



Supporting Vermonters to lead healthy and satisfying lives community by community

Legislative Update for June 23, 2020



The COVID 19 pandemic has changed the focus of Vermont Care Partners' advocacy efforts as our provider network has revamped our services to meet the needs Vermonters in new ways with careful precautions for health and safety of those we serve, our workforce and partners. Legislative work is now happening remotely.

House Passes CRF Bill for Health Providers H.965

Last week the House of Representatives passed legislation with \$355 million from Health and Human Services out of which \$250 million would go the health providers stabilization fund to be administered by the Agency of Human Services (AHS). AHS will award funds to providers based on needs. A number of providers and services were singled out in the bill with minimal specific appropriations. This concerned Representative Hooper but moved forward. Specific funding minimums include: suicide prevention, Pathways warmline and outreach, Brattleboro Retreat, and developmental services.

Senate Health and Welfare Committee Begins Deliberation of CRF for Health Providers in H.965

The Senate Health and Welfare and the Senate Appropriations Committee is in the process of reviewing the CRF legislation for health and human services. There is much discussion about the earmarking of minimum allocations for specific providers and services. AHS Secretary Mike Smith, in a written communication, reiterated his request for \$375 million for health provider stabilization with flexibility to award funding based on need without restrictions. Originally, Senator Lyons expressed reservations about the earmarked minimums, but during discussions the Senate Health and Welfare Committee condensed several of the service-specific minimums into groupings but didn't fully eliminate them. It was pointed out by Nolan Langweil of the Joint Fiscal Office that the minimum allocations for DA/SSAs, Hospitals and nursing homes are proportionally lower than their funding levels in the larger health and human services system. Senator Westman said it's hard to tell how much each industry is down and that AHS has the better sense of need than the Legislature.

Ena Backus, the Director of Health Reform for AHS asked to have language added that would require providers seeking access the health provider stabilization funds to maintain their commitment to value-

based funding. She also sought flexibility to use a needs-based methodology for awarding funds to providers to equitably distribute the funds. During the discussion Committee Chair Senator Lyons was very clear about their commitment to the OneCare health investments.

The Bill has language specific to the Brattleboro Retreat calling for the Green Mountain Care Board to review its budget starting 2023 and sets up further oversight of the Retreat.

Louis Josephson, President and CFO of the Brattleboro Retreat testified that the Retreat is extremely aware of the mutual dependencies of the Retreat and the State as the provider of 50% of inpatient psychiatry care in Vermont. The labor issue at the Retreat has tremendous priority. He stated that there are 'cultural difficulties' with the staff and added that he respects the union and the staff. He believes that he does his best to put competent and caring staff around patients. The Board already has an open section during its meetings to hear from the public and staff. The Action Sustainability Plan includes labor relations. Jessie Oski representing the union UNAP at the Retreat said the quality of care is dependent on the staff feeling respected by management. As part of the broader Sustainability Plan UNAP is requesting a 12-month action plan with measurable benchmarks for open communication and improved labor relations with the staff. At this time the Committee is hoping to add language to the Bill to address labor relations but has not landed on it yet.

In her testimony, Vicki Loner cautioned about losing momentum if health providers cannot invest in population health management like primary care and care coordination. OneCare has seen an uptick in the need to reach out to people to encourage them to use care. Hospitals have been contributing \$15 million for population health investments of which \$9 million is going to other health providers. She would like AHS to be directed to work with the ACO and have the ACO listed as an eligible provider for the health care stabilization fund.

Senate Appropriations Committee Reviews the work of the Senate Health and Welfare Committee on H.965

Senator Kitchel wants to ensure that all the different CRF funding bills intersect strategically and ensure as much flexibility as possible. Her plan is to combine the CRF bills into one CRF omnibus bill. Stephanie Barrett from the Joint Fiscal office reviewed the funding recommendations from the House and the Senate Health and Welfare Committee. The health care provider stabilization is now more inclusive with fewer providers being singled out for specific appropriations. The Agency of Human Services strongly recommended to the Senate that the Health Care Stabilization Program funding be restored to the Governor's original proposal of \$375M which would be about \$50 million above what the House passed. At this time the Senate has not set a new funding level. Senator Ashe wants to make sure that there is clear opportunity to focus the health providers stabilization funds on providers with highest need. Stephanie noted that sustainability of providers is one of the criteria. Senator Ashe questioned appropriations to hospitals to then support OneCare community investments.

