



March 1, 2021

Via donna.jerry@vermont.gov and first-class mail

Donna Jerry, Senior Health Policy Analyst
Green Mountain Care Board
144 State Street
Montpelier, VT 05602

Re: *Docket No. GMCB-002-21con, Construction of Secure Residential Treatment Program for individuals requiring residential treatment program services for mental health conditions.*

Dear Donna Jerry:

Enclosed please find MadFreedom, Inc.'s Motion to Intervene, or alternatively, for Amicus Curiae status, in the above-referenced matter.

Very truly yours,

A handwritten signature in blue ink that reads "Wilda L. White".

Wilda L. White, JD, MBA
Founder

cc: Frank Reed, LICSW (via electronic and first-class mail)

STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re: Construction of Secure Residential Treatment
Program

) Docket No. GMCB-002-21con
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MADFREEDOM, INC.’S MOTION TO INTERVENE AS AN INTERESTED PARTY
AND/OR FOR AMICUS CURIAE STATUS

MadFreedom, Inc., by and through its founder, Wilda L. White, hereby requests that the Green Mountain Care Board (GMCB) grant MadFreedom, Inc. interested party status or alternatively, amicus curiae status, in the proceeding related to the application filed by the Vermont Department of Mental Health (DMH) for a Certificate of Need to develop a new, so-called Secure Residential Treatment Program at 26 Woodside Drive, Essex, Vermont. The basis for the motion is set forth below:

1. MadFreedom, Inc. (MadFreedom) is a human and civil rights advocacy organization based in Vermont whose mission is to secure political power to end the discrimination and oppression of people based on perceived mental state. MadFreedom’s vision is a world where every person regardless of race, gender, sexuality, ableness, class and/or mental state has the freedom to live their life on their own terms without coercion and with equality under the law. MadFreedom is explicitly opposed to forced drugging, restraint and seclusion of mental health patients.
2. More than 200 of MadFreedom’s members are both providers and consumers of mental health services in Vermont. MadFreedom members include residents of every Vermont county. Most members have lived experience of Vermont’s mental health system,

including involuntary hospitalization and involuntary procedures, such as restraint, seclusion and forced drugging. Some members are currently under Orders of Non-Hospitalization (ONH).¹ MadFreedom members also include those who manage peer-run organizations that provide services to people with mental health conditions. Such services include peer respite, peer support, community centers, housing supports, and an intensive recovery residence. None of these services employ forced drugging or other involuntary procedures under any circumstances. Rather, peer-run organizations offer alternative modalities for addressing mental health conditions, including so-called severe mental health conditions such as psychosis.

3. MadFreedom represents the interests of its members through advocacy, policy development, education, research, litigation and development of peer-run programs. MadFreedom also works in partnership with other organizations and is a member of Vermont's Racial Justice Alliance steering committee.
4. MadFreedom works on behalf of its members to eliminate coercion in the mental health system and to help Vermont realize its stated goal of a "flexible and recovery-oriented" mental health system of care.² A "recovery-oriented" mental health system requires a broad range of services in the community rather than crisis-oriented, institutional care, such as inpatient hospitalization. One of the hallmarks of a recovery-oriented system is the provision of peer-run programs and services.³ Over the past five years, just one

¹ An ONH is a court order that contains conditions that a person named in the order must abide by or face the possibility of hospitalization or re-hospitalization.

² [Act 79 \(2012\), Sec. 1.](#)

³ [The National Consensus Statement on Mental Health Recovery](#) (February 2006: Substance Abuse and Mental Health Services Administration)

percent of the Vermont Department of Mental Health budget has been invested in peer-run programs and services.⁴

