VERMONT LEGAL AID

LONG-TERM CARE OMBUDSMAN PROGRAM
OFFICE OF THE HEALTH CARE ADVOCATE
www.vtlawhelp.org

March 16, 2026

To: Legislative Committee on Administrative Rules

From: Kaili Kuiper, State Long-Term Care Ombudsman and Mike Fisher and Marjorie Stinchombe, Co-Directors of the Office of the Health Care Advocate

Re: 25P021 Proposed Home Health Agency Designation and Operation Rules

Thank you for the opportunity to testify on the Proposed Home Health Agency Designation and Operations Rules. The Vermont Long-Term Care Ombudsman Program (LTCOP) advocates for the rights and welfare of individuals receiving long-term care in the community through the Choices for Care program. The Office of the Health Care Advocate (HCA) helps Vermonters with problems and questions related to health care services, primarily those relating to health insurance coverage enrollment, eligibility and billing. We appreciate that the LTCOP had the opportunity to comment on previous drafts and a number of our suggestions were incorporated into this draft. However, we have some remaining concerns.

While the state reports that they do not anticipate any negative impact on care recipients due to this rule, the impact on care recipients is unknown. Considering the ongoing staffing shortages in Vermont, Vermont's decision to no longer require designated agencies to provide unskilled care services could have a significant detrimental impact on long-term care recipients' ability to access necessary care. The state is not adequately monitoring the impacts of the changes so they can act, if needed, to minimize harm.

We request the following changes be made to the proposed rules:

1) The rules must "include minimum program standards to ensure home health agencies do not discriminate in the provision of services based on income, funding source, geographic status, or severity of health needs." (33 V.S.A. §6303(a)).
    a. **The rule should provide standards for service denials and reductions or require HHAs to submit their policies to DAIL for approval.** Given that these rules are making it easier for home health agencies to deny admission to applicants, there is a significant risk that HHAs will engage in discrimination against individuals with mental illness and other diagnoses

the HHA believes will be challenging. DAIL should oversee HHA policies to ensure the HHAs have a sufficient understanding of appropriate reasons for denying services. For example, an applicant should not be denied services based on the applicant's diagnoses. A denial should be based on a clear assessment of the types of services the applicant needs and the HHA's capacity to provide those specific services.

b. **The rules must require monthly reporting of service denials to the state for a minimum of three years, so the state is aware of the number of people who are being denied long-term care services in Vermont.** Rules 8.11 and 8.12 require HHAs to collect data and submit reports as requested by DAIL and on an annual basis. Annual reporting does not allow the state to sufficiently monitor whether Vermonters are receiving services that are necessary for their health and welfare after this rule change. HHAs should submit monthly reports to DAIL on the number of individuals whose applications were denied, whose services were reduced or eliminated, who are on the waitlist for services, and who are receiving fewer services than their care plans call for.

2) The rule should address barriers to care recipients receiving information and support:
   a. **The rule should state that Home Health Agencies must provide information upon request to the LTCOP including each agency's policies and procedures, notices, and patient records.** The LTCOP receives questions from Vermonters that we cannot answer without additional information from the HHAs. Often the home health agency will have the information but refuse to provide it to us, stating that the information is confidential. We need the rules to clearly state that home health agencies must cooperate with our requests for information.
   b. **The rule should require HHAs to include a statement that the LTCOP helps individuals on the Choices for Care program whenever they provide a client with a notice that includes the LTCOP's and the HCA's contact information.** This will help recipients understand whether to contact the HCA or the LTCOP.
   c. **Notices to patients must be in at least 14-point sans-serif font** so long-term care recipients with vision challenges will have a better ability to read the information.

Thank you for taking the time to consider our input.