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141 Main Street, Suite # 7, Montpelier, VT 05602

June 4, 2021

Green Mountain Care Board
Attn: Donna Jerry, Senior Health Policy Analyst
144 State St.
Montpelier, VT 05602

Re: Docket No. GMCB-002-21con, Construction of Secure Residential Treatment Program

Dear Ms. Jerry:

This Board granted Disability Rights Vermont (DRVT) amicus curiae status on March 11, 2021. Pursuant to 18 V.S.A. § 9440 (d)(1)(B) DRVT submits the following for the Board to consider regarding the CON application filed by the Department of Mental Health on May 1, 2021 in the above cited docket number.

I. **A Smaller Facility Might Better Serve the Statewide Mental Health System And It Is Unclear Whether Such an Option Was Considered.**

DRVT encourages the Board to seek more information from DMH as to how exactly the current project design satisfies the criteria of 18 V.S.A. § 9437 (1) and serves the needs of the statewide system. There is no doubt that the current mental health system has inadequate system “flow”. People are waiting in Emergency Departments seeking mental health services for an excessive amount of time and people are stuck in psychiatric inpatient units for extended durations awaiting appropriate community placement. See <https://disabilityrightsvt.org/wp-content/uploads/2020/06/DRVT-Olmstead->

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[Report.pdf](#). DMH argues in their CON application that this 16-bed Secure Residential Treatment Program will address the overall system of care. This expensive project proposal may not be the most cost effective, as designed, in addressing the issue of lack of adequate community placements.

While there is certainly a need for a Secure Residential Treatment Program within Vermont's current mental health system, it is unclear whether the proposed 16 bed facility is the optimal size. Indeed, the data seems to suggest that the greater need is with lower levels of community care. Thus, a smaller Secure Residential facility, costing less money, might be a better way to balance and account for all system-wide mental health needs.

DMH's analysis for 16 beds is unclear. At no point in their application does DMH explain how they settled on the number of 16, other than referencing Act 200, which stated that it was the Legislature's intent to create a facility with 16 bed capacity. The current Middlesex Therapeutic Community Residence (MTCR) has seven beds. The current proposal is to more than double current capacity for the most restrictive level of care that is still considered community level mental health treatment.

Other types of community placements are operating at just as high a capacity as MTCR. See https://legislature.vermont.gov/assets/Legislative-Reports/Act-26-Section-2-Report_Analysis-of-Need_FINAL_01152020.pdf. DMH reports that MTCR is regularly at 90% capacity. DMH found that Intensive Recovery Residential beds have also been operating at 85-90% full. *Id.* The same report also found that group homes are regularly at more than 90% full. Increasing those types of bed placements would improve the statewide community mental health system.

When there is a bottleneck in a mental health system, the most effective solution is increasing capacity at the most community integrated settings such as services and supports for people to live independently at home and community residential placement including group homes. See

<https://disabilityrightsvt.org/wp-content/uploads/2020/06/DRVT-Olmstead-Report.pdf> at *6-7; *10-

12. DMH says that at any given time, there are 7-10 people in inpatient psychiatric units that could be discharged to a secure residential. At the same time, DMH admits that the number of people needing the high level of care of a secured residential is “relatively low.” CON App. at *16. That begs the question of whether this high level of care is really the ideal placement for those individuals that are subacute in inpatient beds.

DMH further justifies the need for a larger facility than the current MTCR because of individuals who have “difficulty being admitted to community-based treatment programs.” It remains unclear whether there are more people that need such a placement and to what extent increasing other community placements and supports would not better serve Vermonters with mental illness. Indeed, DMH picked only 3 examples of people at MTCR over the years and asserted, without explanation, that they could not be served in the community. Those people might have been able to succeed in a less restrictive environment with adequate supports in the community. It also remains unclear why patients are experiencing difficulties being admitted into community placements and whether other, less restrictive, placements might be preferable for health outcomes but at the moment are just not available. Many previous MTCR residents have explained to DRVT that their experiences at MTCR are similar to those in inpatient setting in regards to restricted access to family and friends, educational and employment opportunities, and recreation activities. In other words, a secure residential treatment facility is still highly restrictive.

It is likely that increased community capacity would increase the number of people who could receive mental health services in more community integrated settings. Related, it is unclear how often people are delayed in their discharge from MTCR due to lack of community placements. That too could

account for the nearly full capacity at MTCR. For all these reasons, it might be better for the statewide system to have a smaller facility than the proposed 16 beds.

II. A Smaller Facility Could Save Money in Building Costs, Maintenance, and Staffing

It does not appear that DMH considered the costs and potential benefits of a smaller facility. It is possible that a smaller facility would cost less in building and maintenance. Certainly wear and tear would be reduced with fewer residents. Furthermore, staffing costs would be less in the long-term with fewer residents. Similarly, the mental health workforce in Vermont is currently lacking so hiring enough staff for this proposed 16 bed facility will be a challenge for DMH. DRVT encourages the Board to seek information about alternative designs and sizes of the facility.

DMH points out that more step down beds means less subacute patients sitting languishing in hospitals and therefore saves the system money. See CON App. at 35. Lower level care costs even less than this proposed facility. <https://disabilityrightsvt.org/wp-content/uploads/2020/06/DRVT-Olmstead-Report.pdf> at *6-7. As discussed above, it is possible that Vermont's mental health system does not need 16 Secure Residential beds but could in fact succeed with fewer and thrive with more community mental health supports including peer support services.

Thank you for your consideration of these issues. Please contact me with any questions.

/s/ Zachary Hozid
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