

YOUR RIGHTS IN THE COMMUNITY AS A VERMONT RESIDENT AS HAVING A MENTAL ILLNESS

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Our mission is to promote the equality, dignity, and self determination of people with disabilities.

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INTRODUCTION

If you are receiving some type of mental health treatment without a court order and/or have been diagnosed as a person with a mental illness, **you do not lose any civil or human rights**. Many people incorrectly believe they lose their rights because of a mental illness diagnosis or because they are temporarily involuntarily held for treatment. This booklet is written to provide you with information so that you can **know, exercise, and protect YOUR RIGHTS!**



Exercising your rights means taking action when you believe you are being treated unfairly by anyone, and doing what is necessary to make sure your rights are respected.

You need to know what your rights are in order to exercise them. **Knowing, exercising, and protecting your rights is essential to self-advocacy.**

- ✱ For example, you should know that you **cannot** be sent against your will to a hospital or other designated facility for a mental health emergency exam **unless you are diagnosed by a qualified medical provider as having a mental illness AND are a danger to yourself or others, OR a court orders you to be evaluated by a physician at a hospital.**
- ✱ Another example of the importance of knowing your rights as a person with a mental health condition is when someone attempts to coerce you into taking medications you do not want or understand. **Unless you are subject to a**

Court Order of Non-Hospitalization, if someone says to you, “Take your medication or you’ll be sent to a designated hospital,” you should know that this cannot be done unless you are diagnosed as a person with a mental illness and as an imminent danger to yourself or others. **Knowing your rights is one of the first steps in self-advocacy.**

This booklet contains a section entitled “Protecting Your Rights” that contains the names and phone numbers of organizations that can help you with self-advocacy if you feel you could use some assistance. **Keep in mind that although you may have been diagnosed as having a mental illness you are not required to seek treatment, to accept treatment, or change how you live.**

If you decide to seek treatment or to accept treatment that is offered, whether in a public or private setting, you do not have to continue with it.

Essentially you are free to live your life like anyone else. Even if you find yourself confined or otherwise restricted as a result of a legal proceeding (for example, committed to a hospital for evaluation), you still retain certain rights.

Although this booklet will give you information about your rights, there is far more to protecting and exercising your rights than is found here.



Go to the **“Protecting Your Rights”** section on **page 34** to find names and numbers of organizations that can help you if you feel you could use some assistance.

This booklet is only one resource, a tool for you to use in your advocacy effort. **It is not intended to be a substitute for legal advice.** When using this book keep in mind that, like all written material, this book contains information that may change and that the people to whom you are expressing your rights may not know or agree with them.

If you believe your rights are being violated and decide you could use some support and assistance with your advocacy, you may want to **contact** one or more of the organizations listed under the “Protecting Your Rights” section.



QUESTIONS TO ASK PROFESSIONALS

- ① Will you work with me to develop a crisis plan?
- ② Do you support the recovery movement?
- ③ Will you honor Advanced Directives?
- ④ Do you educate your patients about the side effects of medications?
- ⑤ What information do you give your patients to make informed decisions?

Ask questions which are relevant to you, to your beliefs, and to your life.

ABOUT SELF-ADVOCACY

Self-advocacy involves helping oneself to access the services, rights, and support systems you choose. **Believing in yourself**, learning all you can about your situation or issue, and deciding what you want to accomplish, are the beginning of **self-advocacy**. It is important that you decide what **your needs** and priorities are and seek out the help and information you can use to support your efforts.

If you decide to get treatment, you can help yourself **by being involved** in creating and carrying out the treatment plan. You can talk to potential doctors and therapists to learn more about how they would handle emergencies, what they know about other options, how they make sure you understand what medications you're taking, and when they might have to send you to a hospital. These are only a few examples of questions you may want to ask. **Ask questions which are important to you.**

Even if you are receiving a form of financial assistance and are being assigned to a psychiatrist or other professional you still **may be able to choose someone else** within the mental health organization. To do this you must know why you want a different professional and state it clearly.

Another way to advocate for yourself is to find out about the **consumer/survivor movement** or to "come out" about your experiences.

There is strength in peer support which can help to end isolation. There are many different peer groups meeting across Vermont. For more information on peer groups and other support contact **Vermont Psychiatric Survivors at (802) 775-6834.**

Another common form of self-advocacy is the process of **filing a grievance** against an individual or organization. If a grievance must be filed, it is important to **do it in writing** and to describe the facts of your complaint directly and clearly. Be sure to **clearly communicate what you want to happen as a result**. If you are grieving against an institution or an organization there may be a formal grievance procedure in place for you to follow. If there is no written grievance procedure you can address your grievance to the supervisor of the individual or group you are grieving against. **Always ask for and keep a copy for your records. If you do not receive a response you may want to seek help.**

At times it is useful to enlist outside advocacy or legal assistance. If you are self-advocating but find yourself blocked or uncertain as to the next step, **Disability Rights Vermont** may be able to help.

TIPS FOR FILING A GRIEVANCE

- 1 Choose whether you want your grievance to be oral or written, or both.
- 2 If you are doing an oral grievance, ask the organization or agency to assist you to put it in writing.
- 3 Clearly describe the facts of your complaint.
- 4 What do you want as an outcome? Example: an apology, new case worker, etc.

