

**Vermont Medical Society  
Proposed Resolution – Crisis Standards of Care  
As Adopted by VMS Board February 2, 2022**

Whereas, crisis standards of care occur when resource shortages in the health care system require decisions that place a patient or health care professional at risk of a poor outcome;<sup>1</sup>

Whereas, states, including Vermont, have drafted Crisis Standards of Care (CSC) plans; and

Whereas, the goal of Vermont’s Crisis Standards of Care Plan is to provide a framework that enables health care leaders and providers to discharge ethical duties via the development of statewide clinical guidance to address critical shortages of staffing, medical equipment and supplies in any type of catastrophic disaster or massive public health emergency, when demands related to patient care and public health radically exceed or are expected to exceed available resources for a prolonged period;<sup>2</sup>

Whereas national experts have begun to critique existing crisis standards of care plans in light of how they have been drafted and/or implemented over the course of the COVID-19 pandemic;<sup>3</sup>

Critiques of Crisis Standard of Care plans include:

- Waxing and waning conditions over a long-pandemic vs immediate emergency have created significant difficulty in determining when a crisis situation begins or ends for a given resource in a given area;
- Transitions between levels of care (e.g. conventional to contingency and contingency to crisis) have been described as incremental, but it is difficult for providers to translate these concepts into clinical practice;
- Clinicians have experienced multiple information deficits throughout the pandemic, including lack of knowledge of the status of their facility, their roles and responsibilities during a disaster, when and how to seek consultations, and an understanding of the elements of CSC and principles of ethical decision making in disasters;
- The “triggers” for entering different levels of care are not always clear nor is it clear how they apply to health care settings across the spectrum of care beyond hospitals to include outpatient practices, home health and long term care;
- It may provide some level of liability protection for providers when an institution or facility declares a Crisis Standard of Care but not the same level of liability protection as emergency declarations or state statutes that include immunity for providers acting in emergency circumstances;

Whereas, high level presentations emphasizing hospital and ICU bed capacity in Vermont<sup>4</sup> do not capture the full picture of conditions on the ground in health care settings;

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<sup>1</sup> Hick, J. L., D. Hanfling, M. Wynia, and E. Toner. 2021. Crisis Standards of Care and COVID-19: What Did We Learn? How Do We Ensure Equity? What Should We Do? *NAM Perspectives*. Discussion, National Academy of Medicine, Washington, DC. <https://doi.org/10.31478/202108e>.

<sup>2</sup> Vermont Department of Health, Vermont Crisis Standards of Care Plan, available at: <https://www.healthvermont.gov/sites/default/files/documents/pdf/Vermont-Crisis-Standards-of-Care-Plan-2021.pdf#page=41&zoom=auto,-29,590>

<sup>3</sup> See note 1.

<sup>4</sup> <https://dfr.vermont.gov/about-us/covid-19/modeling>

Whereas, COVID-19 and its impacts in Vermont on the volume of patient need, health care worker availability, supply chain limitations and other have led to ever changing stresses on health care practices, negatively impacted access to care, and required the need to make unconventional care decisions;<sup>5</sup> examples during the “Omicron” wave during the winter of 2022 include but are not limited to:

- University of Vermont Medical Center imposing emergency staffing procedures<sup>6</sup> and other hospitals closing beds<sup>7</sup> or redeploying nurses and other staff to units they may not be trained to cover;
- Medical facilities relying on temporary National Guard and Federal Emergency Management Agency staff to support operations and administration of monoclonal antibodies;<sup>8</sup>
- Hospitals postponing hundreds of “nonemergency” surgeries<sup>9</sup> leading to delayed care, requiring triaging by outpatient providers and clinics and creating further backlogs once surgeries resume;
- Shortages in EMS and first responders<sup>10</sup> leading to a lack of ability to transfer patients via ambulance to tertiary and other care facilities;
- Staffing shortages at long-term care and home health agencies,<sup>11</sup> limiting care options for patients and putting more pressure on remaining staff throughout the health care system;
- Severe shortages of blood products, impacting the ability to treat traumas, perform surgery and other procedures that may require transfusion;<sup>12</sup>
- Extremely limited supplies of COVID-19 therapeutics, leading to rationing and state guidance regarding prioritization and requiring processes including “lotteries”;<sup>13</sup>
- Limited supply of COVID-19 diagnostic testing capability;<sup>14</sup>
- Limited emergency department and in-patient bed capacity at Vermont hospitals and regional tertiary care hospitals;

Whereas, other states in our region and nationally have re-declared emergency declarations in response to current impact of COVID-19 on healthcare;<sup>15</sup>

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<sup>5</sup> <https://www.vpr.org/vpr-news/2022-01-27/how-are-vermonts-hospitals-faring-its-still-hard-as-covid-admissions-remain-steady>

