



Supporting Vermonters to lead healthy and satisfying lives community by community

## Legislative Update for July 1, 2020



*The Legislature has adjourned until August 25<sup>th</sup> when they will return to work on the FY21 full budget, as well as some policy issues. Vermont Care Partners will summarize our work before the Legislature resumes in our annual Legislative Wrap-up.*

### **Legislative and Funding Overview**

On Friday, June 26<sup>th</sup>, the Legislature adjourned until August 25<sup>th</sup>. In mid-August, the Joint Fiscal Committee will approve an updated state revenue forecast and soon after the Administration will propose the full budget for fiscal year 2021. It is likely that the appropriations committees will convene as soon as they have enough information, prior to August 25<sup>th</sup>, as the full budget must be approved before the end of September. They have discussed their interest in having stakeholder input into the budget.

Out of the \$1.25 billion in coronavirus relief funds (CRF) the legislature and the administration have now appropriated and/or spent approximately \$1 billion, leaving \$250,000 or so to appropriate when they return in August. All funds must be spent by December 30<sup>th</sup>. There is still hope for additional funding to address COVID-19 and greater flexibility for the use of the funds. The current consensus forecast for funding shortfalls is: Education Fund (\$150M), General Fund (\$200M) and Transportation Fund (\$48M). Backfilling shortfalls will only be possible if the federal rules change to allow it.

### **Legislature Approves First Quarter Appropriation Bill H.961**

The full legislature sent H.961 the bill that lays out appropriations for the first quarter of FY21 to the Governor on June 26<sup>th</sup>. The Bill assumes closure of the Woodside Juvenile Rehabilitation Center and allocates \$2.5 million to serve this population through fiscal year 2021. Additionally, the Agency of Human Services is directed to develop a plan to provide comprehensive mental health treatment services to youths, including justice-involved youths, with severe mental health disorders. The plan will address the amount necessary to fund short- and long-term residential placements and treatment services for justice involved youth and youth in the custody of DCF. The Bill requires legislative approval

before the facility can be closed. By January 15<sup>th</sup> AHS will present the plan for repurposing the facility. Additionally, \$260,000 is appropriated for costs associated with transitioning from a treatment facility to a detention facility providing additional clinical support and training for Woodside staff.

### **Senate Adjusts the House CRF Bill H.965 for Health and Human Services**

The Senate's and legislature's final version of the coronavirus relief funds (CRF) bill for health and human services was passed with a total of nearly \$327 million dollars of which \$275 million is in the Health Care Providers Stabilization Grant Program which includes: DA/SSAs, hospitals, home health agencies, FAQHCs, long term care facilities, etc. Other appropriations include:

- Hazard Pay for Frontline workers - \$28 million (inclusive of DA/SSAs, including direct support professionals whose funding comes through ARIS)
- Grants to address health disparities - \$.5 million
- Pathways warmline and outreach - \$200,000
- Vermont Foodbank and meal programs - \$4.7 million
- Childcare, family supports - \$12 million
- Direct support to vulnerable populations - \$2 million
- Public health precautions on State lands - \$ 3 million
- Legislative health and safety - \$750,000

The grants for vulnerable populations include older Vermonters, individuals with a disability, and households living below 300 percent of the Federal Poverty Level to cover cleaning supplies, PPE, cash for families with children under 6 years of age; remote learning and employment expenses such as internet; and transportation expenses.

### **Legislature Passes H.966 to fund Broadband, Housing and Economic Relief with CRF**

H.966 provides for COVID-19 funding and assistance for broadband connectivity, housing, and economic relief with an appropriation of \$213.2 million of CRF to cover necessary broadband connectivity, information technology, housing, and economic relief expenses incurred due to, or as a result of, the COVID-19 public health emergency.

