

Testimony on House Bill on Auditor of Accounts
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Vermont Care Partners

Vermont Care Partners is composed of the Vermont Care Network and Vermont Council of Developmental and Mental Health Services. We represent 16 designated and specialized service agencies (DA/SSAs) that provide developmental, mental health and substance use disorder services throughout Vermont. In fiscal year 2015 we served 50,000 Vermonters with 13,500 employees and contractors. Information about our provider network is available at: <http://vermontcarepartners.org/>

I am here today to address Section 5 of your draft bill on the Auditor of Accounts which amends 18 VSA Section 8907 to add

(c) The Auditor of Accounts of the State or his or her authorized representatives may at any time examine the accounts and books of the agencies designated under this chapter, including receipts, disbursements, contracts, funds, investments, and any other matters relating to their work on behalf of the State to provide community mental health and developmental disability services.

The Vermont Care Partners network is wondering about the purpose of adding new statutory language.

- Is there a proposal to make this language applicable to other non-profits or health care providers that receive Medicaid payments? If not, why not?
- Is this redundant to existing access to information by the State Auditor?
- What is this language intended to do that isn't already covered in the Master Grant? What additional gains is this language trying to achieve?
- Given that a number of DA/SSAs have a programs and revenues from other sources, including fund raising, does the proposed language set appropriate limits on the auditor's oversight?

To determine the answer to these questions, it might be helpful for the Committee to learn about the both the ongoing and recent oversight and analysis of the designated agency system.

Agency of Human Service Oversight the Designated and Specialized Service Agencies

As a system of care we have substantial oversight by the Agency of Human Services, particularly the Departments of: Mental Health (DMH): Disabilities, Aging and Independent Living (DAIL); and Health (VDH) through designation reviews, quality reviews, reporting on Key Performance Indicators, Medicaid audits and numerous other measures. All agencies are required to submit detailed monthly financial statements, including income and balance sheets to the DMH, as well as annual audits by an independent auditing firm, which must be approved by DMH to be final. In fact, when Vermont Care Partners charted the reporting requirements out on a spread sheet it was 9 feet long. We are currently in the process of using Results Based Accountability as a foundation to improve and streamline our accountability to state government and our communities.

The Master Grant Agreement for the DA/SSAs includes specific language giving the State of Vermont access to significant information. Here is the relevant language from the general provisions of our fiscal year 2016 grant.

I. AHS shall have the right at all reasonable times, and upon reasonable notice (not less than seven (7) business days), to inspect or otherwise evaluate the work performed or being performed under this Agreement. This includes, but is not limited to, a review of clinical records, the review of individual client care, interviews of care providers and their supervisors, a review of the results of internal quality assurance activities and a review of the results of internal critical incident investigations, provided however, that nothing in this section shall require DA to provide the Agency with information protected by the Attorney-Client Privilege or derived from peer review committee meetings as described in 26 V.S.A. § 1441 et seq. With respect to any regularly occurring Quality Assurance or re-designation site visit, such activity will follow the notice requirements outlined in item 11 of this Agreement. Further, this section shall not limit the right of AHS to make inquiries and conduct inspections without prior notification, as provided for in paragraph 11 below.

J. DA must require its employees, contractors, and providers to furnish, upon reasonable request, to the Agency of Human Services, Department of Vermont Health Access, the Office of the Attorney General, Medicaid Fraud Unit, the Federal Department of Health and Human Services, any record, document, or other information for a review, audit, or investigation of fraud, abuse or other violation of law, and shall establish procedures to report all suspected fraud, abuse or other violation of law to AHS, the Department of Vermont Health Access and the Office of the Attorney General. At the request of AHS DA must provide, on a reasonable basis and free of charge, both inspection of original and/or copied documents held by DA or any of its employees, contractors, and providers. The provision of such documents may not be limited by confidentiality provisions of DA or its contractors or providers.

