51 et seq; Protection and Advocacy of Individual Rights, 29 U.S.C. § 794(e) et seq, 34 C.F.R. Part 381 et seq. Additionally, DRVT is the State's Mental Health Care Ombudsman pursuant to 18 V.S.A. §7259.

In the course of DRVT's normal work, our staff visit all emergency rooms and psychiatric units in Vermont. DRVT staff monitors those environments, conducts outreach to people with disabilities and professionals in those locations in order to assure that people are aware of the rights of people with disabilities as well as DRVT's availability to support asserting those rights, and investigates allegations of abuse and neglect in those settings. DRVT, perhaps uniquely in Vermont, has contact with, and access to information and perspectives from, people with lived experience, professionals, policy makers and advocates in all parts of Vermont, regarding the experience of being locked in an emergency department room pending admission to a psychiatric unit and not having adequate access to out of room recreation during their stay. DRVT has advocated for resolution of patient complaints regarding detention in emergency departments and access to community spaces in various hospital settings around Vermont.

DRVT staff includes both mental health professionals and legal experts regarding the rights of people with disabilities, including those with psychiatric disabilities. As Vermont's Mental Health Ombudsman, DRVT has a specific interest in assuring that policy implementation, such

DRVT is the protection and advocacy system for the State of Vermont.

On the web: www.disabilityrightsvt.org

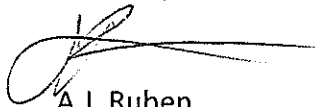
as the instant CON decision, is consistent with the rights of Vermonters with psychiatric disabilities. DRVT has a specific, substantial and direct interest in the outcome of the proposed emergency department renovations because DRVT will continue to conduct outreach and monitoring in this facility after the renovations are completed. If evidence is identified that indicates that NWMC has a) locked up people with disabilities in violation of state law, or b) prevented people with disabilities from having reasonable access to areas outside their examination room, especially after boarding for days, DRVT will likely have to respond by engaging in time and resource consuming investigation, negotiations and potential litigation.

Based on DRVT's work experience and staffing capacity, even if the GMBC determines not to grant Intervener status to DRVT, DRVT will still render material assistance to the GMCB by providing non-duplicative evidence regarding the crucial issues before the Board in the instant CON. Among those issues are two we would highlight now. One is the advisability and legality of allowing the construction of an emergency department that may result in voluntary patients being locked in prior to an appropriate clinical assessment. Another is creating an environment without sufficient 'community space' to accommodate patients boarding in the ED for days who may require access to statutorily mandated supports such as family, peer specialists and advocates.

For the foregoing reasons, DRVT respectfully requests that the GMBC grant it Intervenor status or, in the alternative, Amicus Curiae status for purposes of contributing to the Board's decision on the instant CON. Please contact Ed Paquin, Executive Director, or myself if you have any questions or concerns about this request.

Thank you for your consideration.

Sincerely,



A.J. Ruben
Supervising Attorney

Cc: Ed Paquin