To: Senate Health & Welfare Committee

From: Madeleine Mongan, Deputy EVP, Vermont Medical Society

Date: March 28, 2014

Re: VMS Comments on H. 123 Lyme Disease

VMS has opposed bills that would create disciplinary immunity for physicians and others who prescribe long-term antibiotics to treat chronic Lyme disease for a number of years. VMS strongly supports increased research on effective treatments and vaccines for Lyme disease.

VMS is working to address prevention of Lyme disease and education about Lyme disease, in partnership with the University of Vermont Area Health Education Centers (AHEC), the Vermont Department of Health, and the Vermont Board of Medical Practice. VMS has co-sponsored several educational sessions for clinicians in partnership with AHEC and the Department of Health. These are CME conferences that provided continuing medical education about Lyme disease epidemiology and treatment, including antibiotic treatment. This spring VMS is co-sponsoring a CME conference about Lyme disease and antibiotic use on April 5, 2014 in Colchester. The conference will include epidemiological information and presentations from physicians who are knowledgeable about the guidelines of the Infectious Disease Society of America (ISDA) and the International Lyme and Associated Diseases Society (ILADS). The brochure for this conference is attached.

VMS strongly opposes legislating the standard of care for medical practice, which must change as researchers learn more and the science and evidence change. The legislature does not have the expertise to set the standard of care for medical practice, or the ability to make modifications in a timely manner. Specialty societies, peer-reviewed literature, the Center for Disease Control, the National Institute of Health, the Vermont Department of Health and the Vermont Board of Medical Practice are appropriate entities to review and influence the standard of care. In some cases the standard of care needs to change quickly, such as when a drug is pulled off the market, or when the practice of prescribing hormones for menopausal women was found to have harmful side effects. Having to change a law in order to change the standard of care could be harmful to public health.

Because H. 123 references specific guidelines of medical associations, and prohibits the Vermont Board of Medical Practice from disciplining physicians solely because they use these guidelines, the bill is directing the standard of care. The bill as introduced also specified how Lyme disease would be diagnosed, another aspect of the standard of care and stated that using

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a specific treatment for Lyme disease would qualify physicians for immunity from disciplinary action. Specifying in law how a medical condition or disease is diagnosed and treated or what professional association guidelines should be followed is specifying the standard of medical care in the law.

The standard of care for Lyme disease is emerging. Unlike standards for treatment of conditions such as diabetes and heart disease, it is not well settled. Lab tests for Lyme disease are being studied; a vaccine may be developed.

The bill that passed the House removed the section of the bill that stated that a physician could prescribe "long-term antibiotic therapy for the purpose of eliminating or controlling a patient's infection or symptoms," and the section that created express immunity for using long-term antibiotic therapy for Lyme disease. Instead, the bill that passed the House requires the Vermont Board of Medical Practice (VBMP), the Board of Osteopathic Physicians, and the Board of Nursing to issue policy statements communicating to licensees that the boards will not take disciplinary action against a physician, solely for the use of medical care recognized by the guidelines of the Centers for Disease Control (CDC), the Infectious Diseases Society of America (IDSA) or the International Lyme and Associated Disease Society (ILADS) for treatment of patients who are clinically diagnosed with Lyme disease or other tick-borne illness.

The ISDA guidelines do not recommend long-term antibiotic therapy or the use of certain antibiotics for any manifestation of Lyme disease, while the ILADS guidelines offer support for treatment with antibiotics and do not recommend stopping antibiotics for patients with persistent, recurrent and refractory Lyme disease. Links to the IDSA and the ILADS guidelines are attached.

The House-passed bill also requires written informed consent for long-term treatment for Lyme disease and requires physicians to document the basis for the diagnosis and treatment of Lyme disease in the patient's medical record. The bill that passed the House does not preclude discipline for errors, omissions or other misconduct when following the guidelines.

The VBMP has the expertise and resources to investigate medical practice, and needs the flexibility to apply the standard of care as it changes. Because the standard of care changes, something that may not be considered unprofessional conduct in 2014 may become inappropriate in the future. The response of the Board should not be mandated by law. To our knowledge the Board has never filed charges of unprofessional conduct or entered a stipulation in a case when a physician was treating Lyme disease for the reason that the treatment was consistent with the IDSA or ILADS guidelines.

VMS supports section 3(1) of the bill that passed the House which requires clinicians to document the basis for their diagnosis and treatment decisions. VMS also supports section 3(2) which requires written informed consent from patients.

While VMS opposes both the bill as introduced and as passed the House, VMS believes that version of the bill passed by the House is much better than the bill as introduced.

Thank you for considering these comments. Please let me or Paul Harrington know if you have any questions.