



Supporting Vermonters to lead healthy and satisfying lives community by community



## Legislative Update for January 18, 2022

### **WHAT'S HAPPENING IN THE LEGISLATURE**

*At two weeks in the session continues to move at a quick pace. The House Appropriations Committee completed work on the Budget Adjustment Act on Friday. It will be voted on by the full House of Representatives on January 20<sup>th</sup> and 21<sup>st</sup>.*

*On Tuesday January 18<sup>th</sup> Governor Scott will present his proposal for the fiscal year 2023 (FY23) budget. This comes after the state E-Board, consisting of the Governor and the chairs of the House and Senate finance and budget committees received an updated revenue forecast in relation to the July 21 forecast from the State's economists raising this year's projections by \$44 million, FY23 projections by \$26 million and making no change for the FY24 forecast.*

### **Vermont Care Partners Legislative Agenda for 2022**

*The Vermont Care Partners legislative agenda is quite comprehensive and focuses on our need for adequate resources to meet our mission and mandates. See this link:*

<https://vermontcarepartners.org/wp-content/uploads/2021/12/legislative-agenda-2022-working-draft-1-1.pdf>

### ***This Week's Testimony***

#### **House Appropriations Committee's Second Public Hearing on FY22 Budget Adjustment Act (BAA)**

The House Appropriations Committee held a second public hearing on the FY22 BAA on January 11<sup>th</sup>. Grace Keller of the Howard Center's Safe Recovery, a syringe service program, spoke about how it serves 5,000 members statewide although it's based in Burlington. The program has recently received grant funding for mobile syringe exchange to serve Franklin and Grand Isle counties. The Safe Recovery Program has provided 32,000 doses of Narcan and saved 1,700 lives. Unfortunately, there has been a 54% spike in overdose deaths between May of 2020 and 2021. The program is training 2,000 people on overdose prevention. It also provides low barrier buprenorphine access programs.

Written testimony from the Developmental Disabilities Council supported the request from VCP for a \$22.5 million investment for designated and specialized service agencies to recruit and retain critical staff. They shared the impact of the current workforce crisis on self-advocates and their families.

- A young man who uses supporting typing to communicate who has not had access to basic communication for over 18 months. This is isolating and, frankly, dangerous as it leads to anger and despair for this individual.
- Numerous families report that their family member with a disability has lost skills during recent months because they do not have staff to help them engage their community and practice independent living skills. This is not only very frustrating for the individual, but costly in that it raises the future support needs of the individual.
- Many parents whose family members have gone into psychiatric crisis because of the lack of stability and support in their lives.

Patrick Flood registered an objection to OneCare Vermont receiving \$15 million in budget adjustment. Under the contract with the State, OneCare is eligible to receive these funds for reductions in health care spending. However, Patrick said the reduction in health care spending was due to COVID not improved health of people attributed to the ACO. Given the need for housing, food security and other needs he suggested that that the funding for OneCare be reduced in the FY23 budget.

### **House Human Services Discusses Alcohol and Drug Abuse Programs (ADAP) and DAIL BAA**

During the discussion on recommendations to the Houses Appropriations Committee, Representative Dane Whitman reviewed ADAP funding priorities including extension of the syringe service program that lost funding December 31, 2021. Because the Provider will apply for Substance Abuse and Mental Health Services (SAMHSA) federal grants in May, the BAA request is for \$166,000 for 6 months only. Representative Whitman also discussed \$180,000 for increasing harm reduction kit distribution and training outreach for General/Emergency Temporary Housing program (GA) hotels. Currently, this work is coming out of provider operations budgets and only partially funded by the State. Pandemic and worker shortages caused loss of recovery residence beds which has pushed people into hotels. Representative Whitman also requested Committee support for \$360,000 in workforce retention dollars for SUD support workers and recovery coaches not included in the DA/SSA system. Representative Brumsted noted these positions and programs are just as important as proposed healthcare system supports.

Representative Theresa Wood reviewed items in her proposal including a recommendation for \$66 million (some or all may be eligible for federal funding) to double the Administration's proposal for workforce development. She is concerned that human infrastructure has been overlooked while three Adult Day Centers have closed, and three nursing homes are on the verge of closing. The system can't afford to have one more closing.