Do you need help filing a grievance? Contact the patient advocate of the facility or call **Vermont Psychiatric Survivors at (802) 775-6834.**

Self-advocacy calls for **taking one step at a time.** Even when it feels like things are at a standstill you should push forward and not give up. The following ideas may be helpful to your self-advocacy effort:



1 BELIEVE IN YOURSELF

You are worth the effort it takes to protect your interests and your rights. **You can do it.**

2 UNDERSTAND THAT YOU HAVE RIGHTS

You are entitled to equality under the law. Inform yourself by using resources and asking questions. Insist on clear explanations and remember that service providers should be working **for you.**

3 DISCUSS YOUR CONCERNS

Talk **directly** with your service providers, and if you choose, bring along people you trust for support.

4 GET THE FACTS

Get the facts in writing and problem solve by **being informed.** Ask for written policies or regulations and hold agencies accountable for the decisions they make.

5 USE THE CHAIN OF COMMAND

Make sure that a supervisor or someone else with authority has a chance to work with you on the problem and resolution.



Warning: Do not let the chain of command become an excuse for frustrating your attempts to be treated fairly!

6 KNOW YOUR APPEAL RIGHTS

If your grievance is not resolved to your satisfaction, consider filing **an appeal** of that decision within and outside the agency.

7 BE ASSERTIVE AND PERSISTENT

Keep after what you want and **follow up**. Do not be intimidated.

8 USE YOUR COMMUNICATION SKILLS

Have a plan that clearly lists your concerns. **Stay calm** and express yourself clearly. **Be a listener** because what you hear may be significant.

9 ASK FOR HELP AND OBTAIN INFORMATION

Link up with advocacy organizations such as **Disability Rights Vermont** or **Vermont Psychiatric Survivors** for rights information and support. These organizations can be your tools. Use them.

10 FOLLOW UP

Agencies are accountable for their decisions. **Do not give up**. You are entitled to know and exercise all your options.



"Where, after all, do universal human rights begin? In small places, close to home - so close and so small that they cannot be seen on any maps of the world. ... Such are the places where every man, woman and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere."

- Eleanor Roosevelt

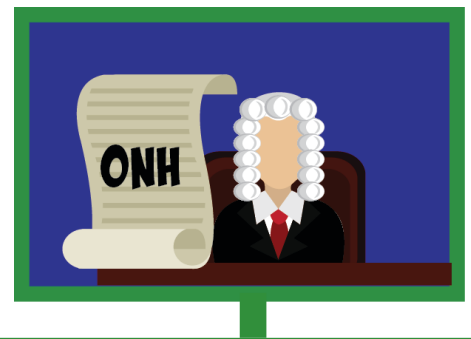
YOUR RIGHTS IN THE COMMUNITY

NON-EMERGENCY INVOLUNTARY TREATMENT

When you are living in the community a person can file a petition in the local Superior Court, Family Unit to have you treated involuntarily.

You will not be required to accept treatment **unless** the court finds that there is a very real possibility **you have a significant mental illness and will seriously harm yourself or someone else** if the court does not require you to be evaluated and treated. These cases are handled by the Vermont Attorney General's office.

If the State does not prove its case, the court cannot order treatment and is required to dismiss the request. When the State proves its case, the court can order you to accept hospitalization or outpatient treatment (this is called an **Order of Non-Hospitalization, or ONH**).



An Order of Non-Hospitalization (ONH) is a legal order from a court that requires someone with a serious mental illness to follow certain treatment rules while living outside of a hospital. If they don't follow the rules, they could be sent to (or back) to the hospital. The goal is to help them stay stable while also respecting their right to make decisions for themselves.

An ONH places the individual in the custody of the Commissioner of the Department of Mental Health (DMH). DMH assigns a Designated Agency or Specialized Service Agency to provide necessary supports and treatment.

You have the same rights at a hearing to have you placed on an Order of Non-Hospitalization as you would at a hearing to have you treated in a hospital. Those rights include: the right to adequate notice, appointed counsel, witnesses, cross-examination of the State's witnesses, testimony on your own behalf, and written findings and conclusions.

If you are accused of violating the conditions of your court order for outpatient treatment (an ONH) you are entitled to another hearing before you may be placed in a more restrictive setting.

At the hearing **the court can:**

- Dismiss the order
- Change the conditions of your order
- Order your admission to a designated hospital or another designated facility until the order expires.

If treatment providers think you have a mental illness and are an immediate threat to harm yourself or others, they can use a different legal approach to have you hospitalized, called an **Application for Emergency Examination**.

You should be released from custody and involuntary treatment when the order ends. However, if the State files for Continued Treatment **before** the original order expires and the court **approves the renewal and issues another**, you will not be released.

REFUSING MEDICATION & TREATMENT IN THE COMMUNITY

You may not be medicated in the community against your will without a court order. Even if you are on an Order of Non-Hospitalization for treatment that includes medication, it is against the law to hold you down and medicate you.

If you refuse medication while on an Order of Non-Hospitalization, the mental health provider **must** request a court order for your medication to be continued and you to be hospitalized if necessary to implement the court's medication order.

If you are not committed to a designated hospital or another designated facility, **you may not be treated against your will without a court order.**

If an involuntary treatment application is filed, you are entitled to **a hearing with full due process rights**, including the right to adequate notice, appointed counsel, witnesses, cross-examination of the State's witnesses, testimony on your own behalf, and written findings and conclusions. Once the application is received by the court, the hearing is supposed to be scheduled within 10 days, or 20 days when a psychiatric examination has been ordered as well.

