



Supporting Vermonters to lead healthy and satisfying lives community by community

## Legislative Update for February 10, 2020



*We hope you will be attending meetings tonight with members of the House and Senate Appropriations Committees. It's a great opportunity to share your perspectives and experiences. See the updated details below.*



### **SAVE THESE DATES**

#### **Monday, February 10, 6 – 7 PM Public Hearings on the Fiscal Year 2021 State Budget**

The Vermont House and Senate Committees on Appropriations public hearings locations:

6:00 – 7:00 p.m.

Barre City: Downstreet Housing and Community Development, 22 Keith Ave, Suite 100

Dorset: Dorset Town Office, 112 Mad Tom Road, East Dorset

Morrisville: People's Academy High School, Auditorium, top of Copley Avenue

Rutland City: Rutland Public Schools, Longfellow School Building, Board Room

St. Johnsbury: St. Johnsbury House, main dining room, 1207 Main St.

St. Albans City: St. Albans City School, Library, 29 Bellows Street

Winooski: Vermont Student Assistance Corporation (VSAC), 10 East Allen Street (follow the signs when entering the building)

5:30 – 6:30 p.m.

Bennington: Bennington College, Center for the Advancement of Pubic Action (CAPA), One College Drive

Springfield: Springfield Town Hall, 96 Main Street, 3rd floor Conference Room (Selectmen's Hall)

Time limits on testimony may apply depending on volume of participants. If you have a story you would like to share privately with the committee members, please contact Theresa to schedule this at the end of one of the hearings. To view the proposed budget, available after 2:00 p.m. on January 21, go to the

Department of Finance and Management's website. For more information about the format of these events, contact Theresa Utton-Jerman or Rebecca Buck at [tutton@leg.state.vt.us](mailto:tutton@leg.state.vt.us) or [rbuck@leg.state.vt.us](mailto:rbuck@leg.state.vt.us), or call 802-828-5767 or toll-free within Vermont at 1-800-322-5616. Written testimony can be submitted to Theresa or Rebecca by e-mail or mailed to the House and Senate Committees on Appropriations, 115 State Street, Montpelier, VT, 05633

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

Vermont Suicide Coalition Partners Press Conference and Daylong Event on SUICIDE PREVENTION ACROSS THE LIFESPAN to raise awareness and generate support for a set of Recommendations put forth by the AHS Suicide Prevention Work Group to Governor Phil Scott for suicide prevention. The Recommendations focus on Zero Suicide in healthcare, support for the Lifelines Call Response line in VT, elder and veteran care, and mobile support efforts for at-risk individuals throughout the state. Press and public are invited.

8:30-9:45a AFSP training for Coalition members (register at: [www.healthandlearning.org/events](http://www.healthandlearning.org/events) )  
10:00-11:00a Press Conference – Cedar Creek  
9:00-12:00p Testimony: House Healthcare Committee, & Senate Health and Welfare  
Noon -1:00p Lunch with Legislators - Cafeteria  
12:45p-1:00p Survivors' Remembrance – flower handouts for legislators - Chamber  
1:00p – 2:00p Resolution: Introduction of VTSPC Coalition by Representatives – Chamber

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

"Disability Awareness Day, at the State House, 9:00 to 6:00. Sponsored by the Vermont Coalition for Disability Rights. Join self-advocates, families, providers and others for a day of advocacy, workshops, refreshments, a keynote speech by Ed Paquin from Disability Rights Vermont and much more!"

### **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
- LGBTQ+ 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/)

## ***What Happened This Week***

### **House Committee on Appropriations Hears Mental Health Budget Proposal for FY20**

On February 3<sup>rd</sup> Mental Health Commissioner Sarah Squirrell presented the Department of Mental Health (DMH) budget request which totals \$279 million. Representative Maida Townsend asked if there is a plan to enhance community-based services. Sarah said the community-based services are the foundation for the mental health system and the 10-year vision looks to enhance the community services and promote an integrated system of care.

