

**STATE OF VERMONT  
GREEN MOUNTAIN CARE BOARD**

In re: Vermont Department of Mental Health     )  
          Construction of Secure Residential     )  
          Treatment Program                     )     Docket No. GMCB-002-21con  
\_\_\_\_\_)

**ORDER GRANTING AMICUS CURIAE STATUS  
TO MADFREEDOM, INC.**

MadFreedom, Inc. (MFI) has requested to intervene in this Certificate of Need (CON) proceeding as an interested party, or in the alternative, as an amicus curiae. For the reasons set forth below, we grant MFI’s request for amicus curiae status, but not its request for interested party status.

The Board will grant interested party status 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 Rule 4.000, §4.406. A “substantial and direct impact” includes, but is not limited to, a direct financial or other business interest in a proposed health care project. §4.406(3). However, a general interest in a project as a function of being in the subject service area or otherwise being generally concerned with the health care system does not suffice. *Id.* The Board will deny requests that fail to sufficiently explain why interested party status should be granted. §4.406(4). Persons or organizations may be admitted to the CON process in an amicus curiae capacity upon finding that the person or organization will be able to

render material assistance to the Board by providing nonduplicative evidence that is relevant to the Board's determination. § 4.406(6).

The Vermont Department of Mental Health (DMH) submitted a Letter of Intent (LOI) on February 5, 2021, to develop a new Secure Residential Treatment Program in Essex as a successor to the temporarily sited state-run Middlesex Therapeutic Community Residence (MTCR). DMH asserts that the secure residential program will operate as a state-wide resource for adults meeting assessed need and eligibility. LOI, 2. Average stay for residents is projected to be 18-24 months and the facility will include spaces for offices, treatment, and meetings, along with indoor and outdoor recreation space, dining facilities, and single occupancy bedrooms. *Id.*

We grant MFI's request for amicus curiae status because we find that MFI can render material assistance to the Board by providing nonduplicative evidence that is relevant to the Board's determination. According to its motion, MFI is an advocacy group whose mission is to secure political power to end discrimination and oppression of people based on perceived mental state; its members include patients within the mental health system and providers of peer-run organizations that provide services to people with mental health conditions. MFI's founder has authored a study of the issues pertaining to additional inpatient psychiatric beds and MFI also reports that it has analyzed the Vermont Uniform Hospital Discharge Dataset for information pertaining to additional inpatient psychiatric capacity. This analysis can assist the Board with its evaluation of DMH's proposal.

While we grant MFI's request for amicus curiae status, we do not approve its request for interested party status. As a threshold matter, MFI was not registered as a corporation with the Secretary of State as of the date of its Motion to Intervene. *See* 11A V.S.A. § 2.03. Even assuming that status can be promptly addressed, MFI's request did not sufficiently explain why it

should be granted interested party status. MFI has not demonstrated that it will be substantially and directly affected by the project beyond its general concern with the health care system as it pertains to mental health. MFI has not provided detailed information about its membership sufficient to show a direct financial, business, or any other impact of the proposed project. MFI has expressed deep and significant concerns about the proposed facility’s possible practices and use of public funds; however, those concerns reflect general health care concerns and not *direct* impacts. *See* Order Granting Amicus Curiae Status to Disability Rights Vermont, Inc., Docket No. GMCB-021-14con, May 15, 2015 at 2 (commitment resembling valuable general concern with the health care system, and how that system serves requesting entity’s clients and other persons is not sufficient to serve as the basis for interested party status). As such, MFI does not overcome the standard set forth in Rule § 4.406(3) (“being generally concerned with the health care system shall not be sufficient.”)

Based on the above, we grant MFI amicus curiae status in this proceeding. MFI shall be copied on all materials in the record and materials submitted by MFI shall be admitted into the record and copied to all parties.

**SO ORDERED.**

Dated: March 11, 2021 at Montpelier, Vermont.

s/ Kevin Mullin, Chair )  
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s/ Jessica Holmes )  
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s/ Robin Lunge )  
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s/ Tom Pelham )  
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s/ Maureen Usifer )

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