Contact one or more of the organizations listed in this booklet to discuss issues of involuntary treatment so you will be prepared should you face this type of situation. If you are involved in this situation, you may wish to call Vermont Legal Aid's Mental Health Law Project, and/or Disability Rights Vermont.

GUARDIANSHIP

You or any responsible adult with a direct interest in you, such as a relative, friend, or physician, can file a **petition for appointment of a legal guardian**.

The petition is filed with a Probate Unit of your local Superior Court and asks that the court determine your competence to make decisions in specific areas of your life. This means that the court is being asked if they believe that you are able to make decisions for yourself. If the court decides you can't manage personal, medical, or financial matters, they will appoint a guardian to make decisions for you.

Should the court decide that you are capable of managing **some aspects of your personal, medical or financial affairs, but not all**, a "limited guardian" will be appointed. A guardian might be appointed to oversee your medical care, or your finances, for example.

Any competent individual, at least 18 years of age, which the court finds best qualified, **can** be appointed as your guardian. But if you reside in a residential care home, employees or operators of the home cannot be appointed your guardian. As you will see below, **you may legally oppose the appointment of any guardian** if you do not feel you need one and **you may oppose the appointment of a particular person as guardian**. Courts almost always prefer to appoint a person you feel most comfortable with as guardian, unless there are important reasons not to.

When a guardianship petition is filed **you have the right to legal representation**. The court must inform you of where you can get legal representation if you cannot afford it.

You have the right to review the petitions and relevant documents with your lawyer and get information about the hearing.

You have the right to have the hearing conducted in a safe setting which will not harm your mental or physical health, to testify on your own behalf, to introduce evidence, and to present your witnesses and cross-examine any opposing witnesses.

You have the right to appeal the court's decision.

Should the court appoint a limited or total guardian, **you retain all legal and civil rights except those specifically granted to the guardian.** Any action taken by a guardian on your behalf must be in a manner which **is least restrictive of your personal freedom.** An appointed guardian **does not have** the authority to have you placed in a designated hospital or another designated facility, or residential care home, without following the same procedure that any other interested party would have to follow.

If you are admitted to a designated hospital, or another designated facility, your guardian will be notified.

Should the court decide that you are not in need of a guardian, the petition will be dismissed and all records of the proceeding will be sealed.

Guardian Ad Litem

If you become involved in a court action and your ability to communicate your own best interests is called into question, the court can appoint a guardian ad litem for you. A guardian ad litem ("guardian for the litigation") is a volunteer appointed by the Probate Judge **to promote and protect your best interests.** This person only acts on your

behalf during the proceeding and may be asked by the court to provide their opinion as to what outcome would be best for you.

An inability to communicate effectively might be the result of a physical condition (e.g., Alzheimer's disease, traumatic injury) or certain phases of mental illness (e.g., psychotic episode, disorientation as a result of acute depression). **The guardian ad litem's duty is to act as an independent advisor and advocate in order to safeguard your best interests and legal rights.** Anyone involved with the case may inquire into your ability to communicate--a judge, you, your lawyer, or another party to the action.

Before a court may appoint a guardian ad litem in your case, **it must find that you are not competent to advocate in your own best interest.** You have the right to request the appointment of a guardian ad litem and you also have the right to contest a court's proposed appointment. The mere fact that you may have been diagnosed as having a mental health condition or a developmental disability or that you may be institutionalized **does not mean that you are so unable to communicate** that a guardian ad litem should be appointed for you. If you think you do not need a guardian ad litem, tell your attorney and tell the court. You may have to do some convincing. Even after an appointment you may protest and, if your guardian ad litem disagrees with you, she or he has a duty to make that belief known to the court. **It is important to remember that it is the court's duty to permit you the maximum freedom consistent with your abilities, throughout any legal proceedings.**

Representative Payee

If you are receiving Social Security benefits (SSDI or SSI), and Social Security officials believe that you are incapable of properly maintaining your finances, **a representative payee may be appointed.** A representative payee is usually a friend or relative

appointed to manage your financial affairs. **Representative payees must account for all expenditures made on your behalf to the Social Security Administration and to you.**

Application for appointment of a representative payee is made through the Social Security office. Normally your physician would submit a statement that you are incapable of managing your financial affairs although it is not legally necessary.

If a representative payee is appointed and you notify Social Security that you do not feel you need one, Social Security may request an evaluation from your current doctor to determine if you are capable of managing your own finances. **You may also request that a different payee be appointed if you do not believe your finances are being properly maintained by your present payee.** If you have a payee, but decide you no longer want one, **you may apply to the Social Security Administration to be your own payee.** The simplest way to accomplish this is to obtain written confirmation (on an official SSA form) from a doctor that you no longer need a representative payee.



If you have questions or concerns about your representative payee, you can contact:

Social Security Fraud Reporting Line at 1-800-269-0971.

Disability Rights Vermont at 1-800-834-7890

ADVANCE DIRECTIVES FOR HEALTHCARE

An Advance Directive (AD) is an important **legal document** that allows someone to express their healthcare preferences in case they become unable to make decisions. **You may appoint your own agent** to make health decisions for you and, with or without an agent appointed, an AD allows you to give other instructions in advance regarding treatment, end-of-life care and the disposition of remains.

