



Supporting Vermonters to lead healthy and satisfying lives community by community

## Legislative Update for January 13, 2020



*The 2020 legislative session will address many important fiscal and policy issues which Vermont Care Partners will be following and communicating about. We look forward to collaborative advocacy with all interested Vermonters including: peers, self-advocates, service providers, advocates, family members and other stakeholders. We will also keep you up-to-date on important events.*



### **SAVE THESE DATES**

#### **Wednesday, January 15, Homelessness Awareness Day & Memorial Vigil, State House**

Every year in January concerned citizens, housing and homeless service providers, and people with lived experience gather at the State House in Montpelier. Those gathered engage their representatives and senators to renew the commitment to **end homelessness in Vermont** and bring awareness to all those in our state without a place to call home. For more information, contact **Ellen Hender** ([ehender@uppervalleyhaven.org](mailto:ehender@uppervalleyhaven.org)), **Rebeka Lawrence-Gomez** ([rebeka@pathwaysvermont.org](mailto:rebeka@pathwaysvermont.org)) or **Travis Poulin** ([tpoulin@cvoeo.org](mailto:tpoulin@cvoeo.org)).

#### **Saturday, January 25th, at 10 AM – 3 PM, Berlin, VT NAMI Smarts Advocacy Training**

Want to make a positive change in mental health services? Become an advocate!! NAMI Smarts for Advocacy gives you the strategies to build knowledge, confidence, and competence in:

- Writing and delivering short and compelling personal stories that have an “ask”
- Finding and using facts in speaking and writing
- Preparing for and conducting a successful meeting with legislators
- Following-up with savvy thank you notes that reinforce a key message
- Writing focused emails that have an impact
- Making effective phone calls

This advocacy skills training is especially for advocates who will join Mental Health Advocacy Day on January 29, 2020. For more information call: 800-639-6480 or Email: [program@namivt.org](mailto:program@namivt.org) Pre-registration required:

<https://forms.zohopublic.com/namivermont/form/2020NAMISmartsAdvocacyTraining/formperma/TcKMKBbF9A2fiH564IMOZMzzaB7kKshm26zl52P-9a4>

**Wednesday, January 29<sup>th</sup>, Vermont State House, Montpelier - Mental Health Advocacy Day**

Mental health advocates, peers, family members, professionals, providers, community members and mental health stakeholders will urge “*Support Your Community ~ Invest in Mental Health*”. The agenda includes activities that will be of interest for every mental health and developmental disabilities advocate and supporter including advocacy training, opportunities to interact with legislators, Award presentations, providing testimony and listening to personal stories of lived experience. For information on participating in Mental Health Advocacy Day including the agenda, how to make nominations for the Community Advocate Awards, signing up to share your story, testifying at a committee or volunteering for the day of the event, Please click this link:

[https://vermontcarepartners.org/evrplus\\_registration/?action=evrplusegister&event\\_id=26](https://vermontcarepartners.org/evrplus_registration/?action=evrplusegister&event_id=26)

**Monday, February 10, 6 – 7 PM Public Hearings on the Fiscal Year 2021 State Budget in four Regions of Vermont**

**Thursday, February 13, Vermont State House, Montpelier – Suicide Prevention Day**

**Thursday, March 12, Vermont State House, Montpelier – Disability Awareness Day**

**Friday March 13, Davis Center, University of Vermont – STEPPING FORWARD TOGETHER 2020: Creating Solutions that Promote Health Equity**

Vermont Care Partners Annual conference will enable you to join national and regional experts to learn how to promote equity in your community. The conference includes over 20 workshops on topics:

- Promotion of Cultural and Linguistic Competence
- Collaboration with Faith Based Leaders to Promote Health Equity for All
- Tracking “isms” in Systems for People with Disabilities
- Disrupting White Supremacy Culture Organizations
- LGTBQ+ Inclusion in the Behavioral Health System
- Making Room at the Table: A Model for Real Peer Leadership
- Understanding the Impact of Untreated Adverse Childhood Experiences on the Health and Well-being of Vermonters with Intellectual and Developmental Disabilities
- Understanding Adoption Competent Care
- Leading from Where You Are: How to Affect Policy and Legislative Decisions