Senate Amends First Quarter of FY21 Budget with Plan for Mental Health Workers in State Trooper Barracks

Following a very positive discussion by the Senate Appropriations Committee with a 7 – 0 vote in favor of the amendment, Senator Tim Ashe spoke to the full Senate about the work of NCSS and how two years ago a State Trooper told him that he wouldn't know what they would do without the NCSS mental health worker. He would like to fund mental health workers in every state trooper barracks in the State right now, but softened the proposal to achieve quick passage by asking the Commissioners of Mental Health and Public Safety to come back with the proposal for the full FY21 budget by mid-August. In the Appropriations Committee Senator Nitka spoke about the HCRS programs in the Southern Vermont and

the need for stable funding. Senator Kitchel also wants to achieve a stable funding stream which was agreed to by Senator Ashe who said they need to be proactive to avoid agencies having to cannibalize other services to fund the program. Senator Kitchel said this could be a way to save public safety funds and invest them more wisely. Senator Sears was also very supportive during the discussion.

As Reported in the Senate Journal:

Senators Ashe and Sears moved that the Senate proposal of amendment be amended in Sec. A.21 by adding new subsection(b) to read as follows: The Commissioner of Public Safety shall in collaboration with the Commissioner of Mental Health present a plan to the General Assembly by August 18, 2020 that will create the capacity for each State Police barrack to have embedded mental health clinicians from a designated agency or contracted provider to more appropriately respond to situations involving individuals experiencing a mental health emergency. In formulating this plan, the commissioners shall review the embedded mental health clinician model developed in Franklin county for statewide scalability. The Commissioner of Public Safety shall recommend the reallocation of funds for this purpose and explore the potential to match funds under Vermont's Medicaid waiver.

The first quarter bill also requires the State to "report to the House and Senate Committees on Appropriations, the House and Senate Committees on Judiciary, the House Committee on Human Services, and the Senate Committee on Health and Welfare: (1) the status of operations of the Woodside Juvenile Rehabilitation Center facility in fiscal year 2021, including the projected date for cessation of operations at the facility and the cost and funding sources identified for operation of the facility for any period of time during fiscal year 2021; (2) the projected costs and funding sources to provide short- and long term residential placements and treatment services for justice-involved youth and youth in the custody of the Department for Children and Families for any period of time in fiscal year 2021 subsequent to the cessation of operations at Woodside; and (3) the projected annualized cost of providing such placements and treatment services and the proposed funding sources."

Senate Judiciary Committee Take Testimony on S.219 Law Enforcement Bill

Wilda White who chairs the Mental Health Crisis Response Commission that investigates death of people by law enforcement said the Senate Judiciary Committee has not engaged in the deep reflection, careful thought and broad public engagement that effective legislation in this domain requires to address white supremacy, explicit and implicit bias, the need to reduce use of force, and institutional racism. She said more than "a hodgepodge approach" is required and that "Haste is not the answer". She is concerned that the statute does not address that people with mental illness are 15 times more likely to be killed by law enforcement. It is Wilda White's perspective that the Senate Judiciary Committee doesn't fully appreciate the enormity of the problem. She wants them to take the time to dismantle the policies, institutional practices, and cultural norms that have allowed excessive force against black people. She made specific recommendations about race data reporting; the definition of "necessary" for deadly force; public access to body camera footage; bias against people with mental illness; and the use of improper restraints. She noted that since 2016 when Phil Grenon was killed by police there have been five other deaths of people with mental illness involving law enforcement. Her written testimony ended with these words, "Black lives will not matter until the policies, practices and cultural norms that have endured and adapted over time to deliver racial injustice are dismantled. I urge this Committee to undertake the work of dismantling these structures." She also called for a focus on death of people with mental illness related to law enforcement.

Kristin Chandler who teaches at the Police Academy and is also a member of the Mental Health Crisis Response Commission spoke about Team Two training. As the Coordinator of Team Two, Kristin offers trainings 6 times a year around the state. There are 35 trainers in 5 regions of the state. Since 2014, 400 Law Enforcement and 250 mental health clinicians, plus dispatchers and other folks have been

trained. The Goal is to build relationships and partnerships to address mental health crises. There is a steering committee that includes: NAMI, DA/SSAs, ADAP and DMH. The one-day training includes legal, clinical and safety aspects of interventions. It has built the potential for collaborative responses to deescalate situations. There are 10 police departments in Vermont that have not sent people to these free trainings. It is grant funded by DMH (\$80,000) and the Department of Public Safety Department (\$20,000) but there is always a worry that if budgets are cut that this grant could be cut. At the end Kristin noted that there are more frequent calls now about people on the autism spectrum.