If you choose an agent - remember to choose carefully - discuss your preferences with that person. When you sit down to discuss and write out your AD, making either a video or audio tape of the proceedings is a good idea. An AD can include advance instruction on a wide range of issues, from medication preferences to whom to assign temporary guardianship of your children.

During periods of incapacity, when a doctor determines you are not able to make healthcare decisions, the decisions made by your Agent shall be based on your express instructions, wishes, or beliefs as written in the Advance Directive. Any adult with capacity (except those for whom a guardian has been appointed) may execute an Advance Directive.

The meaning of **capacity**, per statute, is **“the ability to make and communicate a decision regarding the issue that needs to be decided.”** Capacity is determined by your clinician (physician, physician’s assistant, advance practice registered nurse). Your clinician will base their capacity determination on whether you have a basic understanding of the diagnosed condition and the benefit, risks, and alternatives to the proposed health care.

In order to appoint an agent you must have a basic understanding of what it means to have someone else make health care decisions for you, who would be an appropriate person to make those decisions, and then name that person as the person you want to make health care decisions for you.

It is important to note that a person with capacity can execute an Advance Directive even without naming an Agent with the exception of a section entitled “Waiver of Right of Request or Object to Treatment in the Future” aka the “Ulysses Clause.”

Ulysses Clause

A Ulysses Clause is a special power that waives your right to request or object to a specific type of treatment in the future.



Why include a Ulysses Clause?

There may be situations in which you might be objecting to or requesting treatment but would then want your objections or requests to be disregarded. If you have had treatment in the past that scares you or is uncomfortable or painful you may be likely to say “no” when it is offered in a future health crisis. Still, you may know that this is the only way for you to come through a bad time or even survive. You understand that it is necessary and you would want it again if you had to have it. This Section will help you let your agent and others know what you really want for yourself when you have capacity to make those decisions.

It may be used by individuals who want their response to a certain type of treatment in the future to be disregarded or ignored when that type of treatment is offered.

It only goes into effect after **two clinicians have determined that you lack capacity, and it cannot be revoked unless you have capacity.**

To include a Ulysses Clause, you must appoint an Agent. You can specify what treatments you are allowing your Agent to consent to or to refuse over your objection. You can state that you either **DO or DO NOT desire the specified treatment even over your objection** at the time it is offered. Have your Agent agree in writing to accept responsibility to act **OVER YOUR OBJECTION.**

You can have your physician, osteopathic doctor, advance practice registered nurse, or physician's assistant affirm in writing that you appeared to understand the benefits, risks, and alternatives to the proposed health care being authorized or rejected by you in this provision. You can also have a mental health patient representative, an ombudsman, an attorney licensed to practice in Vermont, or a Probate Court designee affirm in writing that he/she has explained the nature and effect of this provision to you and that you appeared to understand this explanation and are free from duress or undue influence by others.

Why have an Advance Directive?

To sum up, in an Advance Directive, you may:

- 1 **Appoint one or more Agents and Alternative Agents** that you give authority to make health care decisions for you and what those decisions may be.
- 2 **Specify a circumstance or condition**, which may be unrelated to your capacity, which, when met, **makes the authority of an agent effective.**

- 3 **Direct the type of health care desired or not desired**, which may include specific treatments that you desire or reject when being treated for a mental or physical condition.
- 4 **Execute the Ulysses Clause provision** which permits the agent to authorize or withhold health care over your own objection in the event you lack capacity.
- 5 **Direct** which **life-sustaining treatments** are desired or not desired.
- 6 **Identify** those **persons** whom you do not want to serve as your decision-maker, the people who shall or shall not be consulted or to whom information shall not be shared regarding your health care.
- 7 **Authorize the release of health care information** to named individuals in addition to the agent, pursuant to HIPAA (the federal law that regulates the confidentiality of medical records).

Form and Execution

An adult with capacity **may execute** an Advance Directive at any time and an adult with or without capacity **may suspend** all or any part of their Advance Directive at any time, with the exception of the Ulysses Clause.

In order to legally execute an Advance Directive, **it has to be signed and dated** by you or by another person in your presence and under your express direction if physically unable to sign. It must be signed in the presence of **2 or more witnesses at least age 18 years old** who cannot be a spouse, reciprocal beneficiary, parent, sibling, child, or grandchild. They must sign and affirm that you appeared to understand the nature

of the document and that you were free from duress or undue influence at the time the Advance Directive was signed.

If you are **being admitted to or are a patient or resident in a hospital**, nursing home, or residential care home, in addition to the two witnesses already needed, your rights **must be explained to you by a qualified individual** who must sign a statement affirming that he or she has explained the nature and effect of the AD to you and that you appear to understand this. This person may be one of the following:

- An ombudsman
- A recognized member of the clergy
- An attorney licensed to practice in this State
- A Probate Division of the Superior Court designee;
- A hospital explainer
- A mental health patient representative
- A facility designated qualified "volunteer"
- A clinician, as long as the clinician is not employed by the nursing home or residential care facility at the time of the explanation.

Please feel free to contact **Disability Rights Vermont** with any questions or if you would like assistance to execute your own Advance Directive for Health Care.






Do you have a disability and need help with your Advance Directive?

call **Disability Rights Vermont** at **1-800-834-7890**

SUMMARY OF RESIDENTS' RIGHTS IN RESIDENTIAL CARE HOMES

State regulations govern the operation of residential care homes and **are enforced by the Vermont Department of Aging and Disabilities, Division of Licensing & Protection**. Resident rights are included in the regulations. The regulations are subject to change but your basic rights will essentially remain intact even after revision of the regulations. Contact the Division of Licensing and Protection for up-to-date information with respect to your rights at a residential care home or nursing home.

