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March 15, 2018

Chair Claire Ayer
Senate Committee on Health and Welfare

Re: HCA Testimony on H. 912 Changes to Certificate of Need

Dear Chair Ayer:

The Office of the Health Care Advocate (HCA) is writing to express our support for the changes to Vermont's Certificate of Need statute proposed in H. 912. We believe this bill will improve the Green Mountain Care Board's Certificate of Need processes.

After largely fruitful efforts to come to consensus among stakeholders while this bill was in the House, there are a few outstanding areas of disagreement between H. 912 as passed by the House, the Green Mountain Care Board, and the HCA.

First, the HCA supports the House's decision to limit increases to the Certificate of Need thresholds to the rate of general inflation rather than the rate of medical inflation. These thresholds determine what projects are subject to Certificate of Need review. We do not support the use of the rate of medical inflation as an index for health care projects when the state is actively trying to curtail health care spending and not perpetuate current cost increases. Further, many Certificate of Need applications propose projects, such as building construction, which should not increase in cost at the medical inflation rate.

Second, in considering whether a Certificate of Need review should be expedited or not, we would like the Green Mountain Care Board to consider the costs that the project may add for patients. We suggest adding the following language (bolded and underlined below) to the proposed language for 18 V.S.A. § 9440 (c)(5)(B)(i)(I):

(B)(i) At least 20 days after the public notice was issued, if no competing application has been filed and no party has sought and been granted, nor is likely to be granted, interested party status, the Board may issue a certificate of need in accordance with such expedited process as the Board deems appropriate, if the Board determines that:

(I) the proposed project appears likely not to be contested and does not substantially alter **or increase the cost of** services **to patients**; or

Third, we continue to note that there are areas of Vermont's health care system that are not currently regulated, including urgent care centers and ambulatory surgery centers, that should be examined and included in new or existing regulatory structures if appropriate. We suggest beginning to develop a process, likely at the Green Mountain Care Board, for assessing Vermont's regulated and non-regulated health care entities and determining which entities should be regulated and to what extent. We think it makes sense to make these decisions on a system-wide basis rather than a case-by-case basis.

Thank you. Please feel free to contact me at mfisher@vtlegalaid.org or (802) 989-9806 with any questions.

Sincerely,

s\ Mike Fisher, Chief Health Care Advocate