To: House Committee on Health Care

From: Jessa Barnard, Vermont Medical Society

Date: February 25, 2021

RE: H. 104, act relating to allowing certain licensed out-of-state mental health professionals to treat Vermont patients using telemedicine

Thank you for allowing VMS to testify this afternoon. While VMS represents physicians (MDs and DOs) and PAs – not the professions address in H. 104 as drafted, it raises issues that VMS and partner organizations such as VAHHS and Bi-State Primary Care have begun to discuss related to a range of medical professionals. As you are well aware, from your work on the audio-only telehealth bill, telemedicine saw an unprecedented rise in uptake and utilization during the COVID-19 outbreak. While certain utilization metrics have plateaued since peaks in Spring 2020, the overall usage of telemedicine has grown and appears to be a "new normal" in medicine.

While many aspects of telemedicine practice are simply a transition of usual medical care from one modality to another, there are some unique clinical and legal issues that are presented with telemedicine practice. Telemedicine introduces complexity into the health professional licensure construct.

At present, the prevailing state regulatory approach is that applicable state laws attach by nature of the location of the patient. In other words, a professional must be compliant with all laws, including licensure laws, for the state where the patient is located when they receive care.

During the COVID-19 state of emergency, several regulatory flexibilities have helped soften some of these regulatory compliance issues. For example, not only Vermont, but several New England states and New York loosened licensure restrictions for interstate practice by creating streamlined temporary emergency licenses or by permitting medical practice by health professionals with a full, unrestricted medical license from another state.

As we look past COVID, many health professionals are interested in options for continuing flexibility to provide care to their patients via telemedicine. VMS is most interested in issues of continuity of care for existing patients. This may look like repeated care across borders – for example, patients who live in Vermont but receive most of their care in New Hampshire or live in New York but receive care in Vermont – or trying to provide time-limited care for patients who are away at school or on vacation.

There are multiple paths to accomplish licensure flexibility and they all have different strengths and weaknesses. For example, there are interstate licensing compacts, telehealth-specific licenses or registration (for example, Florida Chapter 2019-137) or complete waiver of licensure. And we need to keep in mind that Vermont can only change licensure requirements for out-of-state health care professionals providing care into Vermont – not Vermont providers looking to care for patients who are traveling. So, can we address this on a regional basis or account for reciprocity?

Because of the complexity of these issues, VMS would propose a work group to evaluate these issues over the next year. VMS would suggest that such a work group:

- Look at all health professionals and boards
- Involve OPR, the Board of Medical Practice and stakeholder health professionals
- Evaluate the various options for telehealth licensure such as interstate compact licenses, telehealth-specific licenses and waiver of licensure

VMS would be happy to work with OPR and other stakeholders to more fully develop work group language over the next few days.