**This year’s featured speakers:**

**Sydney Hankerson, MD**

Co-Director, Columbia University Wellness Center Assistant Professor of Clinical Psychiatry, Columbia University, Vagelos College of Physicians and Surgeons Assistant Attending, New York-Presbyterian Hospital Research Scientist, New York State Psychiatric Institute

**Vivian H. Jackson, Ph.D., ACSW**

Adjunct Assistant Professor, Senior Policy Associate National Center for Cultural Competence Georgetown University Center for Child and Human Development Washington, DC

**Maria Mercedes Avila, Ph.D.**

Associate Professor of Pediatrics, Larner College of Medicine, University of Vermont

For further information and registration here is the link:

[https://vermontcareSTEPPING FORWARD TOGETHER 2020:  
Creating Solutions that Promote Health Equitypartners.org/2020conference/](https://vermontcareSTEPPING FORWARD TOGETHER 2020: Creating Solutions that Promote Health Equitypartners.org/2020conference/)

## **POLICY UPDATES**

### **House Corrections and Institutions Hears from Incoming Human Services Secretary Mike Smith**

Agency of Human Services (AHS) Secretary Mike Smith spoke about the Agency of Human Services as a friend for people who don't have friends and who are in need. He was asked to speak about the issues at the women's correctional facility in Chittenden County. Committee Chair Alice Emmons is determined to have her committee take a thoughtful approach. Mike Smith said he is taking both an immediate and a long term approach to investigate and address the situation. He has established a hotline for inmates (which will go outside of AHS) and is ensuring staff also have a hotline to the Department of Human Resources to report. There is a criminal investigation going on about a correctional officer who is on administrative leave from his job at the Chittenden Regional facility.

The Urban Institute will be awarding Vermont a grant on creating a more humane and rehabilitative environment. The new Interim Commissioner for DOC will be Jim Baker. Recommendations based on a 2-week review that are in process include:

1. Updating personnel policies, especially related to complaints
2. Working on developing improved training of sexual harassment
3. Broaden the limitations about sexual relationships allowed to avoid issues for women on probation or who are former inmates
4. Drug testing of correctional officers and greater workforce diversity
5. Reintroduce incarcerated women's initiative from 2005 – 2007, which was an AHS wide effort to address the needs of women including housing, childcare, etc
6. A new facility is needed
7. Have an outside review of correctional culture. Mr. Coffin (former US Attorney) is reviewing the culture in DOC facilities.
8. The current US Attorney may choose to investigate, as well
9. Reconsider administrative leave policies

Senator Sears has an omnibus correctional bill based on recommendations of the Council of State Government which may be the vehicle for statutory changes that the Administration is requesting. The investigation is focusing on Chittenden, but the investigators have the full correctional system in their purview.

### **Mental Health Commissioner Squirrell Updates the House Corrections and Institutions Committee**

The Department of Mental Health (DMH) was asked to do a review of the number of physically secure beds needed in Vermont, both public and possibly private. The preliminary analysis indicates the need to expand the number of beds and the ability to do emergency involuntary procedures. The primary referral sources for this service are the level one inpatient beds. DMH's goal is to move people through the levels of care, because at any one time there are 11- 15 people in level one beds who could be transferred to secure beds. The DMH recommendation is for developing 16 secure residential beds.

A report with a comprehensive analysis of bed needs, including group homes and other residential programs, will be delivered to the legislature on January 15<sup>th</sup>. The report concludes that the number one need is for secure residential with capacity to do involuntary procedures. Group homes and long term intensive recovery residences are operating at 95 to 100% capacity. The group homes are at 100% occupancy and people are not moving out of those beds. One take away is the need to expand group home capacity.