When you live in a residential care home you do not lose any of your civil or human rights.

-  **You have the right to be treated with consideration, respect and dignity, and you have the right to privacy.** Your personal needs must be attended to with discretion. Your personal needs may include such things as a special diet or reasonable accommodations that make the home accessible for you.
-  **You have the right to be protected from abuse, both physical and mental.** You also have the right to refuse any medication or physical restraints, unless it is ordered by a court or authorized by a doctor. Physical or chemical restraints cannot be used as a form of punishment or for the convenience of others. If restraints are used, there are specific procedures that must be followed and a doctor must be involved in the decision-making process.
-  **You have the right to choose your own doctor,** and you can get a second opinion if you wish. You should be informed about your medical condition and

involved in planning your treatment. You should not be forced to participate in any medical research or experiments.



You have the right to refuse care or treatment; this includes the right to discharge yourself from the facility. Your medical records must be treated confidentially and you may refuse or approve their release to anyone outside of the facility.



You have the right to receive a written notice, either prior to or at the time of admission, **that explains the available services and their corresponding charges.** If there are any changes to the rates, you must be given a written notice at least 30 days in advance. You should also receive written information about your eligibility for Medicaid and Medicare and what services are covered by these programs. If you have difficulty understanding the language, reasonable accommodations must be provided to ensure that you receive this information.



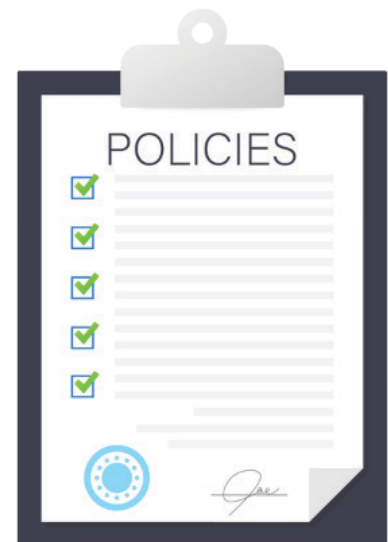
You have the right to receive a written notice at least 30 days in advance if you are going to be evicted or discharged from the residential care home, except in cases where you fail to pay rent, in which case you must receive a 14-day notice. The 30-day notice must include an entire rental period, and this rule does not apply to discharges resulting from a change in the level of care you require. However, you can be evicted or discharged immediately in emergency situations involving the Licensing Agency or for medical reasons authorized by your physician and agreed upon by you. If you are going to be moved within the facility, you have the right to a 72-hour notice. Other than these specific rights, your rights as a tenant are the same as any other tenant, and are governed by Vermont's landlord-tenant law.

- ✱ **You have the right to keep your personal clothes and belongings** as long as there is enough space, but you cannot keep things that would be a safety risk or infringe on others' rights.
- ✱ **You have the right to refuse to perform work without pay for the care home operator.** If you choose to perform specific tasks that others would be paid to perform, you must receive reasonable compensation. Minimum wage as of this writing in Vermont is \$13.18 an hour. You can volunteer to help out at the home but cannot be required to do so.
- ✱ **You have the right to have visitors within reasonable visiting hours** which should be posted and available to everyone. Your spouse may visit and you must be provided with a private place to meet. If you and your spouse both live in the facility, you have the right to share a room. You have the right to organize family or resident councils and to meet in privacy with staff attending only upon request.
- ✱ **You have the right to associate, communicate and meet privately** with persons of your choosing, and the right to participate in social, religious, or community activities of your choice.
- ✱ **You have the right to send and receive personal mail** unopened and uncensored, including any SSA checks you may be receiving.
- ✱ **You have the right to use the home's telephone**, unless there are excessive toll charges or you abuse the right (such as obscene or threatening calls). If there are restrictions on telephone use, they must be explained in writing. You can also have a personal telephone in your own room at your own expense.

- ★ **You have the right to complain or voice a grievance** without interference, coercion or punishment. You have the right to review current and past state and federal survey and inspection reports of the facility and to receive a copy of such reports upon request.
- ★ **You have the right to handle your own finances.** The care home operator can only manage your finances if you give them a written request, and they must provide you with a quarterly report of your financial transactions. You can cancel the request at any time. Sometimes, you may be asked to sign such a request as a condition of living in the care home. If you don't want to give up this right and your refusal is not being respected, you can contact an advocacy organization for help.

Each home **must have an established written policy regarding the rights and responsibilities of residents**, which must be presented to you prior to or at the time of your admission, in a language you can understand. The home must adhere to its policy.

Each home **must have an established grievance procedure** available to all residents. The resident grievance procedure must include an explanation of how a resident filing a complaint will be made aware of the Vermont Long Term Care Ombudsman Program and Disability Rights Vermont, and that these agencies may be contacted as an alternative or in addition to the home's grievance mechanism.



You have the right to return to the first available bed in the facility after being discharged from a hospital provided the facility can meet your medical needs and other residents will not be adversely affected. The facility must hold your bed for at least ten (10) days if you are hospitalized.

