S.133

Introduced by Committee on Health and Welfare

Date: March 21, 2017

Subject: Health; mental health; access to care; care coordination

Statement of purpose of bill as introduced: This bill proposes to examine various aspects of the mental health system in order to improve access to care and care coordination throughout the system.

An act relating to examining mental health care and care coordination

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Findings * * *

Sec. 1. FINDINGS

The General Assembly finds that:

(1) The State's mental health system has undergone substantial transformations during the past ten years, with regard to both policy and the structural components of the system.

(2) The State's adult mental health inpatient system was disrupted after Tropical Storm Irene flooded the Vermont State Hospital in 2011. The General Assembly, in 2012 Acts and Resolves No. 79, added over 50 long- and short-term residential beds to the State's mental health system, all of which are

operated by the designated and specialized service agencies. It also strengthened existing care coordination within the Department of Mental Health to assist community providers and hospitals in the development of a "system" that fosters the movement of individuals with psychiatric conditions between appropriate levels of care as needed.

(3) Due to hospital flow and other system pressures, Vermont has seen a gradual increase in the number of individuals with a psychiatric condition held in emergency departments awaiting a hospital bed. Currently, hospitals average 90 percent occupancy while crisis beds average just under 70 percent occupancy, the latter largely due to understaffing. Issues related to hospital discharge include inadequate staffing in community programs, insufficient community programs, and inadequate supply of housing.

(4) Individuals presenting in emergency departments with acute psychiatric care needs often remain in that setting for many hours or days under the supervision of hospital staff, peers, crisis workers, or law enforcement officers until a bed in a psychiatric inpatient unit becomes available. Many of these individuals do not have access to a psychiatric care provider and the emergency department does not provide a therapeutic environment. Some of these individuals' conditions worsen while waiting for an appropriate placement. Hospitals also struggle under these circumstances because their staff is demoralized that they cannot care adequately for

psychiatric patients and consequently there is a rise in turnover rates. Many hospitals are investing in special rooms for psychiatric emergencies and hiring mental health technicians to work in the emergency department.

(5) Care provided by the designated agencies is the cornerstone upon which the entire mental health system balances. Approximately two-thirds of the psychiatric patients admitted to emergency departments are not clients of the designated or specialized service agencies and are meeting with the crisis response team for the first time. Many of the individuals presenting in emergency departments are assessed, stabilized, and discharged to return home or to supportive programming provided by the designated and specialized service agencies.

(6) There is a shortage of psychiatric care professionals both nationally and statewide. Psychiatrists working in Vermont have testified that they are distressed that individuals with psychiatric conditions are boarded in emergency departments and that there is an overall lack of health care parity between physical and mental conditions.

(7) In 2007, a study commissioned by the Agency of Human Services substantiated that designated and specialized service agencies face challenges in meeting the demand for services at current funding levels. It further found that keeping pace with current inflation trends, while maintaining existing caseload levels, required annual funding increases of eight percent across all

payers to address unmet demand. Since that time, cost of living adjustments appropriated to designated and specialized service agencies were raised by less than one percent annually.

(8) Evidence regarding the link between social determinants and healthy families has become increasingly clear in recent years. Improving an individual's trajectory requires addressing the needs of children and adolescents in the context of their family. This means Vermont must work within a two-generational framework. While these findings primarily focus on the highest acuity individuals within the adult system, it is important to also focus on children's mental health. Social determinants when addressed can improve an individual's health, therefore housing, employment, food security, and natural support must be considered as part of this work as well.

(9) Before moving ahead with changes to refine the performance of the current mental health system, an analysis is necessary to take stock of how it is functioning and what resources are necessary for evidence-based or best practice and cost-efficient improvements.

* * * System Coordination and Patient Flow * * *

Sec. 2. PROPOSED ACTION PLAN

On or before September 1, 2017, the Secretary of Human Services shall submit an action plan to the Senate Committee on Health and Welfare and to the House Committee on Health Care containing recommendations and

legislative proposals for each of the evaluations, analyses, and other tasks required pursuant to Secs. 3–9 of this act.

Sec. 3. OPERATION OF MENTAL HEALTH SYSTEM

The Secretary of Human Services, in collaboration with the Commissioner of Mental Health and Green Mountain Care Board, shall conduct an analysis of child and adult patient movement through Vermont's mental health system, including voluntary and involuntary hospital admissions, emergency departments, intensive residential recovery facilities, secure residential recovery facility, crisis beds, and stable housing. The analysis shall identify barriers to efficient, medically-necessary patient transitions between the mental health system's levels of care and opportunities for improvement. It shall also build upon previous work conducted pursuant to the Health Resource Allocation Plan described in 18 V.S.A. § 9405.

Sec. 4. CARE COORDINATION

(a) The Secretary of Human Services, in collaboration with the Commissioner of Mental Health, shall develop a plan for and an estimate of the fiscal impact of implementation of regional navigation and resource centers for referrals from primary care, hospital emergency departments, inpatient psychiatric units, and community providers, including the designated and specialized service agencies and private counseling services. The goal of the regional navigation and resource centers is to foster a more seamless transition

in the care of individuals with mental health conditions or substance use disorders. The Commissioner shall provide technical assistance and serve as a statewide resource for regional navigation and resource centers.

(b) The Secretary of Human Services, in collaboration with the Commissioner of Mental Health, shall evaluate the effectiveness of the Department's care coordination team and the level of accountability among admitting and discharging mental health professionals, as defined in 18 V.S.A. § 7101.