Commissioner Squirrell reported that she met with Rutland Regional Medical Center to discuss the need for more intensive residential services (IRR). Maplewood in Rutland is an IRR and should be expanded. Representative Morrissey noted that the workforce is an important need, too. The Commissioner agreed that lack of workforce is a barrier to the goal of expanding residential care. Representative Morrissey noted the importance of having geographic access to services. DMH is working with the Department of Disabilities Aging and Independent Living (DAIL) to allow Involuntary emergency procedures at therapeutic residential facilities, as it would be expedient to allow this at the state-run facility. Representative Emmons asked if people are stuck in group homes due to lack of other housing options. It was acknowledged that independent apartments are also in short supply and impacting the ability of people to move on from group homes.

Commissioner Squirrell said if the new secure residential is sited too close to Vermont Psychiatric Care Hospital (VPCH) it could be considered an extension of VPCH and could then hit against the federal IMD restrictions on Medicaid funding. However, as long as the staffing, medical director, operations and geographic sight are separated then the IMD issues will not arise. The facilities need to be 30 to 40 miles apart.

The state Department of Building and Grounds has identified a potential site at the Furst Management Venue, a South Burlington business park. Additionally, they are conducting an analysis of a state-owned property. That analysis will be ready in 2-3 weeks. Approval on a recommended site must be made by May to get a new facility out to bid for construction by next winter.

### **AHS Secretary Smith Presents Budget Adjustment Request to Senate Appropriations Committee**

- Reflects an increase of \$9.5M GF;
- Funds 211 contract to allow for 24X7 coverage;
- General Assistance Emergency Housing request of \$1.9M;
- Delivery System Reform Investments (DSRs);
- Brattleboro Retreat Rate increase \$549K all funds, \$252K GF];
- Woodside facility closure is not part of FY20 BAA

For the Delivery System Reform investment to OneCare Vermont, the Secretary wants to put strings on the funding. To achieve increased transparency he would like to see them seek nonprofit status and they have agreed to do this, but if they are unable to achieve it they will take measures to have similar transparency. Senator Kitchel and Senator Ashe are concerned that we not create a parallel organization to AHS in OneCare. For instance, they said OneCare is using pilot funds to fund services that should be funded by AHS: RISE VT, Don't drink Soda and a home visiting program for families in Lamoille County. The criteria for funding should consider existing structures. The Secretary agreed that we do need to coordinate what we are spending public funds on.

- Calendar Year 2019 investments [\$1.8M gross, \$832K GF];
- Calendar Year 2020 investments [\$3.9M gross, \$1.8M GF];

Secretary Smith gave his perspective on what's going on at the Retreat and where we are going with it. Transparency would be helpful. In November he negotiated a \$2.7 million rate increase, plus \$2.5 to keep that rate increase going. The new beds in the capital bill are over budget by \$1.7 million. He will not cover the full cost. New beds will create \$3.9 million in annual costs. The Retreat had a \$3.5 million rate increase in FY20 budget. Last week they said they needed \$2 million or would close. The Secretary is concerned about the lack of clarity on the finances: 60% occupancy rate; and that no operational or management changes had been proposed. Additionally, there are concerns with their intake process. This presentation came before the January 8<sup>th</sup> meeting between state government and the Retreat.

Ena Backus spoke to Delivery System Reform Investments which were created in the 2017 Global Commitment (GC) waiver to promote the All Payer Model agreement. The DSR funds are used for the health care continuum. The goal is to reduce the total cost of care (TCOC) which can be done by investing in upstream services. DSR are calculated as part of the GC investment funds and are one-time in nature. The DSR are only in 2017 to 2022 waiver. VT must get approval from the federal government and do quarterly reporting to the federal government. VT has received approval for the 2019 DSR expenditures and a menu of the 2020 investments have been submitted for review. 2019 projects include: analytics for the ACO; care coordination; and RISE VT. Senator Kitchel was clear that she wants to know what the return on investment will be for these initiatives. DSR are not guaranteed investment and depend on state funds, budget neutrality and Medicaid cap.

