

1 VERMONT MEDICAL SOCIETY RESOLUTION - PROPOSED

2  
3 Codifying Medical Civil Rights for Vermonters  
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6 WHEREAS, there is no current legal requirement in Vermont that ensures individuals  
7 have access to necessary healthcare during the first 72 hours of arrest and detainment and  
8 while being held in police custody; and  
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10 WHEREAS, Vermont's current Use of Force policy does not create an affirmative duty for  
11 officers to ensure an individual's access to care if an emergent health care situation arises,  
12 creating a legal gap in rights; and  
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14 WHEREAS, disputes over excessive use of force during police arrests have occurred in  
15 Vermont, most recently exemplified by the Chittenden County State Attorney's request to charge  
16 a Shelburne police officer with simple assault;<sup>1</sup> and  
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18 WHEREAS, there is evidence nationwide that individuals of racial and ethnic minorities are  
19 stopped more by the police and experience higher rates of physical force from police<sup>2</sup> and are  
20 denied care while in police custody more often than white individuals; and  
21

22 WHEREAS, there have been cases of police denying people in custody necessary medical care,  
23 disproportionately people of color, leading to serious clinical sequelae or their death –  
24 exemplified by the case of Freddie Gray in Baltimore in 2015,<sup>3</sup> Andrew Kears in Schenectady  
25 in 2017,<sup>4</sup> Tori Carter in Detroit in 2005,<sup>5</sup> and George Floyd in Minneapolis in 2020;<sup>6</sup> and  
26

27 WHEREAS, racial and ethnic minorities are provided lower quality healthcare when compared  
28 to white individuals, for example, black individuals are more likely to be discharged earlier from  
29 hospitals following medical treatment, are less likely to be offered newer treatment options,<sup>7</sup>  
30 and are more likely to receive less desirable treatments,<sup>8</sup> and  
31

32 WHEREAS, the Vermont Statute for Supervision of Adult Inmates at the Correctional  
33 Facilities grants incarcerated individuals the right to continue their prescribed medication  
34 regimen, a screening for substance use disorder and ensures that the incarcerated individuals  
35 receive medically necessary treatment in order to prevent the onset and worsening of a health  
36 condition and achieve proper growth,<sup>9</sup> but these rights are not currently extended to  
37 individuals in police custody; and  
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39 WHEREAS, codifying the right for individuals in custody to access necessary medicine to  
40 manage chronic conditions and/or to treat any injuries, medical episodes or mental health crises

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<sup>1</sup> <https://vtddigger.org/2022/08/25/sarah-george-and-state-police-disagree-over-whether-to-charge-shelburne-police-officer/>

<sup>2</sup> [https://www.americanbar.org/groups/crsj/publications/human\\_rights\\_magazine\\_home/the-state-of-healthcare-in-the-united-states/racial-disparities-in-health-care/](https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/the-state-of-healthcare-in-the-united-states/racial-disparities-in-health-care/)

<sup>3</sup> <https://www.baltimoresun.com/news/investigations/bs-md-gray-jail-rejections-20150509-story.html>

<sup>4</sup> [https://www.warren.senate.gov/imo/media/doc/Andrew%20Kearse%20Act%20One%20Pager\\_final.pdf](https://www.warren.senate.gov/imo/media/doc/Andrew%20Kearse%20Act%20One%20Pager_final.pdf)

<sup>5</sup> <https://caselaw.findlaw.com/us-6th-circuit/1143765.html>

<sup>6</sup> <https://www.nytimes.com/2020/05/31/us/george-floyd-investigation.html>

<sup>7</sup> <https://pubmed.ncbi.nlm.nih.gov/35360509/>

<sup>8</sup> [https://www.americanbar.org/groups/crsj/publications/human\\_rights\\_magazine\\_home/the-state-of-healthcare-in-the-united-states/racial-disparities-in-health-care/](https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/the-state-of-healthcare-in-the-united-states/racial-disparities-in-health-care/)

<sup>9</sup> <https://legislature.vermont.gov/statutes/section/28/011/00801>

41 that may have occurred during arrest or while in custody would help establish equitable access  
42 to care and protect the health and safety of all detainees; and,

43  
44 WHEREAS, establishing standards of care during the first 72 hours of arrest for all detainees  
45 that mandate officers to contact healthcare professionals in any instance of medical necessity  
46 and create a clear set of instructions to follow when observing a medical emergency or mental  
47 health crises could ensure the health, safety and well-being of all individuals being held in police  
48 custody; and

49  
50 WEREAS, while no other state currently has a legal right for a person in an encounter with  
51 police to request and be provided immediate emergency medical care there are efforts underway  
52 in Massachusetts and Connecticut to provide such a right, called “Medical Civil Rights;”<sup>10</sup>  
53 therefore, be it:

54  
55 **RESOLVED, that the Vermont Medical Society commits to work with the Vermont**  
56 **Legislature and partners such as the American Civil Liberties Union of Vermont,**  
57 **Vermont Legal Aid, Disability Rights Vermont, the Vermont Human Rights**  
58 **Commission and the Office of the Defender General to:**

- 59     • **bring awareness to the needs for consistent and necessary medical care for**  
60 **individuals held in police custody upon the first 72 hours after arrest; and,**  
61     • **work to codify and put standards into place establishing the right to emergent**  
62 **medical care while in police custody; and,**  
63     • **support the development of training for police officers to recognize emergent**  
64 **medical episodes and respond to requests for medical care from individuals in**  
65 **their custody.**

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<sup>10</sup> <https://www.nejm.org/doi/full/10.1056/NEJMp2104468>