Representative Dave Yacavone asked how funds for children's mental health are distributed to the agencies. DMH Finance Director Shannon Thomsen explained that agencies receive a per member per month payment (PMPM) and must meet utilization levels to keep the funds. "What if there are staff shortages and the utilization goes down?" asked Representative Yacavone. "The agencies must meet 90% of caseload target to meet the funding requirements", explained Allison Knopf, adding that those conversations are currently occurring.

Sarah Squirrell showed a chart on the bed days and number of children and youth accessing residential care. Utilization is up, although the number of youth is not. At this time children and youth are getting stuck in inpatient care because there aren't enough appropriate residential resources. The use of services is rising by 2% each year. The number of children under the age of 9 receiving services is doubling and there is an uptick in children and youth utilizing crisis services. Emergency services use has gone up by 12% in the last year.

Representative Mary Hooper asked if there has been a decrease in funding for outpatient services and will receive the answer from DMH at a later date. The CRT population is slowly decreasing. Deputy Commissioner Fox said youth transitioning to adulthood are using alternative options to CRT services. Dave said on Mental Health Advocacy Day he heard that without a history of hospitalization it's not possible to provide comprehensive services to individuals. The Commissioner said payment reform should allow more flexibility in meeting needs for people who don't meet CRT eligibility. Looking at the map of services, questions were raised about the dearth of services in the Northeast Kingdom. Commissioner Squirrell said if there aren't services like group homes in a region, it's because an agency chose not to develop them. She added that they are looking at the distribution of residential resources around the state. The residential report found that the lack of housing is a tremendous barrier to hospital discharge.

FY21 DMH Budget Ups -Gross: \$8,059,134 GF Equivalent: \$4,300,360

- Salary and Fringe
- Forensic Contract Increases
- Internal Service Fund Changes
- Room & Board Phasedown
- CHIP FMAP Change

- Increased funding for children’s residential (PNMI –private non-medical institutions)
- Increase Funding to Brattleboro Retreat for Level 1 and CRT
- Annualization of Funding for the operation of 12 new level 1 beds at the Brattleboro Retreat
- Mobile Response & Stabilization Services for Children and Youth Rutland (\$600,000) one-time
- Investment in Suicide Prevention (\$575,000 GF)

DMH Budget Downs –Gross (\$479,276), GF Equivalent: (\$454,621)

- DMH Contract Savings
- UVM Psychiatric Fellowship Grant Savings
- Additional VT Psychiatric Care Hospital Revenue from Medicare
- Eliminate one Administrative Position
- True up of Legislative Medicaid Funds to DAs

Current Capital Budget Projects

- Replacement of the current Middlesex Secure Residential with a 16 bed Physically Secure Recovery Residence
- Construction of 12 new Level 1 Beds Brattleboro Retreat

Other Notable Highlights

- Successful realization and implementation of grants advancing integration of mental health, health care and collaboration with public education, suicide prevention
- Establish Community Outreach Team in Washington County (Collaboration with Public Safety) Mental

Health Block Grant funding

- Implementation of Mental Health Payment Reform for children and adults (Jan 2019)
- Release of DMH 10-Year Plan/Vision 2030: An Integrated and Holistic System of Care

The Commissioner said they are talking to OneCare about coordinating suicide prevention work and she described a 3-part strategy which includes: expanding Zero Suicide statewide (\$400,000); expanding Vermont’s National Suicide Prevention Lifeline for 70% in-state call response (\$125,000); and expanding programs and supports for older Vermonters and Veterans (\$50,000)

DMH’s presentation states that Designated Agencies’ emergency services are expected to provide “Mobile outreach capability and crisis stabilization services as feasible within existing resources to help prevent need for higher level of care. There is a gap between the current resourced capacity of the DA emergency services teams and the current demand for these services”.

No new money is proposed for the Brattleboro Retreat at this time. Meetings between the Human Services Secretary and the Commissioner with the Retreat are continuing. Sarah Squirrell said the Retreat is in the best position to respond to questions about their finances. They are working to understand their own fiscal status by using a fiscal consultant and are looking at their admission process. Their census went from 60% to 85% from the end of December to now. Representative Fagan asked for a summary of the payments to the Retreat.