K. DA shall, in addition to any other financial reporting requirements hereunder, allow on reasonable notice by AHS (not less than seven (7) business days) physical inspection or review of its books and records, including inspection and review of any and all financial reports and backup. Such access to books and records shall include, without limitation, review by the Agency of any and all information relating to executive compensation, employment contracts and salary, bonus and benefits of any sort paid to any and all employees, as well as contracts with and payments made to any contractors and their employees. Any personnel information or other information deemed personal and deemed confidential by the DA will be appropriately identified and AHS will undertake to treat the records as confidential, consistent with both the confidentiality afforded similar State of Vermont records and AHS's statutory obligations."

"l. DA shall maintain a financial management system that provides for adequate fiscal control of funds to be provided under this agreement, and shall insure the accuracy of financial reporting relative to this agreement. DA shall further insure that its financial management system meets the following standards:

1. DA agrees that, except as otherwise specified by AHS, appropriations and payments made to DA under this grant shall be used exclusively for the operations associated with providing the services under this Agreement.
2. AHS may audit DA's financial statements during the Grant period and for three (3) years thereafter.
3. DA shall establish safeguards to insure that DA's agents and employees avoid the realization, possibility, or appearance of personal gain for themselves, or those with whom they have family, business or other ties, as a result of their position with, or relation to, DA."

Recent Reports by the Auditor of Accounts

We do not know whether the proposed language gives the Auditor of Accounts powers that it does not already have given that over the last few years the state Auditor of Accounts has conducted two separate audits related to our system of care.

The first was a performance audit of the oversight by the DMH and DAIL of the 11 Designated Agencies – which concluded some improvements in oversight could be made, but duplicate payments are not widespread.

<http://auditor.vermont.gov/sites/auditor/files/Final%20DA%20report%20II%2010.31.2014.pdf> .

The second report was specific to the executive compensation at the designated agencies.

<http://auditor.vermont.gov/sites/auditor/files/SAO%20Report%20on%20DA%20Executive%20Compensation.pdf> The conclusion included the following statements.

“...average DA CEO compensation in 2014 was in line with that of state agency secretaries, and it dropped between 2010 and 2014 when adjusting for inflation, while compensation for state secretaries and commissioners grew. On average, DA CEOs were compensated less than hospital CEOs, and their salaries were less than the statewide CEO average.”

“If the State wishes to monitor the executive compensation of these organizations with which it regularly contracts, it could periodically request this information from the DAs in a format similar to that of Schedule J on IRS Form 990, which organizes compensation into easily accessible categories.”

Green Mountain Care Board Budget Analysis and Response regarding Regulatory Oversight

The Green Mountain Care Board Recently did a thorough analysis of the Howard Center’s budget and fiscal operations. Here are excerpts from their findings.

“In sum, we find that the agency has constructed a responsible budget that maintains needed community services, controls expenses while allowing limited compensation increases, and does so within the reality of limited revenue growth. But indicators like days cash on hand, operating surplus, vacant positions (104), and the number of individuals requesting services that Howard Center cannot immediately address cause us to question the sustainability of the DA system. Despite its responsible budgeting practices, as presently funded the agency struggles mightily to recruit and retain the staff it needs so it can meet its programmatic and statutory mission. In spite of those challenges, it is equally clear to us that Howard Center provides great value to the community through the dedication and skill of its staff and management.”

“We do not recommend creating a new DA review process at the Board at this time. As described below, other state agencies already review the DAs finances and operations. We recommend instead that the Board coordinate with the other parts of state government that interact with the DAs so the Board can better understand how its regulatory and innovation duties affect the DAs (and vice versa), especially if an all-payer model is implemented.

Our understanding is that DMH already performs a review of the DAs, though limited to the funds that department provides the DAs. DMH’s review includes uniform reporting standards, annual budget instructions, Medicaid funding caps, an electronic financial system for collecting budget information, monthly monitoring of established key performance indicators, and an audit and “true up” that examines the performance related to the cap once the budget year is completed. DMH also gathers and integrates information collected by DAIL from the DAs.

That information is sent to the Agency of Human Services' (AHS) Central Office. AHS then prepares "Master Grant" agreements with all the DAs that describe the funding streams and the programs and services that the DAs will deliver."

Conclusion

Vermont Care Partners is interested in learning more about the intent of the Committee and we are open to further dialog to determine if the proposed language is the best approach to address the that intent.

Thank you for the opportunity to share information about our services and ongoing oversight of our system of care.