Representative Wood also recommended matching the investment made by the Administration in VPCH for the DA/SSA system which provides similar services in the community to a wider array of recipients. She shared that she just received new data from VCP that there are now over 1,000 staff vacancies and explained that this is why families are complaining and people are going to the emergency room. She is recommending \$2,000 per FTE to DA/SSAs including ARIS contracted workers, not to exceed \$25 million.

Representative Wood also stated that using the \$1.1 million Choices for Care dollars for the adult protective services (APS) technology project is not in line with legislative intent, instead she recommended the use of FMAP set aside funds for this purpose saying that CFC savings should go to direct services workforce. Also, Representative Wood believes the conflict-of-interest free case management (CIFCM) system reform initiative is a complex undertaking and the \$4 million in the BAA may not be sufficient. Lastly, regarding DS system reforms she recommends that that any systems changes outside of encounter data and CIFCM be postponed until July 2023. Representative Wood followed up with one additional item regarding additional residential options for adults with I/DD in the

System of Care. The AHS proposal only provides funding for a consultant and there is no funding to pilot a program to explore options. Representative Wood's proposal states that the Committee finds this portion to be "lacking in specificity."

Here is the Committee's request to the House Appropriations Committee on the BAA:

<https://legislature.vermont.gov/Documents/2022/WorkGroups/House%20Appropriations/FY%202022%20Budget%20Adjustment/Policy%20Committee%20Letters/W~FY22%20Budget%20Adjustment~Response%20FROM%20House%20Human%20Services%20Committee~1-12-2022.pdf>

### **House Health Care Committee Deliberate Request for Budget Adjustment**

The House Health Care Committee wanted to ensure that no one is left out of the investment in workforce. Committee Chair Lippert said, "we are acutely aware of our responsibility for the mental health crisis and mental health workforce crisis. Stabilizing the work force is essential to create access to mental health". The Committee's principles are that it is critical to stabilize mental health system care and to establish parity in recruitment and retention with state employees. Representative Lippert believes that there needs to be recognition that the financial compensation for the workers in these two systems (state and community) are not equitable and the community system needs a commitment to bring it into a more equitable compensation level.

Here is the Committee request to the House Appropriations Committee

<https://legislature.vermont.gov/Documents/2022/WorkGroups/House%20Appropriations/FY%202022%20Budget%20Adjustment/Policy%20Committee%20Letters/W~FY22%20Budget%20Adjustment~Response%20FROM%20House%20Health%20Care%20Committee~1-11-2022.pdf>

### **Joint Fiscal Office Educates Appropriations on Workforce Investments and Discussion Ensues**

The Deputy Director of the Joint Fiscal Office Sarah Clark educated the House Appropriations Committee on the \$2 million the DA/SSAs received in December. She shared VCP's report that the \$2 million was directed by AHS for use for crisis and residential staff but some agencies used other resources so that all employees could receive the retention bonuses, while other agencies could not afford to do that.

Deputy Director Clark also reviewed the workforce retention programs proposed by AHS which totals \$33 million, \$18 million FMAP bump funds plus another \$15 million of general fund (GF) for retention incentives for eligible providers. Representatives Yacovone and Wood were concerned about the competitive application process for distribution of the funds proposed by AHS. Representative Wood believes the funds will be insufficient to cover a broad array of providers including long term care facilities, adult day centers, home health agencies, DA/SSAs and other community providers. Chair Hooper expressed concerned that between the criteria and inadequacy of the funding there will not be enough money to meet the needs. Representative Yacovone was looking to fund the employees of DA/SSAs at the same levels as state employees and allow the agencies, who are closest to the people we care for, to determine how to distribute the funds.

Representative Toledo wanted to look at improvements in recruitment and retention outcomes achieved with the funds. He said the money must be good enough to maintain staff, he said data shows pay is not the main reason that people are leaving jobs.

Representative Jessup agreed that agencies should not be micromanaged and appreciated the DAs, from her experience with the general assistance housing program. She said DAs were beyond heroic: bringing food, transporting children to schools, and preventing some of the other distresses.

Representative Yacovone said the system is starting to unravel, this investment will stabilize it in the short term. Representative Townsend said these systems have been in a fragile place for years and she doesn't want to see them crumble.