George Karabakakis, Executive Director of HCRS spoke about the agency's police social work program. He said law enforcement is often the first stop that people call for a range of issues: domestic violence, mental health crises, substance use disorders, etc. In 2003 they started a police social work program that was so successful that it expanded throughout southern Vermont. The staff establish rapport with people in need; deescalate situations; develop relationships; help people build connections in their communities; and make referral for services to keep people out of the criminal justice system. The HCRS peer support program is connected to these efforts, too. There are 6 police social work staff who work for HCRS. Over the past year there have been 577 interventions: 189 children and families impacted; 888 adults impacted; 24 homeless people supported; and hundreds of thousands of dollars saved. Chief Fitzgerald of the Brattleboro Police Department said the social worker on staff is critical to the success of his department by reducing the use of force and developing long-term solutions to incidents they respond to. The social worker also trains his staff.

Senate Plans to Amend S.218 on the DMH 10-year Plan to an Act Establishing the Mental Health Integration Council

The Senate is in the process of altering the bill to support the DMH 10-year plan to establish a Mental Health Integration Council. The purpose of the Council is to ensure that all sectors of the health care system actively participate in the State's principles for mental health integration and as envisioned in the Department of Mental Health 2020 Report, "Vision 2030: A 10-Year Plan for an Integrated and Holistic System of Care." Vermont Care Partners will have representation on the Council. The proposal for the Council originated in the House Health Care Committee.

House of Representatives Passes H.966 CRF (corona virus relief fund) for Broadband, Connectivity and Housing

Last week the House passed legislation investing \$43 million in federal CRF for broadband, connectivity and cybersecurity plus \$52 million for housing which is on top of \$23 million appropriated for housing in a previous bill S.350. Housing resources include:

- \$9 million to the Vermont Housing and Conservation Board for housing and facilities necessary to provide safe shelter and assistance for persons who are, or are at risk of, experiencing homelessness
- \$6 million in foreclosure protection for low and moderate-income homeowners
- \$250,000.00 to provide counseling and assistance to landlords concerning tenancy, rental assistance, and related issues
- \$30 million in rental assistance
- \$6.2 million for the Re-housing Recovery Program

Senate Health and Welfare Amends Health Care Bill Further

The Senate Health and Welfare Budget amended the Health Care Bill H.960 related to miscellaneous health provisions to address Vermont Care Partners request that the Green Mountain Care Board:

Collect and review data from each community mental health and developmental disability agency designated by the Commissioner of Mental Health or of Disabilities, Aging, and Independent Living pursuant to chapter 207 of this title, which may include data regarding a designated or specialized service agency's scope of services, volume, utilization, payer mix, quality, coordination with other aspects of the health care system, and financial condition, including solvency. The Board's processes shall be appropriate to the designated and specialized service agencies' scale and their role in Vermont's health care system, and the Board shall consider ways in which the designated and specialized service agencies can be integrated fully into systemwide payment and delivery system reform.

The Committee is still in the process of amending the bill to strengthen the requirement that the Board engage directly with the staff to address the union concerns about the working environment at the Brattleboro Retreat.

The Committee also reviewed the letter from Health Care Coalition requesting extension of regulatory flexibilities originally set forth in Act 91 through March 31, 2021 including:

- Allowing the Secretary of Human Services to allow flexibility of rules and standards
- Flexibility for credentialing and provider enrollment by the Office of Professional Regulation;
- Allowance for retired health professionals and professionals in good standing licensed by another state may be reimbursed for services;
- Extension of regulatory allowance for a patient to be isolated or quarantined for the purpose of preventing the further spread of COVID 19, without having to follow a very specific and rigorous set of regulatory requirements if this is considered "seclusion" under Vermont's mental health statutes; and
- waiver of certain telehealth requirements such as the use of non-HIPAA compliant technology.

At this time, the Committee is moving the bill forward to include these recommendations. The Office of Professional Regulation will also be allowed to temporarily license a graduate of an approved program if a licensure exam is not currently available. The Committee hopes to approve the bill tomorrow, June 23rd, for action on the Senate Floor as soon as possible.

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
- Legislators' email addresses 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.