The majority of the Committee wants to give OneCare time, but there is some concern. The Chair wants improved oversight and data collection to ensure that public funds are spent in a responsible way. Senator Kitchel added that "some think it will morph into a utility that needs to be regulated like a utility".

### **Governor's Scott Presents State of the State Speech**

The Governor touched upon just a few issues related to the designated agency system and the people who use our services in his State of the State speech on January 9<sup>th</sup>. However, he did mention helping people in recovery find jobs, reducing costs for licensure and establishing universal after school programming to reduce drug abuse and improve performance. Additionally, he wants to improve funding for housing in areas with high needs. Mental health system improvement included expanding inpatient care. Plus, the Governor referred to the importance of community level response and prevention. Specific to the Brattleboro Retreat he said, "This health care provider is simply too critical for us to let fail, especially without an alternative. This would have a devastating impact on our mental health system and the region's economy," He said that the Administration will do everything it can responsibly do to help and asked the legislature to do everything necessary to save it. Finally, he mentioned the loophole that allows mentally ill criminals to go free and his intention to close it.

### **House Appropriations Hears Mental Health Overview on January 9<sup>th</sup>**

Mental Health Commissioner Squirrell reviewed the capacity of the system of care. She noted that a report on residential services will be out soon. She gave an overview on Brattleboro Retreat (BR) which is a private not-for-profit mental health and substance use disorder hospital that provides comprehensive inpatient, partial hospitalization, and outpatient treatment services for children, adolescents, and adults. She said that they have been working with CVPH in New York about access to inpatient care for youth. The youth must be willing to use inpatient on a voluntary basis to access these services. The Commissioner reviewed all of the inpatient beds in the State and noted that the Retreat and DMH have had discussions about the acuity levels of children served at the Retreat. DMH would

like them to serve children at higher acuity. Across the State the youth residential programs have been very full. At this point the Retreat is only offering 10 out of its 15 beds for services. When asked what happens to the high acuity children, Commissioner Squirrell said they may be served by other residential providers in Vermont or out of state. Woodside serves children involved in the court system. She noted that the WCMHS ICAP program has expanded to serve youth that might otherwise reside at Woodside.

*Response to Committee Questions:*

1. DMH and AHS understand the importance of the BR and has worked in good faith with BR and put forward rate adjustments. BR came back and said the resources are insufficient. The good news is that this week they had a productive meeting. There is an opportunity for a path forward with immediate action steps. BR will hire an outside firm (turnaround specialist) to make recommendations on fiscal operations. Additionally, they will work on their admissions process. The Retreat will evaluate the efficiency of its outpatient services. Secretary Smith and Commissioner Squirrell will work with the Executive Committee of the Retreat on a weekly basis.
2. Will they look at patient safety? Yes, maintaining safety and quality clinical care are important so DMH will continue to monitor.
3. What are the contingency plans if this can't be worked out? AHS did due diligence to create a draft contingency plan, but they are feeling that it is unlikely to be needed. The planning is dependent on the support of other designated hospitals. The plan would be difficult for children and youth to access inpatient care and level one capacity would also be difficult to accommodate. It would also put pressure on community partners.
4. Is this a new problem? No, last year a \$4.5 million increase was appropriated. Rep Fagan asked for data on the rate increases over the last 5 years.
5. Representative Dave Yacavone asked about using the provider tax to address rate issues. He noted that residential care, nursing homes, home health agencies and designated agencies also having critical fiscal issues. The Retreat is probably not the lone organization with financial issues. Committee Chair Kitty Toll agreed that another hospital had an issue last year.
6. What is the acuity of patients at the retreat compared to other hospitals? There are 14 level one beds at BR. BR, RRMC, VPCH all are paid based on the cost of care, whether the beds are full or not. There are factors that influence costs such as economy of scale. Even though it's a no refusal system RRMC avoids court involved patients, Brattleboro is reluctant to accept individuals involved in violent crimes, so VCPH generally serves those individuals. The Medical Director can still decide whether to admit patients even though it's a 'no-refusal' system.
7. Why is the census low at Brattleboro Retreat? FY18 overall occupancy was 92%, FY19 at 91%. In second quarter of 2019 the census dipped to 60%. There were some practice changes at that time. DMH and DAs experienced communication delays with the Retreat. So that's an area of focus. At this time the census is back up to 75%. The Retreat closed the LGBTQ 15 bed unit. This creates an opportunity to utilize the unit for other needs in the system of care.
8. Are there children placed by DCF. Yes, in the residential unit, the Commissioner will get back to them on the inpatient.
9. DMH pays the full cost of level one beds for RRMC and BR through a cost settlement process. For the other beds at the Retreat they are receiving a higher rate by the State than other hospitals. The level one beds are running at capacity.
10. BAA impact: Sarah Clark, the Finance Director for AHS, would like to work with the legislature on the BAA, but they are not ready to do so now. It may need to be addressed in the Senate and brought back to the House later.