Deputy Director Clark reminded the Committee that there are constraints of Medicaid budget neutrality requirements and the Medicaid cap, but that the funding could be from state recovery funds that are 100% federal.

AHS provided a more detailed description of their health care recruitment and retention program to the House Appropriations Committee. Here is the link:

<https://legislature.vermont.gov/Documents/2022/WorkGroups/House%20Appropriations/FY%202022%20Budget%20Adjustment/Governor's%20Recommended%20FY%202022%20Budget%20Adjustment/W~FY22%20BAA%20-%20Follow-up~Health%20Care%20Recruitment%20and%20Retention%20Program%20Details~1-11-2022.pdf>

### **House Appropriations Review Policy Committee Recommendation for BAA *Review of House Human Services Committee Recommendations***

The House Human Services Committee recommended doubling the workforce development investment from \$15 to \$30 million with a focus on community providers and without a competitive allocation process. The Committee recommended \$2,000 per employee be allocated to 5,000 DA/SSA staff and the 3,800 contractors paid through ARIS for a total not to exceed \$20.5 million. The House Health Care Committee explicitly included shared living providers (SLPs) and recommended \$3,000 per employee, but the Human Services Committee did not. The Human Services Committee commented on the SIS assessment and said it should not be done before July 2023 due to the workforce needs of the system. Additionally, they addressed families requests for housing alternatives, including opportunities to live with peers. In total, the House Human Services recommended \$60 million in retention proposals plus additional proposals for a total of \$78 million.

### ***Review of House Health Care Committee Recommendations***

The House Health Care Committee recommended that the DA/SSAs receive workforce investments in equity with staff at Vermont Psychiatric Care Hospital. Appropriations Committee Chair Hooper questioned the amount of money going to the Brattleboro Retreat compared to the distribution of funds to other health providers. The House Health Care Committee will be asked to investigate this issue. The Committee agreed to investment of funds to the NFI hospital diversion program.

In relation to the \$15 million payment to OneCare to meet the contractual obligation to reward reduced health care utilization, the Committee discussed asking the Health Care Committee to develop a recommendation about whether continuation of the OneCare contract makes sense. Chair Hooper said the Health Care Oversight Committee studied the regulatory system this summer. She will consider having an overview of the health care regulatory committee for the Appropriations Committee.

The workforce requests from the Policy Committees added up to \$70 million and the overall funding requests totaled \$102 million.

There were concerns about employees getting benefits from more than one agency by switching jobs and recommendations for commitment by employees to stay in their current job. There was agreement for AHS to be able to access funds to administer the program. The Committee worked with the Joint Fiscal Office to develop a workforce plan with \$53 million from non-general fund (GF) sources and \$7

million from GF. The Committee will also include language requiring agencies receiving workforce fund to report on the minimum, maximum and mean amounts of payments to employees.

### **Senate Appropriations Hears FY22 Budget Adjustment Act (BAA) DAIL Commissioner White**

Commissioner White reviewed the Department of Disabilities, Aging and Independent Living (DAIL) BAA proposal, noting most adjustments are budget neutral and no adjustments for Developmental Disabilities Services. The plan for Choices for Care (CFC) savings is to reinvest into the Adult Protective Services (APS) investigative system.

Chairwoman Kitchel asked about using CFC savings for the APS enhancement and Senator Sears asked if the spirit of the statute is to reinvest savings for people receiving services in their home. Commissioner White stated that the new APS investigative system does meet the statute requirements as it will serve older and disabled individuals in the system. DAIL could not identify another funding source to replace the vendor-based system which is at risk due to contract disputes with WellSky. Investigations are being conducted by State of VT staff. Senator Sears opposes this proposal because he is concerned about keeping the promise that CFC savings would be reinvested in the system, particularly while there is a shortage of people willing to work in people's homes. Chairwoman Kitchel added that the committee had previously added language to the statute (33 V.S.A. § 7602(2)(b)) to allow savings to shore up the fragile support system and be reinvested in providers. Senator Dick Sears is concerned that "the entire social services system is in jeopardy".

Chairwoman Kitchel also asked for clarity on whether there was a plan for provider stabilization, and if that "is being responded to outside of the DAIL BAA?". Commissioner White replied that the Agency of Human Services (AHS) is "working to address a myriad of funding pressures experienced by providers" and anticipates more information coming out of BAA 2.

