



Helping people and communities live healthy, safe and satisfying lives.

Legislative Update March 7, 2018

Upcoming Advocacy Events

Please join Vermont Care Partners at the National Council for Behavioral Health's annual Public Policy Institute and Hill Day, to be held April 25 in Washington, D.C. in conjunction with NatCon18 – National Council's annual conference. There is no additional cost to participate if you are attending NatCon18.

Hill Day is the largest behavioral health advocacy event of the year in the Nation's capital, where hundreds of stakeholders join together in our mission to serve people living with mental illness and addictions by urging Congress to support our work and protect vital funding sources like Medicaid. Last year, the National Council partnered with 20 other national organizations. Julie Tessler of Vermont Care Partners is the State Captain for Hill Day again this year. She will be keeping our delegation organized and will provide you with the appointment schedule.

At Hill Day, you will have the opportunity to:

- Learn about critical federal policy issues
- Gain special insights into the legislative process, with updates from political journalists and national health care experts
- Meet with our congressional delegation and/or their staff to speak up for our field's priorities
- Network with other advocates from around the country

Legislative Action

House Health Care Committee Issues Recommendations on Mental Health Funding

The House Health Care Committee communicated their response to the Governor's proposed FY19 state mental health budget to the House Appropriations Committee. This is the link is to the document: <https://legislature.vermont.gov/assets/Documents/2018/WorkGroups/House%20Health%20Care/2019%20BUDGET/W~House%20Health%20Care%20Committee~House%20Health%20Care%20Committee%20Recommendations%20to%20H.%20Appropriations%20re%20Mental%20Health%20Budget~2-27-2018.pdf>

Vermont Care Partners strongly supports the introduction of the memo.

"The House Health Care Committee believes that there is an urgent need to renew Vermont's commitments to parity of mental health services and to the recognition that mental health is an essential component of health. We need to persist in building an integrated and holistic health care system.

The persistent emergency room crisis is a symptom of the failure to address mental health in the same way our system would address other health conditions. If we were addressing mental health on a par, our hospitals would be leaping to resolve the lack of access to inpatient care, and not turning to the state to intervene. If we were addressing mental health as a full partner in health care, our core providers would see their budgets and reimbursements addressed within health spending growth as a whole, rather than being capped by the state's

budget. If we were following the promise of parity, employees in agencies that addressed state-financed functions would receive salaries in line with those received by state employees performing the same job descriptions.”

The Committee recommends:

- The second phase of salary equity for designated agency staff as expressed in legislative intent in the FY 2018 budget; \$5.74 million in general fund (GF);
- The funds requested by DMH for outreach programs in four geographic regions \$400,000 GF with conditions for expenditures, including local match commitments by July 1, 2018. If conditions are not met the funds are to be rolled forward to the following;
- Additional \$500,000 be appropriated for hospital diversion for peer support line (\$168,027 GF) and increased funding of the Housing First program. These projects combined with those above would equal \$900,000 GF;
- Replacement of the Middlesex secure residential program including the proposed expansion in capacity from 7 to 16 beds;
- The Committee does not support immediate development of a temporary 12-bed forensic unit within a correctional facility and recommends that DMH identify an alternative plan for temporarily expanding capacity at an existing inpatient facility.

House Appropriations Committee Deliberations

The House Appropriations Committee plans to vote the FY’19 Budget Bill out of committee on March 16 in addition to voting on several policy bills in the week after the town meeting day break. Here are the highlights of the deliberations and decisions made to date.

- \$5.74 million GF Stage 2 of the workforce investment -no vote yet
- \$400,000 GF for outreach work – voted in favor, Representative Hooper supports the language per the House Health Care Committee, but no vote was held on the language
- \$168,000 to expand peer support warm line – not approved at this time
- Increase funding for Housing First program – Representative Hooper will check funding request
- \$4.3 million cut to existing DS services – no vote yet
- \$368,000 GF cut to DS caseload per House Human Services proposal – no vote yet

During their discussion Representative Hooper said investments in interim steps could reduce the need for institutional placements in the future. For instance, people come to emergency departments (EDs) because they have housing crises which could look like a mental health crisis. She said the outreach workers will not take the burden off the EDs; creating more housing through Pathways would be more effective. It was acknowledged that stabilizing the DA workforce may also help the crisis issues in the EDs. When secure residential expands to 16 beds, Representative Hooper believes it will alleviate the crises.

The Administration’s plan to cut \$2 million in AHS performance grants was approved. Language will be added to ensure that the Legislature has information prior to July 1 about the impending reductions. This language does not apply to the DA/SSA master grant. There was discussion about excluding Parent Child Centers from the reductions because they do the work of the State and report that they have had no increases in funding since 1996.

The Committee has not voted on the \$4.3 million GF DS Rescission as recommended by Administration. Representative Lanpher has made it clear that she wants the cut restored. There was discussion of the DS caseload reduction of \$368,000 GF as recommended by the House Human Services Committee.