Housing resources include:

- Legal and counseling services to persons who are, or are at risk of homelessness or suffering economic hardship for Vermont Legal Aide - \$550,000 to AHS
- Grants to organizations that provide counseling and assistance to landlords - \$250,000 to Department of Housing and Community
- Grant for Housing and facilities for persons who are, or are at risk of homelessness - \$9 million to the Vermont Housing and Conservation Board
- Foreclosure protection for low- and moderate-income homeowners to VHFA - \$5 million to the Department of Housing and Community Development
- Rental assistance; eviction protection funding to the VT State Housing Authority - \$25 million to the Department of Housing and Community Development
- Rehousing investments to renovate blighted properties - \$6.2 million is appropriated to the Department of Housing and Community Development
- Rental assistance, case management, and navigation for families experiencing homelessness - \$16 million to the DCF

The Bill also appropriates \$17.4 million to an Accelerated Broadband Connectivity Program, a newly established program administered by the Commissioner of Public Service. The Department of Health

will be appropriated \$800,000 for the COVID-Response Telehealth Connectivity Program to be administered by the Vermont Program for Quality in Health Care, Inc. (VPQHC) to support equitable access to telehealth services by providing outreach and educational opportunities that improve digital literacy skills of patients and providers and also by providing the equipment needed to support telehealth needs during the public health emergency, particularly in areas that are digitally and medically underserved. VPQHC shall make every effort to identify and prioritize assistance to vulnerable and high-risk patients.

### **Legislature Passes Miscellaneous Health Care Bill**

The final health care bill H.960 includes the 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 Legislation also creates a Mental Health Integration Council to ensure that all sectors of health care actively participate in the State's principles for mental health integration as envisioned in the 10-year Plan. Vermont Care Partners will have a seat on the Council. This language had been in S.218. The Council charge includes:

- (1) identifying obstacles to the full integration of mental health into a holistic health care system and identifying means of overcoming those barriers;
- (2) helping to ensure the implementation of existing law to establish full integration within each member of the Council's area of expertise;
- (3) establishing commitments from non-state entities to adopt practices and implementation tools that further integration;
- (4) proposing legislation where current statute is either inadequate to achieve full integration or where it creates barriers to achieving the principles of integration; and
- (5) fulfilling any other duties the Council deems necessary to achieve its objectives.

The Council will provide a progress report in December 2021 and a final report January 2023.

The Bill also sets conditions for further State funding of the Brattleboro Retreat under the oversight of DMH:

- 1) allow the existing mental health patient representative under contract with the Department to have full access to inpatient units to ensure that the mental health patient representative is available to individuals who are not in the custody of the Commissioner;
- (2) in addition to existing policies regarding the provision of certificates of need for emergency involuntary procedures, provide to the Department deidentified certificates of need for emergency involuntary procedures used on individuals who are not in the custody of the Commissioner; and
- (3) ensure that the mental health patient representative be a regular presenter at the Brattleboro Retreat's employee orientation programming.

Additionally, to support proactive, continuous quality and practice improvement and to ensure timely access to high-quality patient care, the Department and the Brattleboro Retreat shall: meet jointly monthly with the mental health patient representative and the mental health care ombudsman to review patient experiences of care; and identify clinical teams within the Department and the Brattleboro Retreat for discussions on quality issues, including service delivery, clinical practices, practice improvement and training, case review, admission and discharge coordination, and other patient care and safety topics. There will also be reports to the legislature on the fiscal sustainability of the Retreat, as well as a report on steps being taken to improve communication and relations with employees.

### **Workers Compensation Legislation Passes Legislature**

S.342 the Worker Compensation bill passed the legislature with modifications by the House. It is now under consideration by Governor Scott who is receiving much communication in opposition to the Bill and who has requested feedback from the health care sector. The bill presumes that front line workers are eligible for workers compensation unless the employer can prove through a preponderance of evidence that they became infected outside of the workplace. The employee would be covered by workers compensation if they test positive for COVID-19 any time between April 1, 2020 and January 15, 2021.

At testimony at the House Commerce Committee Christopher Stark, Regional Vice President, National Association of Mutual Insurance Companies said a retroactive presumption is difficult and with the opening of businesses it will be hard to come up with a preponderance of evidence. If any employer has followed the OSHA guidelines, he said, that should be sufficient. He suggested that it be a societal burden, not the employers' burden. Businesses need consistency for workers compensation.

Anne Bilodeau, Human Resources Director for Health Care and Rehabilitation Services (HCRS) spoke on behalf of VCP, Bi-State Primary Care, VNAs of Vermont, Vermont Health Care Association, and VAHHS. She cautioned about the unintended consequences of reduced services. Her biggest concern is the presumption of compensability and burden of proof. The Committee was assured that health providers are doing everything possible to protect the safety of our workers. We care deeply about the safety protocols, but we can't control what happens outside of the work environment where significant spread is possible. She emphasized that it's not feasible or realistic to focus only on employment as the sole source of the illness. She specifically described the potential for tremendous impact of just two cases of COVID -19 on her agencies worker's compensation costs and highlighted that Vermont already has a very limited market for these policies. Cost increases could lead to reductions in health care service levels to our communities - the most critical industry during the pandemic.