Chairwoman Kitchel called in Tracy O'Connell, Financial Director of the Agency of Human Services to identify provider support in the AHS BAA proposal. Director O'Connell noted a \$15M general fund for non-Home and Community Based Services (HCBS) and the proposal funded out of the ARPA one-time FMAP spending plan. Chairwoman Kitchel asked to see the spending plan and expressed hope that the Governor's budget will show base increases.

### **Senate Health and Welfare and House Health Care Joint Hearing on COVID Flexibilities and Telehealth**

This hearing was an extension of a joint hearing held last week on extending flexibilities in the healthcare and human services system due to disruptions caused by COVID-19, as well as testimony on the proposal by the Interstate Telehealth Working Group. A summary of the flexibilities and recommendations for extensions are [here](#). Of particular note for the VCP network is the flexibility granted to AHS to waive certain rules to accommodate for COVID response and staffing shortages. It "directs the Agency of Human Services (AHS) to consider modifying existing rules or adopting emergency rules to protect access to health care services, long-term services and supports, and other human services and to consider importance of financial viability of providers that rely on public funding."

The Committee heard testimony from a variety of stakeholders. David Herlihy from the Board of Medical Practice largely supports the provider coalition recommendations. A newly proposed recommendation by the Vermont Association of Hospitals and Health Systems [VAHHS] to exempt hospital investments from budget-to-actual reconciliation process and budget caps to address workforce needs was questioned by Kevin Mullin of the Green Mountain Care Board [GMCB] and Mike Fisher, the Health Care Advocate (in writing). VAHHS will follow up with the GMCB.

Representative Cordes brought up short term incentives for retention, acknowledging that it's appropriate in an emergency situation to triage the healthcare system, but she said it's important to think about wages as a tool for retention. "I want to make sure we are talking about community mental health service, as well as hospital-based services." The Committee discussed the need to hear from AHS departments and insurers on specific provisions of the "flexibilities" bill.

On the telehealth bill, Rebecca Copans from Blue Cross Blue Shield supports the recommendations of the Interstate Telehealth Workgroup except that they would prefer that there be a requirement to see patients in-person. Jessa Barnard from the Vermont Medical Society clarified that the Workgroup recommends that this requirement be considered profession-by-profession given the range of potential healthcare services addressed by telehealth.

Representative Black raised questions about the flexibilities for take-home Buprenorphine (in place of an office visit). Barnard clarified that this provision allows for telehealth to replace the previously pre-required in-person only option.

Senator Hardy and Representative Peterson wondered about the flexibilities related to HIPAA-compliant platforms and informed consent. We are two years in – are they still needed? Barnard noted that these flexibilities are tied to federal flexibilities, and if those end, so will the flexibilities in Vermont.

Office of Professional Regulation Director Lauren Hibbert requested that the legislature act very quickly on the concept of license registration so that OPR has time to set this up and notify providers, ideally by mid-February. Senator Lyons and Representative Lippert will be working together to plan for next steps to move the flexibility bill forward as quickly as possible.

#### **Department of Mental Health (DMH) Testimony at Senate Appropriations on Budget Adjustment Act**

DMH Commissioner Hawes, Deputy Commissioner Krompf, and Finance Director Shannon Thompson testified. They are requesting \$1.4 million in the BAA to address the 53% vacancy at VPCH and MTCR in the nursing department. Almost all other positions besides nursing are filled. Awareness of the incentives have had a positive impact on staff morale. They are also requesting \$225,570 for travel partner staff at Jarrett House (Howard Center child crisis bed).

Senator Sears asked if DMH is aware of the issues at Southern Vermont Medical Center. Staff are being assaulted at the hospital and at group homes. They have mental health issues, then become delinquent because they've committed assault. Sears believes we are in a serious crisis. He would like DMH to take back to the Secretary of AHS that this crisis needs to be dealt with across the agency immediately. He has seen a lot over the years, but he is shocked with what group homes must deal with in the community without support. He said, "I don't see AHS responding to this crisis". Senator Kitchel noted the importance of supporting community programs, as well as state programs.