<sup>6</sup> <https://vtdigger.org/2022/01/12/uvm-medical-center-to-impose-emergency-staffing-as-omicron-surges-in-vermont/>

<sup>7</sup> <https://vtdigger.org/2022/02/01/brattleboro-retreat-staffing-shortage-traps-psychiatric-patients-at-the-cr-for-days/>

<sup>8</sup> [https://www.rutlandherald.com/news/covid19/fema-sends-teams-to-vt-to-relieve-pressure-on-hospitals/article\\_ed44d7ad-9b6b-526f-a00c-a436a27e11b4.html](https://www.rutlandherald.com/news/covid19/fema-sends-teams-to-vt-to-relieve-pressure-on-hospitals/article_ed44d7ad-9b6b-526f-a00c-a436a27e11b4.html); <https://www.wcax.com/2021/12/21/dozens-fema-workers-deployed-vermont-new-hampshire-help-with-covid-surge/>; <https://vt.public.ng.mil/News/Press-Releases/Article/2915796/vermont-guardsmen-to-support-local-hospital-staffing/>

<sup>9</sup> <https://www.sevendaysvt.com/OffMessage/archives/2021/12/01/covid-surge-forces-uvm-medical-center-to-postpone-hundreds-of-surgeries>

<sup>10</sup> <https://vtdigger.org/2021/11/29/in-williston-an-emergency-worker-shortage-is-undermining-the-911-system/>; <https://www.wcax.com/2022/01/25/sanders-calls-shortage-firefighters-ems-workers-crisis/>

<sup>11</sup> [https://vtdigger.org/press\\_release/long-term-care-coalition-calls-for-more-funding-to-address-urgent-severe-staffing-crisis/](https://vtdigger.org/press_release/long-term-care-coalition-calls-for-more-funding-to-address-urgent-severe-staffing-crisis/); <https://vtdigger.org/2022/01/27/vermonts-long-term-care-facilities-face-urgent-staffing-shortages/>

<sup>12</sup> <https://www.wcax.com/2021/06/16/area-hospitals-continue-deal-with-pandemic-related-blood-shortages/>; [https://www.rutlandherald.com/news/covid19/american-red-cross-seeing-severe-blood-shortage/article\\_f57500bd-33d4-56b4-b351-da40454e8d01.html](https://www.rutlandherald.com/news/covid19/american-red-cross-seeing-severe-blood-shortage/article_f57500bd-33d4-56b4-b351-da40454e8d01.html); <https://www.ama-assn.org/press-center/press-releases/aha-ama-ana-joint-statement-blood-shortages>

<sup>13</sup> [healthvermont.gov/sites/default/files/documents/pdf/HAN-COVID-19-NewTherapeutics.pdf](https://healthvermont.gov/sites/default/files/documents/pdf/HAN-COVID-19-NewTherapeutics.pdf)

<sup>14</sup> [https://www.benningtonbanner.com/local-news/vermonters-flood-website-seeking-free-covid-tests-150-000-hits-in-first-45-minutes/article\\_ab779d10-73cd-11ec-9917-d37ca72eeadc.html](https://www.benningtonbanner.com/local-news/vermonters-flood-website-seeking-free-covid-tests-150-000-hits-in-first-45-minutes/article_ab779d10-73cd-11ec-9917-d37ca72eeadc.html)

<sup>15</sup> <https://www.msn.com/en-us/health/medical/state-of-emergency-for-covid-why-officials-are-using-the-declaration-to-address-rising-infections/ar-AA5xrbR>

Whereas, the impacts of unconventional and delayed care will not only be felt by patients for years to come<sup>16</sup> but the mental health impacts of high acuity patients, long duration surges, often new or expanded responsibilities and complex ethical and care decisions likely will cause healthcare workforce repercussions for years;<sup>17</sup>

**Therefore, be it resolved:**

- The Vermont Medical Society will continue to make no cost wellness resources available to members, such as peer support groups and workshops on COVID fatigue and the COVID-aftermath;
- The Vermont Medical Society will gather and disseminate resources on the liability implications of unconventional care and methods of reducing liability exposure;
- The Vermont Medical Society will work with state officials and other health care associations to clarify triggers to declare Crisis Standards of Care under Vermont's current CSC plan, as well as to update Vermont's CSC plan to address lessons learned and best practices developed at the national level in response to COVID-19; and
- The Vermont Medical Society will advocate for methods to automatically invoke liability protections in cases of public health emergencies such as when declared by executive order or triggered by CSC declarations.

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<sup>16</sup> <https://vtdigger.org/2022/01/28/vermonts-non-covid-related-deaths-reach-their-highest-point-in-years/>

<sup>17</sup> See note 1.