### **Mental Health Budget Presented to House Health Care Committee**

Commissioner Squirrell presented an overview of DMH as she did at the House Appropriations Committee (see above) Chair Bill Lippert clarified that designated agencies have a broader reach into the communities than what is presented by DMH. There were questions about how many children are sent out of state and how many are waiting in emergency rooms. Sarah Squirrell said the number of children waiting can be 0 to 2 at any one time. They can be placed within a day or it may take up to 5 – 10 days

for inpatient placement. Representative Lippert complimented the PUCK program and Sarah provided information on the proposed mobile response program for youth in Rutland. There was discussion of children born into families with opioid addiction. Sarah also spoke about increased acuity of need of children at younger ages. Chair Lippert clarified that many people who use adult outpatient are seriously mentally ill. Representatives Smith and Page wanted to know about the dearth of residential facilities in the NEK.

The DMH budget has all level 1 beds and CRT beds, while DVHA budget pays other inpatient psychiatric care for Medicaid eligible patients. Representative Donahue wants all inpatient psychiatric beds paid by the state in one budget, which had previously been requested.

Payment reform was described as focusing on outcomes and creating flexibility for services, including health promotion and wellness activities. Representative Lippert asked about its connection with the All Payer Model. He was told that DMH reform creates conditions that could be used to link the systems of care. The Commissioner said they are working with OneCare to develop a close vision on suicide prevention and to increase designated agency staffing in emergency departments (EDs).

Representative Donahue noted the increase in inpatient spending in the budget and the cut of \$60,000 for the Copeland Center. She asked, "How can we not cut [the community system] again because of increasing inpatient pressure?"

Commissioner Squirrell previewed Suicide Prevention initiatives and the Mobile Response pilot. She noted that "DAs are trying to manage the gap between the resources they have and the need that exists." The Mobile Response pilot allows for a crisis worker to meet the family face-to-face in their home/community/school setting versus directing them to the ED. Brian Cina, a former screener, suggested that the committee hear testimony from screeners about "what's worked in the past and why they don't do it anymore." Representative Donahue suggested that the Mobile Response idea be considered alongside Bennington's PUCK (pediatric urgent care for kids) model.

### **Senate Judiciary Committee Finalizes the Justice Reinvestment Bill**

On February 4<sup>th</sup> Department of Corrections (DOC) Commissioner Baker said he is supportive of the Justice Reinvestment initiative. He discussed that risk reduction programming takes 9 months and starts quarterly leading to people having to stay in facilities longer than necessary to finish the programs. Senator Benning said the programming should be available in the community to avoid extending stays longer than necessary. Commissioner Baker said he is willing to discuss this.

Senator Sears questioned if furloughs are a failure, why are we continuing them? Commissioner Baker said they are looking at a different furlough system and will work with the Council of State Governments on it, especially for incarcerated women.

Kim Bushey, Director of Program Services for DOC, explained how the University of Cincinnati worked with DOC to look at risk/need approaches, instead of only focusing on offenses. This led to new ways to address the full array of criminogenic needs: substance use disorders, employment, mental health and/disabilities. So now DOC uses an integrated model with 10 curriculums that target different criminogenic needs. This array of services is only available in the facilities. The community-based domestic violence (DV) programs have been struggling with resources after some state funding was reduced. DV convictions have gone up as a result. There is a program fee that is too much for the participants and too little for the DV programs to be able to follow evidence-based practices.

Derek Miodownik, of DOC spoke about their transitional housing, acknowledging some misalignment between program policies of transitional housing and the needs of the population. He said there are 131 inmates whose main barrier to release is the lack of housing. Of these inmates approximately 30 - 40% have sexual offense convictions. Conditions (restrictions) of release and housing stock don't match. This population doesn't tend to recidivate at the same level as others. It's a public health problem that requires private landlords to participate, but they are reluctant

He spoke about a congregate setting where the goal is sobriety and recovery, saying that the residents leverage support and accountability from each other. The homes have not figured out how to do harm reduction for those who relapse. The population coming out are very vulnerable to relapse; in the past they were further along in recovery. It's not just about the individual, but also the others residing in the residence.