If you have questions about your rights in a residential care home or feel like your rights have been violated call:

Contact the **Division of Licensing and Protection** at **802-241-0480**

or

Contact the **Long Term Care Ombudsman** at **800-889-2047** (part of Vermont Legal Aid)



AMERICANS WITH DISABILITIES ACT OF 1990

The federal **Americans with Disabilities Act** provides civil rights protection for people with disabilities with regard to **employment, public accommodations, transportation, state and local government services** and **telecommunications**.

Employment

Employers may not discriminate against an individual with a disability who is otherwise qualified for the job. Employers **can ask** about your ability to perform a job but **cannot ask** if you have a disability nor can they subject you to tests which screen out people with disabilities. They must provide a “**reasonable accommodation**” such as modified schedules, special equipment, job restructuring and other aids to people with disabilities so long as these accommodations do not create a “fundamental alteration” or an “undue hardship” for the employer.

You can bring **complaints of employment discrimination** to the Civil Rights Unit of the Vermont Attorney General's office, the federal Equal Employment Opportunity Commission, or a private attorney. Remedies include back pay, court orders to stop the discrimination, and legal fees.

Public Accommodations

Any public service such as a hotel, restaurant, store, bank, doctor's office, school or day care, may not discriminate against a person with a disability. **Reasonable changes** in policy, practice and procedure must be made, as well as provision of auxiliary aids or services in order to avoid discrimination, unless an “undue burden” would result.

Physical barriers must be removed or alternative methods of providing service must be offered if readily achievable. New construction and alterations to facilities must be accessible. You may bring a private lawsuit to stop public accommodation discrimination, or you can **file a complaint** with the U.S. Attorney General or with the Vermont Human Rights Commission.

Transportation

You must be provided with comparable transportation services if you cannot use fixed route bus services, unless an “undue burden” would result. New buses ordered after August 26, 1990 must be accessible. All trains must have one accessible car per train by August 26, 1995. You may **file complaints** regarding inaccessible transportation with the Department of Transportation, the U.S. Attorney General’s office, the Vermont Human Rights Commission, or bring a private lawsuit.

State and Local Governments

All government facilities, services and communications have to be accessible. You may **file complaints** regarding access to governmental services with the U.S. Attorney General’s office, the Vermont Human Rights Commission, or bring a private lawsuit.

Telecommunications

Telephone companies must offer telephone relay services to people using telecommunication devices for the deaf (TDDs) or similar devices. You may **file a complaint** with the Federal Communications Commission, or bring a private lawsuit.

State Laws

There are also state laws that provide protection for people with disabilities with regard

to employment and public accommodations. If you feel you have been discriminated against because of your disability, or perceived disability, you can **file a complaint** with the Civil Rights Division of the Vermont Attorney General's Office, or Vermont's Human Rights Commission listed under "Protecting Your Rights."



ADA Compliant

If you have questions or if you feel your rights under the Americans with Disabilities Act are being violated you can call:

Disability Rights Vermont at 1-800-834-7890

Civil Rights Unit of the VT Attorney General's Office at 802-828-3657 (employment)

Vermont Human Rights Commission at 1-800-416-2010 (housing, public accommodations and state employment)

Department of Justice, Civil Rights Div. at 202-514-4609

Equal Employment Opportunity Commission at 1-800-669-4000 (employment)

Americans with Disabilities Act hotline at 1-800-949-4232

American Civil Liberties Union Vermont (ACLU) at 802-223-6304 (constitutional rights issues of all citizens)

Vermont Center for Independent Living at 802-229-0501 (peer advocacy for accessibility concerns)

THE FAIR HOUSING AMENDMENTS ACT OF 1988

The Fair Housing Amendments Act (FHAA) guarantees that individuals with disabilities (which include psychiatric as well as physical disabilities) have **the right to housing on the same basis as anyone else who applies for rental or home ownership**.

When you apply for housing you can only be asked questions that are related to the tenancy and you must be asked the same questions as any other applicant.

You cannot be denied housing because of a physical disability if you can be reasonably accommodated. **“Reasonably accommodated”** means, for example, the addition of ramps, wider doors for wheel chairs, and grab bars in bathrooms and showers. You may have to pay for these additions but you cannot be denied housing because they don’t exist when you apply for housing.

Once you have applied for rental housing or home ownership, your lease and/or mortgage **must be the same as those available to non-disabled persons**. In other words, the landlord cannot add special conditions because of your disability.

You cannot be evicted except under the same terms and conditions as other tenants. If your tenancy would constitute a threat to health, safety or property, you may be evicted. However, if the risk can be reduced or eliminated by reasonable accommodation, this must be done.

You should know that the FHAA defines disability in terms of real or perceived disability or a history of treatment for a disability. Even if at the time you apply for housing you are

no longer disabled but the landlord learns you had been at one time in a designated hospital or another designated facility, this information cannot be used to deny you housing. So long as you can meet the tenancy requirements applied to all tenants you have a right to that housing.



If you have questions about the **FHAA** or feel that you have been discriminated against call:

**Housing Discrimination Law Project of Vermont Legal Aid at
1-800-889-2047**

Vermont Human Rights Commission at 1-800-416-2010

HOUSING CONTINGENCY FUND

In an effort to ensure that former hospital patients have access to adequate housing, in 1988 the Department of Mental Health established a housing contingency fund. Every community mental health center has funds that are specifically for clients of the Agency of Human Services Department of Mental Health who need assistance with housing, temporary rental assistance, and.



