



March 28, 2024

Green Mountain Care Board
144 State Street
Montpelier, VT 05633-3601

Re: Request for Interested Party Status
Docket No. GMCB-014-23con

Dear Directors of the Green Mountain Care Board;

Disability Rights Vermont (DRVT) is the Protection and Advocacy (P&A) agency for the State of Vermont. The P&A system was established, in part, after a broadcast news investigation exposed horrific neglect and abuse of people with disabilities at a facility operated by the State of New York. P&A agencies were designated in all U.S. States and territories. P&A agencies are federally funded and mandated to investigate and remedy abuse, neglect, and serious rights violations that impact individuals with disabilities, whether perpetrated by state actors, facilities, healthcare providers, caregivers, employers, or others. As the Vermont P&A, DRVT has a direct business interest in the proposed project, which we would be obligated to monitor.

Disability Rights Vermont is also designated by the Governor as Vermont's Mental Health Care Ombudsman. In that role, we receive the Critical Incident Reports (CIRs) and the Certificates of Need (CONs) involving serious bodily injury, death, or emergency involuntary procedures for individuals in the care, custody, or temporary custody of the Department of Mental Health (DMH). Individuals at the proposed mental health unit at Southwest Vermont Medical Center (SVMC) would be in the care and custody of the DMH and would therefore be the subjects of any CIRs and CONs coming from that facility, and subsequently reviewed by DRVT. DRVT represents the interests of all persons with disabilities, including those who are subjects of CIRs and CONs.

DRVT in its capacities as both the P&A for the State of Vermont, as well as the designated Mental Health Care Ombudsman, is responsible for monitoring the care and treatment of individuals in segregated psychiatric facilities throughout the state. The proposed 12-bed adolescent mental health facility at SVMC would fall under the purview of our monitoring obligation, and therefor would require us to dedicate funds to that monitoring, again making it a financial and business interest that justifies our involvement as an interested party in this matter.

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In relation to the *Certificate of Need Application Create Inpatient Mental Health Unit for Adolescents at Southwest Vermont Medical Center*, DRVT calls into question the data provided in the *Southwestern Vermont Medical Center Adolescent Mental Health Unit Feasibility Study* dated April 2023, and whether it adequately provides explanation and support to justify the need for an additional facility and 12 more high acuity beds for adolescent psychiatric hospitalization. Currently, Brattleboro Retreat has two adolescent units with 23 beds for individuals aged 12-18. In our work, DRVT has observed that many of those individuals are delayed from being discharged because there is nowhere for them to go in the community due to the lack of short and long-term residential treatment facilities, housing, and other home and community-based services. This lack of step-down services extends the stay of individuals in a more restrictive setting than is necessary for their treatment, and artificially elevates the census at Brattleboro Retreat, as beds that would otherwise be empty, remain occupied awaiting less restrictive options. We understand that there was also a Request for Proposals (RFP) from the DMH, regarding Adolescent Residential Treatment facilities, and that Brattleboro Retreat has submitted a proposal to turn their Linden Lodge building into a secured 15-bed adolescent psychiatric residential treatment facility (PRTF). It appears that Brattleboro Retreat does not intend to reduce their number of adolescent psychiatric hospital beds, to make space for the residential treatment beds.

For several years DRVT has been advocating on an individual basis and on a systemic basis to try to convince the DMH and the State of Vermont to invest in its residents responsibly and humanely, i.e. by providing treatment, care and services in the least restrictive setting possible. Despite our effort and the fact that DMH has a legal obligation pursuant to the *Olmstead v. L.C.*, 527 U.S. 581 (1999) decision and the ADA Title II Integration Regulation, the State and DMH continue to seek approval for more high acuity, segregated, restrictive, institutional facilities without any adequate explanation. DRVT firmly believes that the 9.5 million dollars appropriated for this project would be better utilized by creating short and long-term residential treatment facilities, and community based out-patient programs to provide care for adolescents in the least restrictive setting, as required by law. DRVT is obligated as the P&A to exhaust administrative remedies to ensure that the State complies with the ADA, Vermont Statutes, and *Olmstead* case law to assure that individuals can be cared for in the least restrictive setting, and therefore have an obligation to intervene, as an interested party to this proposal.

For the reasons stated above, we ask that we be included as an interested party and be allowed to participate in the review process. We thank you for your thoughtful consideration of this request.

Sincerely,

Lindsey Owen

Lindsey Owen (Mar 28, 2024 11:28 EDT)

Lindsey Owen
Disability Rights Vermont
Executive Director













Laura Cushman (Mar 28, 2024 11:33 EDT)

Laura Cushman
Disability Rights Vermont
Legal Director

Created:	2024-03-28
By:	Nicole Chicoine (nicole@disabilityrightsvt.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAwp33dl9N388kFLoFLkFsdwd2WOne6EvB

"http://disabilityrightsvt.org" History

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2024-03-28 - 3:27:03 PM GMT
-  Document emailed to Lindsey Babson (lindsey@disabilityrightsvt.org) for signature
2024-03-28 - 3:27:08 PM GMT
-  Document emailed to laura@disabilityrightsvt.org for signature
2024-03-28 - 3:27:08 PM GMT
-  Email viewed by Lindsey Babson (lindsey@disabilityrightsvt.org)
2024-03-28 - 3:27:39 PM GMT
-  Signer Lindsey Babson (lindsey@disabilityrightsvt.org) entered name at signing as Lindsey Owen
2024-03-28 - 3:28:04 PM GMT
-  Document e-signed by Lindsey Owen (lindsey@disabilityrightsvt.org)
Signature Date: 2024-03-28 - 3:28:06 PM GMT - Time Source: server
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2024-03-28 - 3:29:33 PM GMT
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2024-03-28 - 3:33:43 PM GMT
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Signature Date: 2024-03-28 - 3:33:45 PM GMT - Time Source: server
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2024-03-28 - 3:33:45 PM GMT