He explained that harm reduction strategies are predicated on expected relapse and optimize stability and safety. Congregate housing settings that can't handle this. The greater the congregation the more the rules need to be enforced to create a safe environment and structural integrity. Scattered site housing has better stability but needs a master lease by an organization or by the tenant. This is hard with a 1% statewide rental occupancy rate. People who are under the supervision of DOC are not people that private landlords want to rent to. Additionally, public housing is not available to convicted sex offenders. Sears added that sex offenders have varied risk profiles.

Ellen Whelan-Wuset from the National Council of State Government said supportive housing is a good model and she praised the work of Pathways for Housing. Senator Benning said there are 50 congregate beds at the work camp at St Johnsbury. Derek said that congregate settings create greater challenges for public safety. Pathways wants \$350,000 to expand to Bennington County. Sears is not sure that they are the answer. Derek said housing first is a good model. How does the contract work? Derek said grants are used to procure organizational capacity, including the number of beds. A floor of 80% utilization is required.

On February 7<sup>th</sup> Dale Crock of DOC noted that Commissioner Baker feels cautious about setting up transitional housing using one-time funds. The Justice Center's estimate is that in FY22 expected averted costs will be \$2.3 million. Senator Sears noted the \$2 million in one-time money is for front loading to achieve those savings. Senator White cautioned that the housing first model does not work in all communities. It has burnt landlords. She would like DOC to work with housing authorities and landlords, "do not put all your faith in the Housing First model". The Committee voted out the bill unanimously. The next stop for the bill will be the Senate Appropriations Committee.

### **Senate Appropriations Committee Hears Health Department Budget Proposal**

Commissioner Mark Levine reviewed the VDH budget for FY21. Senator Kitchel asked about the funding for well-baby home visiting. The parent child centers offer family support services to these families. Jane said in Morrisville there is the DULCE model. Levine said everyone receives screening. DULCE is the mechanism for screening. Many physicians do the screening whether in DULCE or not. If services are needed CIS does sustained home visiting. It's a two-pronged approach of VDH nurse and Parent-Child Center home visiting. Senate Health and Welfare is working on legislation to define core services of Parent-Child Centers. Senator Richard Westman said we are only part way into implementing DULCE and he's not clear about unified state approach to support young families. DULCE is in 4 counties said Levine. There are 750 Medicaid families annually who are eligible for getting these home visits (1/4 of all births in Vermont in a year) Only half of eligible families are getting the visits.

Senator Kitchel ask about how many are getting the visits through OneCare and on what basis does it go through the ACO. Levine said all of DULCE is going through the ACO. Then they work in partnership with Parent-Child Centers.

The Alcohol and Drug Abuse Programs (ADAP) budget was only briefly reviewed. There are several new positions which are federally funded, including one for the substance use prevention council. There are now Medicare payments for SUD treatment. Commissioner Levine acknowledged reduced treatment utilization, but didn't explain it.

### **Senate Health and Welfare Takes First Testimony on S.302 Mobile Response for Youth in Rutland**

Senator Brian Collamore presented S.302 to the Senate Health and Welfare Committee explaining the purpose of the proposed program. The bill is co-sponsored by the other two senators from Rutland County, McNeil and Hooker. It has a \$400,000 appropriation attached to it which is \$200,000 less than the Governor's budget request.

Laurel Omland, Operations Chief, Child, Adolescent and Family Unit, for the Department of Mental Health gave a brief history of how the program was designed based on programs in New Jersey and Connecticut. The goal is to create immediate response and connection to necessary services before a child goes into crisis. It is not limited to children already in the mental health system and the services will be provided in the community rather than the hospital emergency department. Laurel explained that the Rutland location was chosen because of the high use of the hospital emergency room by children and youth. The goal is to conduct the pilot in Rutland in FY21, but to expand it statewide in the future. When asked about why the proposed program is so expensive, Laurel said the cost was estimated before leveraging Medicaid.