Bill Driscoll, Vice President, Associated Industries of Vermont said there are significance costs created by the legislation. The workplace is not the most likely place to catch COVID-19. The exemption for employers following OSHA is helpful but could lead to litigation. He thinks there will be uncertainty about how it will be enforced. Worker's compensation is meant to address injuries in the workplace. The injuries must be work related. The majority of other states haven't enacted this presumption. Joe Damiata, Director of Risk Management Services, Vermont League of Cities and Towns agreed that the bill is too broad and would apply to too many employees. Possible costs could be as high \$ 4 – 27 million for Vermont cities and towns.

David Mickenberg spoke on behalf of Working Vermont and sees the bill as honoring Vermont's workers. He thinks the data shows that the bill is necessary. With 111 claims filed, he said, none have been fully accepted at this time. He thinks that if people are only out of work for two weeks then it

shouldn't have a devastating impact on employers, but two weeks without a paycheck can have a serious impact on Vermonters and many Vermonters are underinsured and can't cover the costs for any necessary health care. His estimate of the cost is that it is unlikely to be more than \$4 million. He wants the bifurcation of workers as laid out in the Senate version of the Bill.

James Feehan, representing American Property and Casualty Insurance Association – recommended narrowing the focus of the bill. He is opposed to the bill in the current form, but if it is narrowed to first responders, he would be more comfortable. Other testimony in opposition to the Bill was provided by the VT Chamber of Commerce, Lake Champlain Chamber of Commerce and the Vermont Retail and Grocers Association. In the end the House adjusted the language to have the Commissioner of Financial Regulation examine the potential for creating a special fund that can be used to reimburse workers' compensation insurers, intermunicipal insurance associations, and self-insured employers for COVID-19 related workers' compensation costs related to COVID-19 by August 15<sup>th</sup> and The contribution rate for self-insured workers' compensation losses and workers' compensation losses of corporations approved shall remain at one percent. The House version also has health care and other employers in one, rather than two categories as the Senate bill had them. The House version of the bill passed the legislature.

### **Secretary of Education Dan French Addresses How Schools Shall Reopen**

Agency of Education Secretary Dan French provided testimony to the House Education Committee on Thursday June 25, 2020 (link to video [here](#)). He addressed the new school reopening guidance and talked about assessing the academic and social/emotional needs of students as they return to school, stating that the primary and most important intervention is getting kids back into the routine of school, safely. He also stated that schools are just beginning to understand the Coronavirus Relief Funds that are available to them, and advocated for a statewide school calendar, suggesting that it may be better to open school after Labor Day. He acknowledged that the Agency of Education is trying to work with stakeholders in consideration of how a hybrid model of learning (in school and virtual) could work in schools this fall.

Other stakeholders, including Jeff Francis from the Superintendents' Association, Jay Nichols from the Principals' Association and Don Tinney from the Vermont NEA echoed many of French's comments. In addition to significant operational challenges, they expressed concerns about the trauma students may have experienced, as well as students' potential sense of abandonment, frequently citing the expertise of NFI's Dave Melnick. Traci Sawyers from the Vermont Council of Special Education Administrators [VCSEA] shared some of her constituents' concerns, including the volume of service and evaluations parents may be requesting when schools re-open, worry about social/emotional needs of students, and the "importance of multi-disciplinary teams with school nurses, school-employed mental health professionals, and teachers." The VCSEA is concerned about drops in attendance from students who have health risks themselves or family members with health risks. She also expressed worry about student homelessness increasing due to the economic impact of COVID-19.

Senate President Pro Tempore Tim Ashe sent a letter to the Secretary of Education requesting that he pull stakeholders together, including students, parents and teachers to collaboratively plan for school reopening. In response to a request for a stakeholder group by the Vermont NEA, the Secretary requested that they lay out a proposal with the purpose, scope of work, and membership. He will then share the Vermont NEA proposal with an advisory group on July 10 for review.

***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.