If the cut is accepted and DAIL runs short of funding for new caseload there are several potential outcomes:

- DAIL could request funds through the FY19 budget adjustment act;
- DAIL could choose to take services away from existing consumers to fund caseload;
- The Human Services Caseload reserve of \$62 million could be accessed.

The Committee will return to this discussion after town meeting.

Administration's Concerns with House Committee of Education Special Education Bill

Emily Byrne of the Agency of Education presented concerns with the current draft special education census funding bill as developed by the House Education Committee when it came before the House Appropriations Committee. The Committee not only listened to the concerns, it also invited key members of the House Education to join them for the presentation. Here are issues that were raised:

- Early Adopter program – AOE would rather move forward with all districts in FY2021 because it would be hard to run 2 separate financing systems at the same time.
- Role of the State Board vs the Legislature in setting rates – they would rather that AOE make recommendations to the Legislature and develop a schedule for block grant increases.
- Advisory Group – it's too large to manage a rule making process, role should be pared back
- Weighting Study – the timing is too limited to complete a study of that nature.
- Extraordinary Reimbursement – move the threshold for state reimbursement of 95% from \$60,000 to \$75,000 per student. On average each SU would pick up \$46,000
- Do more to achieve current year appropriation savings.
- Recommended census formula 60,000/90% in FY 2019, 70,000/90% in FY 2020

The House Appropriations will return to its deliberations on the bill after the Town Meeting week break.

Brattleboro Retreat Testifies at House Corrections and Institutions

Louis Josephson the CEO of the Brattleboro Retreat, presented to the House Committee on Corrections and Institutions stating that the hospital serves more involuntary patients than the Vermont Psychiatric Care Hospital. He sees an urgent and immediate need for the development of more forensic psychiatric beds, because these patients are clogging up the system, occasionally their motivation is to stay at the Retreat to avoid incarceration, not to get better and get out. Sometimes they have challenging and/or violent behaviors.

Key Facts about the Brattleboro Retreat

- In 2017 they served 4,077 individuals - half were insured by Medicaid and 70% were Vermonters
- The Retreat has 52% of adult psychiatric beds in VT (119 beds) and could add more
- The Retreat had 100% of VT's beds for children and adolescents (30 beds); 23 residential beds
- The 14 level one beds represent 31 percent of level one beds in VT
- Daily census is 25-30 involuntary patients and a small number of forensic patients
- In 2017 the Retreat served 34 forensic patients and has a licensed Forensic MD
- Beds are taken off-line when behaviors of forensic patients make it unsafe
- The women's prison doesn't have specialized psychiatric unit so women are sent to the Retreat

The federal Medicaid IMD rule bars paying for treatment in mental health facilities of more than 16 beds, but Vermont has operated under a waiver for 20 years that allows VPCH and the Retreat to bill Medicaid. Unless there is fix, starting 2021, IMD reimbursements will be reduced until 2025 when they

end. The Retreat would lose half of its beds (119) if IMD reductions begin in 2021. They would start resizing the facility before 2021. Louis said that Retreat would be willing to consider having a forensic unit if the IMD issue could be addressed as there is some indication that DC might loosen the IMD rule.

Representative Emmons asked, “What should we invest in to reduce ED utilization, housing?” Louis said we need more inpatient capacity and a robust continuum of care with flow through the system. He acknowledged that there are people ready for discharge with nowhere to go who need housing, step down facilities or secure residential. He also admitted that the Retreat discharges people with no home to go to. He is also supportive of the development of hospital diversion and expressed concern that people can spend a week at an ED without medication or other treatment. He added that, “DAs do a good job – they would argue that they could use more resources” He spoke about the ACT teams in New Hampshire as a model.

AHS Facilities Plan Receiving both Support and Scrutiny

In the State House the House Corrections and Institutions Committee has a number of concerns about the AHS facilities plan, while the Senate Institutions Committee is supportive of it.

A press conference was held by a coalition of stakeholders which raised a number of concerns about the plan and recommended that the Legislature convene a study commission with diverse perspectives to develop alternative options. This VTDigger article summarizes the press conference:

<https://vtdigger.org/2018/03/01/advocacy-groups-call-programs-risk-people-not-jail-cells/>

Vermont Care Partners submitted a position paper on the facilities plan to Representative Alice Emmons, Chair of the House Committee on Corrections and Institutions. She found it helpful. That position statement can be found at our website:

https://vermontcarepartners.org/pdf/files//248_Facilities%20Report%20Feedback%20VCP.pdf

Vermont Senate and House Pass two different Gun Violence Protection Measures

The Senate passed S.221, to allow authorities to obtain an on-the-spot warrant to seize guns from individuals deemed to pose an imminent threat to themselves or others. The Governor and the House of representatives both support lowering the standard of proof for law enforcement officers seizing firearms and allowing the court to extend the order to hold firearms longer. The House approved its own bill H.675. A conference committee will be called to work through the differences.