### **New version of S.183 Taken up by Senate Judiciary Committee**

Legislative Counsel Eric Fitzpatrick and Katie McLinn presented a new version of S.183, an act relating to competency to stand trial and insanity as a defense. It addresses procedures when someone is discharged from the custody of the Commissioner of the Department of Mental Health (DMH) requiring DMH to notify the state's attorney for the County 10 days in advance. The victim is notified if the person is discharged from a secure mental health facility (inpatient, secure residential or care and custody of the Commissioner) if the person who is being discharge was found not guilty by reason of insanity for one of 12 serious offenses. The States attorney would then notify the victim if they request it. Kate McLinn has researched case law relevant to HIPAA and found that such notice is allowable when state law requires it under exception provisions of HIPAA. The bill requires an inventory of mental health services provided by DOC.

"By August 1, 2020 a working group will be convened Identify any gaps in the current mental health and criminal justice system structure and opportunities to improve public safety and the coordination of treatment for individuals incompetent to stand trial or who are adjudicated not guilty by reason of insanity. The working group shall review competency restoration models used in other states and explore models used in other states that balance the treatment and public safety risks posed by individuals found not guilty by reason of insanity, such as Psychiatric Security Review Boards; and (2) Evaluate various models for the establishment of a State-funded forensic treatment facility for individuals found incompetent to stand trial or who are adjudicated not guilty by reason of insanity. The evaluation shall address:

- (A) the need for a forensic treatment facility in Vermont;
- (B) the entity or entities most appropriate to operate a forensic treatment facility;
- (C) the feasibility and appropriateness of repurposing an existing Facility

Senator White suggested including community partners in the study group. Katie said the language is open and could include others.

DMH Deputy Commissioner Mourning Fox supports the 10-day prior notice to states attorney for people released from DMH Custody after insanity pleas. He noted that in the case of people found incompetent to stand trial, if they are discharged due to no longer being in need of treatment, it does not indicate anything about their competence to stand trial. DMH is interested in language that would enable DMH to request the court to have a new evaluation for competency. The forensic studies do speak to competency restoration programs. Vermont is an outlier in lacking a program for competency restoration. He wants the fiscal implications to be analyzed. DMH is open to having community members on the study committee. He would like to have the addition of an outside consultant to bring in expertise for the work group. Deputy Commissioner Fox suggested adding to the study analysis of 'guilty but mental ill' options for insanity defense. There was also a request to add language to give DMH party status in court when insanity or incompetency become issues. It would enable DMH to inform the court about appropriate levels of care. The insanity evaluation and competency evaluation should be separated out, with the competency evaluation done first.

Judge Brian Grerson, Chief Superior Judge, said nationally restoration services are part of the process. Other states keep cases in the criminal process if the person is found incompetent, but then they need to determine where people go in the interim during competency restoration services. He will continue this discussion with his peers. He agrees with DMH that they should become a party in the criminal proceedings once a person is found incompetent and they should play a role in what treatment the person should receive. In most cases when a person is found incompetent, they are dismissed without prejudice. It is possible for the case to be refiled at a later date.

#### **S. 290 on Health Care Reform Implementation Reviewed by Senate Health and Welfare Committee**

This bill proposes to create a broad array of new requirements for accountable care organizations, hospitals, the Green Mountain Care Board (GMCB) and the Agency of Human Services. There is language requiring financial and budget review of DA/SSAs and preferred providers for substance use disorder based on the hospital budget review process. Senator Lyons explained that GMCB and DAs are talking about a more manageable approach than the hospital review process. Her perspective is that considering the amount of public funding, this is important. Senator Cummings said there is a cost benefit of doing this level of analysis. Senator Cummings is not seeing the value, if there is no new money available to address financial needs. Nolan Langweil said the GMCB uses funding from Hospitals and the ACO to take on the budget review process, it is unlikely that anyone would want to bill back DA/SSAs. Senator Westman said the vision of GMCB needs to be clarified. Is the GMCB a regulatory body? Do we want the GMCB to oversee payment reform? He is worried about the coordination with AHS. What is our new vision for GMCB and what is manageable? He asked. Senator Lyons said the point of bill is to lay out our vision for the roles of the GMCB. Senator Westman and Ingram expressed concern about health care work force.

#### ***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):

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- 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.