

TO: Representative Wood, Chair of the Vermont House Human Services Committee
FROM: Joe Nusbaum, DAIL Division of Licensing & Protection Director 
DATE: March 14, 2023
SUBJECT: H.171 (Draft No. 3.1); definition of “Abuse” and withholding of treatment

This memo is in response to the March 1, 2023 memo submitted by a coalition of Vermont Healthcare Organizations.¹ That memo requested the addition of “wrongful” to the definition of “Abuse” and the denying or withholding of care:

4:4-5 Definition of Abuse – Denying or withholding care

- Our coalition continues to oppose stating that Abuse includes “denial or withholding of necessary medication, care, durable medical equipment, or treatment.” This definition of abuse conflicts with a patient’s individual rights. Under the Merriam Webster Dictionary, withhold means “to hold back from action” or “refrain from granting, giving, or allowing.” This means reporting every time a patient leaves a hospital or other health care facility against medical advice or refused medication/treatment. This would not only trigger a report by health care providers but would then be investigated as abuse, despite this being a recognized patient right.
- We also continue to believe that this definition could be interpreted to include appropriate denials of therapeutic interventions such as where the medication or device is not available, or where the patient or guardian believes that the intervention is necessary but the prescriber believes that the medication or device is not medically appropriate.
- Propose:** Narrow abuse to include only wrongful denials or withholding of treatment.

DAIL supports the addition of the term “wrongful,” and believes it will not affect APS scope of operations nor limit the protection of vulnerable adults.

¹ The Vermont Association of Hospitals and Health Systems, Vermont Health Care Association, Vermont Medical Society, VNAs of Vermont, Vermont Association of Adult Days, American Nurses Association - Vermont