5. Members of MadFreedom have put forth and/or endorsed a competing proposal for addressing unmet needs in the mental health system. That proposal is memorialized in a White Paper⁵ published in April 2019. The White Paper offers an analysis of the risks and challenges posed by Vermont’s planned investment in additional inpatient psychiatric beds, and makes recommendations to mitigate the risks, address the challenges, and realize Vermont’s goal of a “recovery-oriented” system of mental health care. The proposal calls for the creation of a network of peer-run community centers and two-bed peer respites. Start-up costs are just under \$1,000,000 over six years, with annual operating costs in Year 6 of the roll-out of about \$5,000,000. The project’s return on investment is between 45 and 90 percent, based on savings from diverting individuals from inpatient hospitalization and providing a step-down option for people who are hospitalized longer than necessary because of the unavailability of step-down options. MadFreedom’s founder authored the White Paper on behalf of Alyssum, a peer-run respite; Another Way Community Center, a Montpelier-based, peer-run community center; Pathways Vermont, a specialized agency; and Vermont Psychiatric Survivors, a peer provider of peer support services and advocacy.

⁴ Squirrel, Sarah; Fox, Mourning; Thompson, Shannon. “FY20 Budget Presentation,” p. 13 (February 11, 2019): Vermont Department of Mental Health); Bailey, Melissa. “FY2018 Budget Presentation,” p. 11 (February 9, 2017): Vermont Department of Mental Health). In the proposed [FY2022 budget](#), the governor proposes an investment in peer services of \$3,233,521, out of a total budget of \$280,374,134, pp. 31-32.

⁵ Alyssum, Another Way Community Center, Pathways Vermont, and Vermont Psychiatric Survivors, [Creating a Network of Peer-Run Community Centers and Two-Bed Peer Respite: Narrowing the Gap in Recovery-Oriented Community Services](#) (April 2019).

6. Title 18, Vermont Statutes Annotated, section 9440, subdivision (c)(7) provides that interested party status “shall be granted to persons or organizations representing the interests of persons who demonstrate that they will be substantially and directly affected by the new health care project under review.” GMCB’s Certificate of Need rule 4.406, Intervenor, states that “a substantial and direct impact shall include, **but not be limited to**, a direct financial or other business interest in the proposed project.”
7. MadFreedom and its members will be substantially and directly affected by the project under review. First, the project proposes to expand inpatient capacity at the same time that MadFreedom and its members are proposing investments in community-based resources rather than additional inpatient capacity because it is MadFreedom’s position that an underinvestment in community-based resources creates an artificial need for inpatient beds. Second, the project proposes to construct and design a facility in a way that would allow for the expansion of restraint, seclusion and forced drugging, procedures that MadFreedom and its members actively oppose and procedures for which we are the direct, prospective targets. Third, non-white Vermonters are over-represented in the highest levels of psychiatric incarceration in Vermont. At the Vermont Psychiatric Care Hospital, 15 percent of the patients are non-white.⁶ This project could exacerbate that trend to the detriment of MadFreedom members who are non-white. Fourth, the project proposes to invest \$11.6 million in public funds, the same funds that MadFreedom and its members are vying for to support its alternative project. The foregoing concerns are

⁶ Vermont Department of Mental Health, Race Data VPCH Admissions, Patients admitted from May 1, 2019 to April 30, 2020. Analysis conducted by the Vermont Department of Mental Health Research & Statistics Unit. Based on data pulled from the ad hoc reporting from the Vermont Psychiatric Care Hospital (VPCH) Thrive E.H.R. Data is based on involuntary patients admitted between May 5, 2019 and April 30, 2020. Race data is self-reported by patients during the admission process or shortly after. Non-white means other than White/Caucasian or non-European ancestry in this analysis.

more than a general concern with the health care system. These are specific concerns that affect MadFreedom and its members financially, medically, and spiritually. For all these reasons, MadFreedom and its members will be substantially and directly affected by the project under review.