The House bill includes these provisions:

- Puts current practice into law giving the judge discretion to require any individual who is a risk to themselves or others to turn over weapons as a condition of pretrial release.
- Empowers family members and law enforcement to seek an Extreme Risk Protection Order, a court order temporarily restricting a person’s access to guns when they pose a danger to self or others.
- Provides protection to a victim of domestic assault by allowing a law enforcement officer, in certain circumstances, to remove a firearm from the scene if the removal is necessary for the protection of the officer, the victim, or another person.
- Creates a felony charge for the possession of a firearm on school ground with intent to harm.

Overall, care was taken not to equate mental illness and violence, although education on that issue is still required. An excellent commentary authored by Bob Bick and Catherine Simonson appeared in the VTDigger: <https://vtdigger.org/2018/03/04/bob-bick-catherine-simonson-mental-health-just-one-piece-solution/>

Trauma Bill is Teed up for Approval by the full Senate

Bill S.261 on mitigating trauma and toxic shock in childhood by strengthening childhood and family resilience passed the Senate Health and Welfare Committee and the Senate Appropriations Committee. The purpose of this act is to create a consistent family support system by enhancing opportunities to build child and family resilience for all families throughout the State that are experiencing childhood trauma and toxic stress. While significant efforts to provide upstream services are already well under way in many parts of the State, better coordination is necessary to ensure that gaps in services are addressed and redundancies do not occur. Coordination of upstream services that are cost effective and either research-based or research-informed decrease the necessity for more substantial downstream services, including services for opioid addiction and other substance use disorders.

Study Bill on Orders of Non-Hospitalization Passes Senate and Lands in House Health Care Committee

Bill S.203 which creates a committee to examine the strengths and weaknesses of Vermont's orders of non-hospitalization for the purpose of improving patient care passed the full Senate and was directed by the House of Representatives to the Committee on Health Care. Vermont Care Partners will be represented on the commission.

Senate Health and Welfare Committee Approves Universal Primary Care Study Bill

The Senate Health and Welfare Committee unanimously approved S.53 which sets up analysis for the development and financing of a universal primary care system beginning in 2022. AHS is responsible to submit a final implementation plan by Jan. 1, 2020. The Bill is now awaiting review by the Senate Finance Committee.

Disability Awareness Day A Big Success *(edited excerpt from Karen Lafayette VCDR summary)*

Disability Awareness Day, put on by VCDR with support from multiple advocacy organizations, was a great success. Over 250 people with disabilities, family members and allies visited the State House to observe the House and Senate in action, talk with legislators, participate in workshops, share some food, listen to entertainment and hear an inspiring keynote speaker.

Participants were welcomed by Lt. Governor David Zuckerman, and staff members of Vermont's congressional delegation. They participated in workshops including: "The Human Cost of Cuts" Vermont Developmental Disabilities Council; "Bringing Down the House and the Senate Too - How to Talk to Your, Green Mountain Self-Advocates"; "Prescription Prices - A Patient's Perspective", MS Society; a "Mental Health Policy Update ",with Disability Rights Vermont and VT Legal Aid Mental Health Law and "You CAN Get There From Here" with the Vermont Agency of Transportation and Vermont Center for Independent Living.

Representative Theresa Wood introduced disability visitors on the Floor of the House and a press conference was held to talk about the disability issues. A number of people testified in the House Human Services and Senate Health and Welfare Committees on the proposed budget cuts and pending Deaf legislation, and in the House Education Committee on adult special educational services.

A reception was held in the afternoon with entertainment from the Me2/Orchestra. Governor Phil Scott stopped by, followed by a keynote address from Caroline Whiddon, and a panel featuring graduates of the Vermont Leadership Series.

To take action or for more information, including the weekly committee schedules:

- Legislative home page: <https://legislature.vermont.gov/>
- Sergeant-at-Arms Office: (802) 828-2228 or (800) 322-5616
- State House fax (to reach any member): (802) 828-2424
- State House mailing address (to reach any member):

Your Legislator
State House
115 State Street, Drawer 33
Montpelier, VT 05633-5501

- Email, home address and phone: Legislators' email addresses and home contacts may be found on the Legislature home page at <https://legislature.vermont.gov/>
- Governor Phil Scott (802) 828-3333 or <http://governor.vermont.gov/>

The purpose of the legislative update is to inform individuals who are interested in developmental, mental health and substance abuse services about legislative advocacy, policy development and activities that occur in the State Legislature. The Vermont Council is a non-profit trade association which works in partnership with Vermont Care Network to form Vermont Care Partners. Together our mission is to provide statewide leadership for an integrated, high quality system of comprehensive services and supports. Our membership consists of 16 designated developmental and mental health agencies.