DMH is also requesting \$440,000 in the BAA for the 988 Suicide Lifeline. Transfer requests include the transfer of \$13 million from DMH to DVHA using the alternative payment model for the Brattleboro Retreat (BR) that started in March of 2021. Senator Kitchel asked about the funding for beds that was previously invested in the BR Linden Lodge. Deputy Commissioner Krompf reported that seven out of the twelve total beds are open, but staffing continues to be a barrier to operating at full capacity. DMH is meeting with the Retreat monthly so they are aware and can manage to reduce the likelihood of a financial claw back. The Retreat is taking younger kids, but not able to take adolescents (due to COVID).

DMH is also requesting a transfer of funds to DVHA in the BAA due to an increased rate for NFI's Hospital Diversion Program based on analysis by Burns and Associates.

Senator Kitchel asked Commissioner Hawes about workforce retention payments. The Commissioner reported that in December \$2 million went out DA/SSAs targeted to 24/7 facilities to "stop the bleeding" and that Ena Backus will be giving a presentation on AHS's plan for \$33 million in workforce retention initiatives. Senator Kitchel said \$33 million is probably not enough due to the extreme staffing shortages across the system. She pointed out "that Vermont Care Partners has been putting a number of articles out in terms of the staffing situation that they are struggling with – it's everything from our group homes...to sheriffs, to nurses, to correctional guards. It's a very difficult and serious situation to provide essential services." Commissioner Hawes responded: "It will be all hands-on deck to address that."

### ***Plan to Participate in these Advocacy Events***

#### **Mental Health Advocacy Day – January 31, 2022**

Join us for Mental Health Advocacy Day on January 31st from 10:00 a.m.-2:00 p.m. by Zoom. Vermonters including peers, staff, families and advocates will be advocating for an improved mental health and developmental disability services focusing on "Now is the Time for Hope & Recovery". The agenda includes activities that will be of interest to all including a welcome address from state leaders a keynote presentation by Senate President Becca Baling, recognition of outstanding advocates, and community members sharing their mental health stories and experiences. For more information: Email Laurie Emerson - [lemerson@namivt.org](mailto:lemerson@namivt.org) or call 800-639-6480 x101 or Julie Tessler at [julie@vermontcarepartners.org](mailto:julie@vermontcarepartners.org), or phone 802 279-0464

**Registration to Share Your Story:** <https://zfrmz.com/O1HXF2d3NVHgkJu6o15z>

**Registration to Provide Testimony to Legislative Committees:**

<https://zfrmz.com/RRhKjXOU4oU8k9L2Ecjl>

**More Resources:** <http://namivt.org/advocacy/advocacy-day/>

#### **Homeless Awareness Day January 20, 2022**

Advocates, service providers, and dedicated Vermonters from across the state will convene virtually on January 20<sup>th</sup> for the annual Homelessness Awareness Day and Memorial Vigil. You can give testimony, share your story, or tune in via livestream on YouTube or Facebook to tell your lawmakers how we can alleviate and end homelessness in Vermont!

If you or anyone in your networks would be interested in sharing experience, please reach out to Molly Shimko at [mdavisshimko@capstonevt.org](mailto:mdavisshimko@capstonevt.org) or Martin Hahn at [mhahn@helpingtohousevt.org](mailto:mhahn@helpingtohousevt.org).

- Homelessness Awareness Day 2022 will take place on Zoom and will be live streamed on Facebook and YouTube. Folks watching the livestream can participate in the conversation by leaving comments and questions on either platform.
- Events will be scheduled between 9 am and 2 pm on January 20th. An agenda with a confirmed schedule will be sent out closer to the event date.
- Only those giving testimony or helping organize the event will be invited to join the Zoom call. If you would like to participate in any way, please reach out to [Molly](#) or [Martin](#).

### ***Information on Your Senators and Representatives***

Follow this link to determine your legislators and access their contact information. Legislators are listed both by DA/SSA and by the Committee they serve on. Please note there are new legislators on committees that have purview over policy and funding for the Vermont Care Partners network.

[2021 Legislative Committees by DA-SSA.xlsx](#)

### ***Action Circles Calendar***

Action Circles maintains a calendar of Legislative breakfasts and events. This information can be found at: <https://www.action-circles.com/legislator-events/>

### ***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.