TO: Senate Committee on Health and Welfare

FROM: Jill Mazza Olson, Executive Director

DATE: March 13, 2024

RE: S. 151 Draft 2.1 UPDATED for Draft 3.2

Thank you for the opportunity to provide testimony on S. 151, draft 2.1 Below please find a written summary of my testimony. Please contact me at jill@vnavt.org if you have any questions.

Overview of Home Health and Hospice Agency Services

Home health and hospice agencies provide four primary services in Vermont:

1. **Skilled home health care**: Medical care at home for a limited time, provided by nurses and therapists under a physician's order. Just over 16 percent of hospital discharges in Vermont are to skilled home health, nearly as many as are discharged to a skilled nursing facility.
2. **Choices for Care**: Long term assistance, usually by unlicensed caregivers, with "activities of daily living" such as bathing, dressing and nutrition. Provided under a Medicaid waiver to help income-eligible individuals who have a skilled nursing facility (nursing home) level of need live independently at home.
3. **Hospice care**: Holistic care for individuals with terminal conditions and their loved ones, addressing clinical, spiritual and emotional needs.
4. **Maternal-child health**: Services to children and families, including prevention and rehabilitative services.

Skilled home health and Choices for Care services in particular are critical to supporting hospital discharges and reducing the strain on long-term care facilities. **Every Vermonter receiving these services is an individual who is not in a hospital or a skilled nursing facility bed.**

Positions/Suggestions/Requests

Section 7	**Increasing Primary care Spending Allocation**	**Oppose as Drafted/Support Proposal of VMS**
Increasing the proportion of spending on primary care will, by definition, reduce the proportion of spending on other services. No service is excluded from reductions in the bill. The VNAs of Vermont supports the Vermont Medical Society's proposal for this section to develop a primary care investment target workgroup. **UPDATE:** The new draft addresses this concern. No objection to new language.		

Section 8a	**Mediation – Contract Termination**	**Oppose**
Termination or nonrenewal is a last resort for home health agencies that are already overmatched by the negotiating power of commercial insurance companies because of the designated system in which they operate.		

The language also doesn't appear to be limited to health insurance plans over which the Green Mountain Care Board has jurisdiction.

UPDATE: Section 8a is deleted in draft 3.2. The VNAs of Vermont supports its elimination.

Section 11	Medicaid Primary Care Rates	Oppose/Propose Edit

Section 11 prioritizes primary care over all other services, including skilled home health. While we support aligning Medicaid rates with Medicare rates for all provider groups, **we oppose the phrase, "with first priority for primary care providers"** and request its elimination from the bill. Skilled home health is currently reimbursed at approximately 66% of the full Medicare payment rates.[1] Skilled home health services are critical for hospital discharges and preventing readmissions. In addition, home health agencies are nearly entirely reliant on government payers and operate in a "designated" system under which they cannot refuse admissions based on payer source. They have no "cost shift" and are prohibited from limiting the number of patients/clients they serve who are covered by a Medicaid program.

UPDATE: The new draft addresses our concern.

Section 11a	AHEAD Model	Suggested Language

The AHEAD Model is silent on many elements of the health care and home and community-based services systems, including those that are critical to hospital discharges and the total cost of care, which are in turn critical to the success of hospital global budgets. We appreciate the efforts of the Agency of Human Services to date to address the substantial misalignment of the AHEAD Model with the Centers for Medicare and Medicaid Services (CMS) reimbursement policy, but unfortunately the concerns they have raised are not reflected in the Notice of Funding Opportunity.

(c) It is the intent of the General Assembly that any agreement entered into between the State and the federal government for Vermont's 19 participation in the AHEAD Model:

(X) Address the failure of the AHEAD Model to support critical components of the health care system including home health and hospice services that are experiencing Medicare cuts, substantial losses because of low reimbursement by Medicare Part C plans, or both.

UPDATE: At a minimum, we request a revision to the new (d)(5) to read, "includes mental health care, home health, hospice and long-term care services and providers to the extent practicable." Absent that addition, skilled home health and hospice services are absent in the bill. The "to the extent practicable" qualifier substantially weakens this statement so the VNAs of Vermont will likely seek stronger wording if the House considers the bill.

[1] Skilled home health rates are currently 88% of the Low Utilization Payment Adjustment (LUPA) fee schedule which is only one component of the full Medicare model. The National Association for Home Care & Hospice estimates that LUPA-only payments are equivalent to only 75% of the full Medicare model.

Requested New Section	Workplace Violence Protection	Suggested Language

The VNAs of Vermont is requesting **common sense policy that will enable home health agencies to decline a referral for/visit to someone who has already been discharged for safety reasons.** Violence against health care workers is on the rise. Each day home health and hospice workers face uncertainty when they enter unknown environments to care for the Vermonters who depend on them. Home health agencies have examples of serious threats to their staff.

Background:

- Under Vermont's current designated system for home health, agencies must accept all eligible patients.
- **Discharging a patient for safety is a regulated process, and a rare occurrence.** The discharged patient has the right to seek an external appeal when it happens.
- **Under current regulations, home health agencies have no discretion about accepting new referrals or making visits to individuals who have already been discharged for safety issues.**

This policy change will give home health agencies the regulatory flexibility to decline to send staff into environments with known safety concerns. Proposed language:

If an individual has previously been discharged from service to protect the safety of staff using the criteria established by the Regulations for the Designation and Operations of Home Health Agencies pursuant to 33 V.S.A. section 6303(a), the home health agency may:

1. *deny a subsequent admission or*
2. *decline to send an employee to make a visit if the agency has reason to believe that the person who exhibited the behavior that resulted in the discharge is present in the home.*

UPDATE: We support the inclusion of this language in another bill and appreciate the committee's assistance.