To: Green Mountain Care Board, submitted via email to Kristen.Lajeunesse@vermont.gov
From: Jessa Barnard, Vermont Medical Society Executive Director, jbarnard@vtmd.org
Date: December 4, 2023
RE: Comments on Vytalize Health LLC Budget

Thank you for providing the opportunity to comment on the Vytalize Health LLC's FY24 Budget Submission. These comments are submitted on behalf of the Vermont Medical Society (VMS)'s members - 2900 physicians, physician assistants and PAs across Vermont, providing both primary care and specialty care services. Please feel free to contact me at jbarnard@vtmd.org with any questions.

VMS understands why primary care practices in Vermont may need to make the very rational decision to partner with ACOs such as those run by Vytalize Health in order to support operations. We deeply respect and appreciate the thoughtful explanations provided by Little River CEO Andy Barter and physician Fay Homan, MD, regarding the process and decision-making involved in partnering with Vytalize. We would like to elevate Dr. Homan's point that if primary care was adequently funded, practices may not have to turn to such options.

This is also an important opportunity for the Board and public to become aware of the potential trade-offs created with CMS establishing programs, such as the ACO REACH Program, that incentivize for-profit and venture-capital based funders. The Health Care Advocate's comment letter submitted November 28th eloquently highlights some of the concerns created when such entities act as ACO with the inherent goal of generating returns for investors.

As referenced in a number of public comments, the Vermont Medical Society Board adopted a policy in November, *Addressing Ethical Dilemmas in Some of CMS's Pay for Performance and Value Based Care Programs*.[1] The VMS policy directs advocacy to CMS and Vermont's federal delegation that:

1. For-profit corporations including but not limited to venture capital firms should be excluded from serving as contracting intermediaries in CMS-sponsored value-based care programs,

2. Medicare beneficiaries who enroll in the original Medicare program should not be unwillingly or unwittingly assigned to managed care or capitation systems that contract with corporate intermediaries, such as allowed in the ACO REACH and Primary Care First programs; rather beneficiary participation should be selected voluntarily by each individual patient;

[1] See the full policy statement at:
https://vtmd.org/client_media/files/Ethical%20Conflicts%20of%20Pay%20for%20Performance%20-%202023.pdf

3. CMS should encourage enrollment of historically underserved populations in Federally Qualified Health Centers, Rural Health Clinics and other programs organized to facilitate primary care and needed specialty care rather than in programs which impose financial disincentives to primary and specialty care;

4. Information provided to Medicare beneficiaries about contractual payment relationships that their clinicians may enter with CMS or third party intermediaries should be reviewed by a Medicare ombudsperson, and important financial relationships in such contracts, including those that may create disincentives to providing care, should be disclosed in language that lay persons would find to be readily understandable;

5. Corporate entities that have been found to commit fraud or other deceptive practices of significant magnitude (i.e. > $100,000,000) should be excluded from participation in Medicare- or Medicaid-sponsored value-based care programs; and

6. A code of ethics should be instituted by CMS, prohibiting for a three-year period former high level CMS officials from assuming positions at industries they have been regulating.

VMS recognizes that the Board's current oversight role with Medicare-only ACOs is limited. In agreement with the HCA, VMS supports a review and potential expansion of the Board's authority under Rule 5.000 to regulate and/or deny Medicare-only ACOs from operating in the state if the entity provides insufficient evidence of alignment with Vermont's goals for health reform, including the All-Payer Model or future payment reform agreements with CMS/CMMI.

Thank you for considering these comments and please don't hesitate to reach out for further information.