These funds can be used in several ways:

- ✱ To pay a security deposit
- ✱ To pay the difference between the actual rent and the amount you can pay
- ✱ To pay the share of the rent a roommate would normally pay after they have moved out and while you are looking for a new roommate
- ✱ To pay rent to keep your apartment while you are in a hospital or crisis treatment program

If you have any questions regarding your eligibility for these funds, or have been denied requested assistance by your local community mental health agency, contact the Department of Mental Health at 1-888-212-4677.

ABOUT DISABILITY RIGHTS VERMONT

Disability Rights Vermont, or DRVT, is an organization that helps people with disabilities protect their rights. It's part of a bigger group of organizations called the Protection and Advocacy System set up by the US Congress to make sure that people with disabilities have access to legal advocacy to protect their rights. DRVT helps people with all kinds of disabilities, including mental health, developmental, and physical disabilities.



DRVT is **an independent, non-profit legal organization** dedicated to responding to legal problems, issues, and complaints brought to it by people with disabilities. DRVT is client centered, and directed by a Board of Directors. DRVT's mission is to promote the equality, dignity, and self-determination of people with disabilities. DRVT is the designated Mental Health Care Ombudsman for the State of Vermont which allows DRVT to provide information, advice, and advocacy to people who are voluntarily admitted to inpatient facilities or to those who are held on an involuntary 72-hour hold as part of an Emergency Examination.



DRVT provides advocacy assistance to individuals, including legal assistance, to people throughout the state. DRVT also works to make sure that the laws and systems in place are fair to people with disabilities. They do this by talking to and educating lawmakers and other people in charge.

Although there are limits to what DRVT can provide, as well as eligibility criteria people need to meet to obtain assistance, DRVT staff try to help people who are not eligible for DRVT's services by offering information and referrals when possible.



DRVT also provides information to people regarding their rights, such as this booklet, as well as outreach and education activities intended to assist people with their self-advocacy efforts.

If you are in an abusive situation, believe that your rights are being violated, or know someone with this type of problem, you should consider contacting **Disability Rights Vermont** by calling **1-800-834-7890**.

PROTECTING YOUR RIGHTS - RESOURCES

If you are experiencing any difficulty with your treatment, and/or treatment providers, you have the right to protect yourself through grievance procedures within each mental health service program.

You have the right to access and communicate privately with any rights protection service or advocacy group. The following list includes several organizations that may be helpful to you.



INFORMATION & REFERRAL

Vermont 2-1-1

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Health and human services information and referral services

Governor's Information & Referral Line

802-828-3333

Information and referral for State agencies

Americans with Disabilities Act

1-800-949-4232

General ADA Information



LEGAL RESOURCES

Disability Rights Vermont

802-229-1355 or
1-800-834-7890

Advocacy for people diagnosed with a mental illness or individuals with a disability, responding to complaints of abuse, neglect and violation of civil rights

Have Justice Will Travel

802-685-7809 or
1-877-496-8100

Family court/domestic violence

Mental Health Law Project

802-241-3222 or
1-800-265-0660

Involuntary mental health treatment and/or medication cases, both in hospitals and in outpatient settings

Prisoner's Rights Office

802-828-3194

Legal services and rights protection for people in prison

South Royalton Legal Clinic

802-241-3222 or
1-800-265-0660

Income-based free legal services statewide for immigration cases; other representation is generally limited to Orange, Windsor and Washington counties, or by court appointment.

Vermont Legal Aid

802-863-5620 or
1-800-889-2047

Income-based free legal services in non-criminal matters, most offices staff the Elder Law Project, the Disability Law Project and the Poverty Law Project

Vermont Bar Association Lawyer Referral Service

1-800-639-7036

Legal referrals. Offers 30 minute consultations for \$25



ADVOCACY SERVICES

Community of Vermont Elders (COVE)

802-229-4731 or
1-888-865-2683

Senior citizen advocacy organization that does community organizing, lobbying, and provides public education on health care, affordable medication, long-term care, utilities, and nursing home issues

Client Assistance Program

1-800-889-2047

Vocational rehabilitation client advocacy

Deaf Victims Advocacy Services

1-802-461-4707 (voice)
(802) 249 0345 (text)

Advocacy and support for deaf persons who are victims of crimes

Friends of Recovery

1-800-769-2798

Recovery from drug and alcohol addiction

Green Mountain Self Advocates

1-800-564-9990

Self-advocacy group for people with developmental disabilities

National Alliance on Mental Illness

**802-876-7949 or
1-800-639-6480**

Support, education and advocacy for families, friends and individuals with serious mental illness

Pathways Vermont

1-888-492-8218

Mission to provide access to services and resources that are human-centered and support diverse roads to wellness. Programs include: Housing First, Peer run community center, Support line.

Vermont Association for Mental Health and Addiction Recovery

802-223-6263

Connects individuals with mental health or substance abuse issues to information and resources accessing quality counseling services in Vermont.

Vermont Center for Independent Living

**802-229-0501 or
1-800-639-1522**

Peer advocacy for people with disabilities

Vermont Coalition for Disability Rights

via VCIL 802-229-0501

A coalition of disability rights organizations advocating public policy and legislation pertinent to people with disabilities

Vermont Psychiatric Survivors

802-775-6834

Peer support, assistance, information and referral for people with a mental health diagnosis.