8. Under 18 V.S.A. §9437 (1)(b), the GMCB shall grant a certificate of need if the applicant demonstrates that the project serves the public good and the Board finds, among other things, that the project “addresses current and future community needs in a manner that balances statewide needs.” MadFreedom, through its founder, has worked on behalf of individuals with lived experience of Vermont’s mental health system for more than five years. MadFreedom’s founder is a former executive director of Vermont Psychiatric Survivors, the inaugural Chair of the Mental Health Crisis Response Commission, a governor’s appointee to the Mental Health Block Grant Planning Council, a member of AHS Secretary Al Gobeille’s work group to address emergency department prolonged waits, and a member of the workgroup convened by the Department of Mental Health and Vermont Care Partner in early 2017 to address prolonged waits in Vermont emergency department for people presenting with psychiatric complaints. MadFreedom continues to work to improve Vermont’s mental health system of care. Members of MadFreedom run peer respites, community centers, serve as patient representatives for patients held at the current Middlesex Therapeutic Community Residence, and manage a peer-run intensive recovery residence. As an interested party, MadFreedom, on behalf of its members, could provide invaluable information regarding the substantial and negative impact that an expanded secure residential recovery facility using seclusion, restraint and

forced drugging could have, not only on more cost-effective, alternative projects but also on access to community-based services and the well-being of psychiatric survivors.⁷

9. Under 18 V.S. A. §9437 (2)(C), the GMCB shall grant a certificate of need if the Board finds that the cost of the project is reasonable because “less expensive alternatives do not exist, would be unsatisfactory, or are not feasible or appropriate.” MadFreedom’s analysis of alternatives to inpatient capacity, memorialized in the White Paper referenced, *supra*, could assist the GMCB in assessing whether less expensive alternatives to the proposal exist.
10. Under 18 V.S. A. §9437 (3) and (4), the GMCB shall grant a certificate of need if the Board finds that “there is an identifiable, existing or reasonably anticipated need for the proposed project” and if the Board finds that “the project will improve the quality of health care in the State or provide greater access to health care for Vermont’s residents or both.” In the applicant’s Letter of Intent, it states that its proposed project “will help to ensure that individuals in need for hospitalization are able to access that level of care and individuals presenting to the emergency rooms for inpatient beds will not see unnecessary delays or lengthy periods of wait times in emergency departments across the state.” MadFreedom has conducted an in-depth analysis of emergency department waits for psychiatric patients in Vermont. That analysis revealed that prolonged, emergency department waits for psychiatric patients are not the result of insufficient inpatient capacity but rather are the result of insufficient investment in community-based resources. This research analyzed the Vermont Uniform Hospital Discharge data set from 2002 to 2019. MadFreedom has also surveyed consumers of mental health care in

⁷ The term psychiatric survivor has several meanings. Here, it is used to refer to people who have a diagnosis or label of a mental illness.

Vermont about their mental health care needs and what would obviate their visits to emergency departments. Thus, MadFreedom can provide evidence to assist the GMCB in assessing whether there is a need for the proposed expanded secure residential recovery facility, and whether the project will improve the quality of health care in the state or will provide greater access to health care for Vermonters.

11. CON Standard 3.3 requires applicants “seeking to add inpatient capacity to demonstrate that such capacity is needed by the service area population and that services are not available at neighboring hospitals.” On behalf of its members, MadFreedom will provide evidence based on rigorous analysis of Vermont hospital data to demonstrate that the capacity proposed by the project under review is not needed. There is no organization other than MadFreedom that has engaged in a comprehensive rigorous analysis of the Vermont Uniform Hospital Discharge dataset for purposes of analyzing the need for additional inpatient psychiatric capacity. Thus, MadFreedom alone will be able to offer evidence in this regard.
12. Intervening in the present proceeding as an interested party will allow MadFreedom to participate fully in the process and will permit MadFreedom to introduce evidence, in the record, that will inform the GMCB’s decision-making process.

For all of these reasons, MadFreedom hereby requests that the Green Mountain Care Board grant this Motion to Intervene as an Interested Party in the Vermont Department of Mental Health's application for a Certificate of Need for the construction of a secure residential treatment program. In the alternative, MadFreedom requests amicus curiae status because as demonstrated above, it will be able to render material assistance to the Board by providing nonduplicative evidence that is relevant to the Board's determination.

Dated in Poultney, Vermont this 1st day of March, 2021

By: 

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