Public Comments: Hospital Sustainability and Act 167
Submitted By: Helen Labun, Executive Director, Vermont Health Care Association
Submitted On: October 29, 2024

Thank you for the opportunity to comment on the Act 167 recommendations prepared for Vermont by Oliver Wyman and presented to the Green Mountain Care Board on September 18th.

The Vermont Health Care Association (VHCA) is a membership-based association representing Nursing Facilities, Assisted Living Residences and Residential Care Homes. These comments focus on Skilled Nursing Facilities (SNFs) because hospital-owned facilities, skilled nursing services, and care for older Vermonters with higher clinical complexity were the greater focus within the Act 167 Report.

Vermont does not have a system of retroactive rate adjustments for SNFs (as incorrectly reported on page 33 of the report). Vermont SNF providers do have access to Extraordinary Financial Relief, which becomes available to providers who have reached a state of financial instability where their continued operations are immediately imperiled. They must have drawn down all available assets that could help cover their financial obligations. Some facility types, such as multi-site ownership structures, have historically been disqualified from applying. These awards are at the discretion of the Secretary of the Agency of Human Services and each decision is non-precedent setting. The awards are one-time, temporary adjustments to avoid a facility closure during a defined period of instability and do not change the underlying rates.

VHCA questions the implied emphasis on new *facility* options within recommendations for skilled nursing and related care for older Vermonters – such as those outlined on page 45 of the Act 167 presentation. The SNF sector in Vermont has struggled with occupancy. We see a growing split between facilities with almost no margin for fluctuations or bed adjustment (for example, temporarily converting shared rooms to private) and facilities with exceptionally low census, dropping below 70% and in some cases closer to half occupied. Ideally, we would see facilities averaging to occupancy comfortably above 80% *and* would not see many providers dropping below the 80% mark. The capacity problems created by our current patterns are exacerbated by Vermont's low population density. SNF care should take place as close as possible to a patient / resident's home community and care team -- to offer sufficient geographic coverage, we need to maintain appropriate capacity at *all* current facilities.

The reasons behind statewide census constraints are well documented and relate to the workforce. Vermont is a national outlier in our reliance on temporary nursing agency staff to manage local workforce shortages. In the last data reported by the Centers for Medicare and Medicaid Services (CMS), Vermont remained at 29.5% agency staffing while the national average had dropped to only 8%. In addition to nursing shortages, our members struggle to access physicians. A third of the CMS-enrolled SNFs in Vermont report that they anticipate challenges in

providing the required Medical Director coverage within the next year. On top of the obstacles in meeting basic staffing requirements, we routinely hear from facilities that are limited in who they can admit due to the services needed for implementing patients' individual care plans. Examples of access problems in this category include lack of timely follow-up specialist appointments for patients seeking short-term rehabilitation, barriers to continuity in intensive treatments such as MAT or dialysis, and ability to enroll new patients for commonly needed services such as occupational therapy or mental health support. Because a SNF must guarantee they can meet an individual's care plan needs throughout the length of stay, a current lack of access, anticipated changes, or volatility in access can all impact admissions. It is also important to note that SNFs do not directly employ physicians – we rely on local medical groups and are highly vulnerable to those groups cutting back on services.

Rebuilding hospital inpatient units to offer care that *should* already be in the portfolio of SNF services does not solve our current workforce-based constraint – instead, it would further tax an already-insufficient workforce. We need high-quality care providers to be able to utilize our existing infrastructure to its full licensed potential. In the future, it may make sense to expand hospital-connected units for specialized care. And, over the upcoming decades, Vermont will likely need more residential long-term care beds in response to demographic trends. However, those steps should not come before securing access to necessary services within our *existing* infrastructure.

An additional consideration in evaluating the recommendations around specialized care for older Vermonters is the available payment models. For example, at the Nursing Facility level of care, Vermont does not have a payment structure for Memory Care units (recommended on page 45 of the report). In fact, none of our special rate structures for SNFs are tied to units or programs. This system does not necessarily match current best practices. Modern approaches to memory care emphasize special programming with a high level of engagement with non-clinical staff. Advanced care may require adjustments in the design of facilities, including special interventions to prevent accidents. It also requires access to outside clinical expertise. Building appropriate programming with appropriate staff requires both upfront investment and sustainable payment. That system does not exist, and recent rate calculation changes may disincentivize memory care. If the state wishes to establish focused centers for meeting memory care or other specific care needs of older Vermonters in a residential setting, that goal will require a new reimbursement structure.

The Vermont Health Care Association is concerned that the Act 167 report does not present an accurate landscape of nursing facility care in Vermont as it relates to hospital stability. We believe the resulting recommendations fail to match priority needs.