INVESTIGATIVE & PROTECTIVE SERVICES

Adult Protective Services (APS)

802-241-0480 or
1-800-564-1612

Investigates abuse, neglect or exploitation of elders and people with disabilities

Deaf Victims Advocacy Services

1-802-461-4707 (voice)
(802) 249 0345 (text)

Advocacy and support for deaf persons who are victims of crimes

Division of Licensing and Protection

802-241-0480

Investigates complaints of abuse, neglect or exploitation of vulnerable adults in hospitals, residential care homes, nursing homes and other licensed facilities

Long Term Health Care Ombudsman

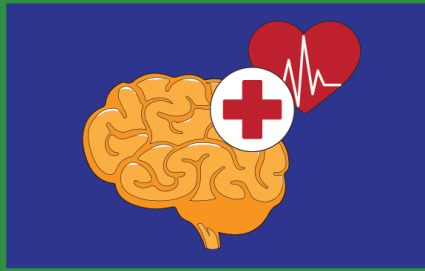
1-800-889-2047

Complaint investigation and assistance for people living in nursing homes or community care homes (part of Vermont Legal Aid)

VT Dept. of Children and Families

1-800-649-5285

Complaint investigation of abuse, neglect or exploitation of children



DESIGNATED MENTAL HEALTH AGENCIES

Counseling Services of Addison County 802-388-6751

Addison County

**United Counseling Service of Bennington
County** 802-442-5491

Bennington County

Howard Center for Human Services 802-488-6000

Chittenden County

Northeast Kingdom Human Services, Inc. 1-800-649-0118

Caledonia, Essex & Orleans Counties

**Northwestern Counseling & Support
Services** 1-800-834-7793

Franklin & Grand Isle Counties

Lamoille County Mental Health Services 802-888-5026

Lamoille County

Clara Martin Center - Randolph

802-728-4466

Orange County

Rutland Mental Health Services

802-775-2381

Rutland County

Washington County Mental Health Services

802-229-0591

Washington County

Health Care & Rehabilitation Services

802-886-4500

Windham & Windsor Counties

Vermont Center for Independent Living

**802-229-0501 or
1-800-639-1522**

Peer advocacy for people with disabilities



DISCRIMINATION

American Civil Liberties Union Vermont

802-223-6304

Addresses constitutional rights issues of all citizens

Attorney General - Civil Rights Unit

802-828 -3657 or
1-888-745-9195

Investigates discrimination in employment

Department of Justice - Civil Rights Division

202-514-4609

ADA Requirements Affecting Public Accommodations and State and Local Government Services

Equal Employment Opportunity Comm.

1-800-669-4000

Investigates discrimination in employment

PABSS at Disability Rights Vermont

1-800-834-7890

Assistance for people with disabilities who are receiving social security benefits and who are currently employed or thinking about working

Vermont Human Rights Commission

1-800-416-2010

Investigates complaints of discrimination regarding housing, public accommodations and state employment

Vermont Legal Aid - Housing

1-800-889-2047

Housing Discrimination Law Project (HDLP) works to stop housing discrimination and to protect Vermonters' right to choose where they live

Vermont Tenants

802-864-0099

Housing discriminations and accommodations



DROP-IN CENTERS & CLUBHOUSES

Another Way

802-229-0920

Montpelier Drop in Center

Evergreen House

802-388-3468

Clubhouse in Middlebury providing recovery and wellness services.

Our Place

802-463-2217

Bellows Falls Drop In Center and Community Kitchen

Pathways Community Center

1-888-492-8218

Burlington Drop In Center

Westview House

802-488-6023

Burlington Drop In Center



HEALTHCARE ISSUES

Office of the Health Care Advocate

1-800-917-7787

Health insurance questions and complaints

Office of Professional Regulation

802-828-1505 or
1-800-439-8683

Complaints against Psychologists, Mental Health Counselors, Dentists, Doctors of Osteopathy, Optometrists, Physical Therapists, Social Workers, Nurses, and Chiropractors

Vermont Board of Medical Practices

802-657-4220

Complaints against any Licensed Physicians, Psychiatrists, Physicians Assistants, Podiatrists



CHILDREN & FAMILIES

Vermont Communication Support Project

802-636-7229 or
1-888-686-8277

Communication assistance in family & civil court proceedings / state meetings for people with disabilities

Vermont Department of Children and Families - Economic Services

1-800-479-6151

Provides monthly cash assistance to low-income households in which a person's care or services are essential to an elderly or disabled person's remaining in their home.

Vermont Family Network

1-800-800-4005

Special education information and assistance for families

Vermont Federation for Families for Children's Mental Health

1-800-639-6071

Peer support for families and children

Prevent Child Abuse Vermont

1-802-229-5724

Education and support for families



STATE AGENCIES AND SERVICES

Office of the Attorney General

802-828-3171

Consumer and small business help, environmental protection and civil rights

Vermont Agency of Human Services

802-241-0430

Umbrella organization for all human service activities within state government

Vermont Department of Disabilities, Aging and Independent Living

802-241-2401

Provides programs and services for older Vermonters, people with developmental disabilities, and people with physical disabilities to help them maintain their dignity and independence.

Vermont Department of Mental Health

802-241-0430

Governs the designated hospitals, and regional mental health agencies and various programs

Vermont Developmental Disabilities Council

802-828-1310 or
1-888-317-2006

Statewide board that identifies and addresses critical issues affecting people with developmental disabilities and their families.

Vermont Health Department

802-863-7200

The state's lead agency for public health policy and advocacy



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