The GMCB filed an analysis of the Brattleboro Retreat finances with the House Health Care Committee.

<https://gmcbboard.vermont.gov/sites/gmcb/files/files/hospital-budget/GMCB%20Staff%20Analysis%20of%20Brattleboro%20Retreat%20Audited%20Financial%20Statements%2001092020.pdf>

### **Senate Education Committee Plans Revisions to State funding of Schools**

Act 173 will change special education funding from a reimbursement to a block-grant system based on enrollment levels, but there are concerns about whether this will work effectively when students have particularly high special education needs. A report on the funding formula which addresses poverty, special education needs, non-English speakers, etc. by the University of Vermont, Rutgers University and the American Institutes for Research will be used as a springboard for further adjustments to the funding formula. The report is inconclusive about whether the special education formula should be adjusted. Interestingly, the percent of students who participate in special education programming varies from 2 – 30% depending on the district. The Chair of the Senate Education Committee, Phil Baruth will work with his committee to determine if a special process is necessary to fund high special education costs.

### **Justice Reinvestment**

A report by the Justice Center of the Council of State Governments, “Vermont Justice Reinvestment II”, was presented to the Senate Judiciary, the House Judiciary and the House Corrections and Institutions Committees.

Findings include:

- There are wide variations in the quality and access of non DOC provided community-based programs available to people on supervision
- Gaps in access to the appropriate level of behavioral health care are likely contributing to recidivism
- Housing is a significant reentry and recidivism challenge, particularly for people with behavioral health needs, and a critical step in addressing this challenge is for the state to better understand housing needs for people who are incarcerated

Key takeaways for the behavioral health services and treatments available for people moving through Vermont’s criminal justice system:

- DOC facilities have worked hard to develop mechanisms for behavioral health screening and assessment, but there are still opportunities to improve identification of people with co-occurring disorders and mental health needs that do not rise to severe mental illness (SMI).
  - → There are limited mental health and substance use treatment resources in DOC facilities and in the community, requiring the department to use a “triage” approach focused primarily on SMI and MAT populations.
  - → There are case planning policies in place to ensure behavioral health information guides treatment and programming referrals, but due to information sharing inconsistencies,
  - supervision officers do not always have consistent or comprehensive knowledge of clients’ behavioral health needs.
  - → State police and local law enforcement have cross-system mental health training; however,
  - there is less focus on training law enforcement on responding to people with addictions or cooccurring disorders.

- → Appropriate housing is a significant challenge for people with behavioral health needs in the
- criminal justice system, and due to resource limitations, DOC does not screen for housing needs of their detainee and sentenced populations.
- Vermont's corrections system is increasingly populated by people who have higher risks and needs that can be addressed through effective supervision practices and access to appropriate programming and services
- Vermont incarcerates more people than current facilities can accommodate, and almost 80 percent of sentenced DOC admissions are for people returned or revoked from community supervision.
  - Limited resources have prevented the state from fully implementing evidence-based approaches that may better support people and enable them to remain in their communities.
  - People in the corrections system with behavioral health challenges, particularly those with co-occurring disorders, non-SMI and housing needs, must be better identified and connected to community services, which will require expanding existing resources.

***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.