

June 4, 2021

Donna Jerry
Senior Health Policy Analyst
Green Mountain Care Board
144 State Street Tom Pelham
Montpelier, VT 05602

Public Comment RE: Docket No. GMCB-002-21con

To the Green Mountain Care Board:

This public comment submission is based upon discussions of the Secure Residential Recovery Facility¹ proposal in the legislature and requirements imposed by the legislature, however it comes as public comment from me speaking as an individual member of the House Health Care Committee who was involved in the crafting of the capital bill language,² and not speaking on behalf of the committee.

As noted by the applicant, legislative approval was provided for this project. However, these two requirements were among the mandatory conditions of the capital bill allocation:

(1) "... the 16-bed facility shall include two eight-bed wings designed with the capability to allow for separation of one wing from the main section of the facility, if necessary. Both wings shall be served by common clinical and activity spaces;" and

(2) "Outdoor space shall be adequate for exercise and other activities but not less than 10,000 square feet." [Act 50, Section 3 (c)]

For the Green Mountain Care Board to find that the proposal meets statutory requirements, these elements of the facility design should be specifically reviewed for compliance with Act 50.

Capacity for Separated Living Wings

The design ability for the flexibility to function as separated subunits without added future costs was clearly important to the legislature. This clause requires one residential wing to be able to function as a living area independent and separated from use by residents of the second wing, while both wings maintain access to the clinical and common activity areas. Both wings would thus need all essential non-clinical living area functionalities available within their own wing.

Design was not complete at the time the bill was passed, so it was a prospective requirement that was to be achieved in the architectural fit-up process phases that were still underway at that time. Although the language explicitly indicates the requirement should not be achieved through redesign of plans that were already complete, floor plan revisions by the applicant continued after the directive was included, and thus are required to have incorporated these elements.

Outdoor Space

Likewise, the exterior space in the preliminary design was still an evolving element at the time of legislative review, but adequate outdoor capacity for individuals being confined to a locked facility was a key concern of the legislature. (Two House Health Care Committee members visited the site for review of adequacy for such outdoor access.)

Note that the design preview provided to the legislature depicted, and the presenters described, outdoor amenities such as a group seating area and raised gardening beds. Legislators were not informed during the presentations that these elements were for illustration only, and were not a part of the design included in the capital allocation request. I was later informed that completion of the outdoor area amenities would require supplemental funding. Thus, along with reviewing the secure outdoor space for compliance with Act 50, the Board should also require the applicant to specify what amenities in the outdoor area are or are not included in the proposed budget.

Sincerely,
/s/ Rep. Anne B. Donahue
633 N. Main St
Northfield, VT 05663
adonahue@leg.state.vt.us

¹ Although the application calls the proposed facility “A Physically Secure Residential Treatment Program,” the statutory name and legal authority for operation of the referenced facility is “Secure Residential Recovery Facility.” (18 VSA § 7255) As per the statutory definition of the program, the 2021 capital bill, Act 50, appropriates funding for construction of a “Secure Residential Recovery Facility.”

² Secs. 26 and 27 of Act 50 also supplied legislative intent related to the newly authorized state construction, which the Green Mountain Care Board may wish to review as part of the context of the legislative authorization. Sec. 26, Spending on Mental Health System of Care, indicated that “*It is the intent of the General Assembly that any proposal offered by the Department of Mental Health to expand a State-owned or -operated facility or capacity at a State-owned or -operated facility in Vermont’s mental health system should always include or identify resources to support Vermont’s community mental health system.*” Sec. 27 set out requirements for an RFI process to identify potential community-based, unlocked residential programs to meet other hospital step-down needs, such as those identified in the statewide bed needs assessment conducted pursuant to 2019 Acts and Resolves No. 26, Sec. 2. The GMCB may wish to incorporate those identified needed capacities into the Health Resource Allocation Plan. As community mental health agency programs, they would be subject to the certificate of approval process of the Department of Mental Health rather than the certificate of need process of the Green Mountain Care Board, and thus potentially not otherwise be considered within the CON process of reviewing allocation of resources to meet statewide health care needs. The statewide beds needs assessment under Act 26 has been cited in support of the secure residential recovery facility proposal, however the assessment provides evidence of, arguably, an even greater need for health resource allocation for supported housing, group homes, and intensive residential recovery facilities. The current proposed expansion of the secure residential

recovery facility is a substitute proposal for intensive residential recovery beds designated in Act 79 in 2011, but never developed, in the overall system of care plan after tropical storm Irene for replacement of the Vermont State Hospital:

Sec. 8. INTENSIVE RESIDENTIAL RECOVERY FACILITIES

(a) To support the development of intensive residential recovery facilities, the commissioner of mental health is authorized to contract for:

- (1) Fifteen beds located in northwestern Vermont; *[only eight of 15 completed]*
- (2) Eight beds located in southeastern Vermont; and
- (3) Eight beds located in either central or southwestern Vermont or both.

Sec. 10. SECURE RESIDENTIAL RECOVERY PROGRAM

(a) The commissioner of mental health is authorized to establish and oversee a secure seven-bed residential facility owned and operated by the state for individuals no longer requiring acute inpatient care, but who remain in need of treatment within a secure setting for an extended period of time. *[seven completed in the temporary facility in Middlesex]*

cc:

Laura Beliveau, Staff Attorney

Shayla Livingston, Department of Mental Health