



**Vermont Association of
Hospitals and Health Systems**

VAHHS Testimony on S.37, Strict Liability for Toxic Substance Release

Good morning. My name is Devon Green, and I am the Vice President of Government Relations with the Vermont Association of Hospitals and Health Systems. We represent all of Vermont's hospitals, 100% of which are nonprofit.

VAHHS applauds efforts by the legislature to ensure a clean and safe environment for Vermonters because a clean and safe environment helps Vermonters lead healthier lives.

S.37 Creates Liability for Basic Life-Saving Treatments

The proposed bill, however, broadens the current scope to the point that it puts life-saving treatments at risk. The bill defines "toxic substance" as "any substance... that has the capacity to produce personal injury" and "can be shown by expert testimony to cause harm." This would implicate such life-saving treatments as radiation therapy for cancer, which has potential side effects of nausea, vomiting, heart complications, lung damage, and nerve damage.

Radiation therapy, chemotherapy, x-rays, and various medications are just some of the medical treatments that would be implicated by S.37. Opening hospitals and other health care facilities up to liability for medical treatments would damage rather than improve the health of many Vermonters. For this reason, hospitals should be exempt from S.37.

Health Facility Waste Disposal is Heavily Regulated at Federal and State Level

At present, hospitals and other health care facilities are highly regulated entities that must follow federal regulations from several agencies, including the Centers for Disease Control (CDC), Occupational Safety and Health Administration (OSHA), U.S. Food and Drug Administration (FDA), and the Nuclear Regulatory Commission (NRC).

Hospitals must also follow all applicable state laws and regulations involving waste disposal under the Department of Health and the Agency of Natural Resources. Because hospitals and health care facilities are already highly regulated, Vermonters will continue to be protected, even if hospitals and health care facilities are exempt from this law.

Protect Health Treatments by Exempting Health Care Facilities

To ensure that Vermonters may continue to receive commonly practiced health care treatments, VAHHS asks that the committee exempt health care facilities from the definition of "facility" and "large facility" with the following language:

(2) "Facility" means... A Facility shall not include land, structures, other appurtenances, and improvements on the land owned by a municipality or owned or operated by a health care facility or health care provider as defined in section 9402 of Title 18.

"Large facility" means a facility:

(C) "Large Facility" shall not include any health care facility or health care provider as defined in section 9402 of Title 18.