Sec. 5. INVOLUNTARY TREATMENT AND MEDICATION

(a) The Secretary of Human Services, in collaboration with the Commissioner of Mental Health and the Chief Administrative Judge of the Vermont Superior Courts, shall conduct an analysis of the role that involuntary treatment and psychiatric medication play in hospital emergency departments and inpatient psychiatric admissions. The analysis shall examine the interplay between staff and patients' rights and the use of involuntary treatment and medication. The analysis shall also address the following policy proposals, including the legal implications, the rationale or disincentives, and a cost-benefit analysis for each:

(1) a statutory directive to the Department of Mental Health to prioritize the restoration of competency where possible for all forensic patients committed to the care of the Commissioner;

(2) enabling applications for involuntary treatment and applications for involuntary medication to be filed simultaneously or at any point that a licensed independent practitioner believes joint filing is necessary for the restoration of the individual's competency;

(3) enabling a patient's counsel to request only one evaluation pursuant to 18 V.S.A. § 7614 for court proceedings related to hearings on an application for involuntary treatment or application for involuntary medication, and preventing any additional request for evaluation from delaying treatment directed at the restoration of competency; and

(4) enabling both qualifying psychiatrists and psychologists to conduct patient examinations pursuant to 18 V.S.A. § 7614.

(b) On or before October 1, 2017, Vermont Legal Aid and Disability Rights Vermont shall jointly submit an addendum addressing those portions of the Secretary's proposed action plan submitted pursuant to Sec. 2 of this act that relate to subsection (a) of this section. The addendum shall be submitted to the Senate Committee on Health and Welfare and to the House Committee on Health Care and shall identify any policy or legal concerns implicated by the analysis or legislative proposals in the Secretary's action plan.

(c) As used in this section, "licensed independent practitioner" means a physician, an advanced practice registered nurse licensed by the Vermont Board of Nursing, or a physician assistant licensed by the Vermont Board of

Medical Practice.

Sec. 6. PSYCHIATRIC ACCESS PARITY

The Agency of Human Services, in collaboration with the Commissioner of Mental Health and designated hospitals, shall evaluate opportunities for and remove barriers of implementing parity in the manner that individuals presenting at hospitals are received, regardless of whether for a psychiatric or a physical condition. The evaluation shall examine: existing processes to screen and triage health emergencies; transfer and disposition planning; stabilization and admission; and criteria for transfer to specialized or long-term care services.

Sec. 7. GERIATRIC AND FORENSIC PSYCHIATRIC SKILLED NURSING UNIT OR FACILITY

The Secretary of Human Services shall assess existing community capacity and evaluate the extent to which a geriatric or forensic psychiatric skilled nursing unit or facility, or both, are needed within the State. If the Secretary concludes that the situation warrants more home- and community-based services, a geriatric or forensic nursing home unit or facility, or any combination thereof, he or she shall develop a plan for the design, siting, and funding of one or more units or facilities with a focus on the clinical best practices for these patient populations.

Sec. 8. UNITS OR FACILITIES FOR USE AS NURSING OR

RESIDENTIAL HOMES OR SUPPORTIVE HOUSING

The Secretary of Human Services shall consult with the Commissioner of Buildings and General Services to determine whether there are any units or facilities that the State could utilize for a geriatric or forensic psychiatric skilled nursing or residential home or supportive housing.

Sec. 9. 23-HOUR BED EVALUATION

The Secretary of Human Services, in collaboration with the Commissioner of Mental Health, shall evaluate potential licensure models for 23-hour beds and the implementation costs related to each potential model. Beds may be used for patient assessment and stabilization, involuntary holds, diversion from emergency departments, and holds while appropriate discharge plans are determined. At a minimum, the models considered by the Secretary shall address psychiatric oversight, nursing oversight and coordination, peer support, and security.

* * * Workforce Development * * *

Sec. 10. MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE USE DISORDER WORKFORCE STUDY COMMITTEE

(a) Creation. There is created the Mental Health, Developmental Disabilities, and Substance Use Disorder Workforce Study Committee to examine best practices for training, recruiting, and retaining health care

providers and other service providers in Vermont, particularly with regard to the fields of mental health, developmental disabilities, and substance use disorders. It is the goal of the General Assembly to enhance program capacity in the State to address ongoing workforce shortages.

(b)(1) Membership. The Committee shall be composed of the following members:

(A) the Secretary of Human Services or designee, who shall serve as the Chair;

(B) the Commissioner of Labor or designee;

(C) a representative of the Vermont State Colleges; and

(D) a representative of the Vermont Health Care Innovation Project's (VHCIP) work group.

(2) The Committee may include the following members:

(A) a representative of the designated and specialized service agencies appointed by Vermont Care Partners;

(B) the Director of Substance Abuse Prevention;

(C) a representative of the Area Health Education Centers; and

(D) any other appropriate individuals by invitation of the Chair.

(c) Powers and duties. The Committee shall consider and weigh the effectiveness of loan repayment, tax abatement, long-term employment agreements, funded training models, internships, rotations, and any other

evidence-based training, recruitment, and retention tools available for the purpose of attracting and retaining qualified health care providers in the State, particularly with regard to the fields of mental health and substance use disorders.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Agency of Human Services.

(e) Report. On or before September 1, 2017, the Committee shall submit a report to the Senate Committee on Health and Welfare and the House Committee on Health Care regarding the results of its examination, including any legislative proposals for both long-term and immediate steps the State may take to attract and retain more health care providers in Vermont.

(f) Meetings.

(1) The Secretary of Human Services shall call the first meeting of the Committee to occur on or before July 1, 2017.

(2) A majority of the membership shall constitute a quorum.

(3) The Committee shall cease to exist on September 30, 2017.

Sec. 11. OFFICE OF PROFESSIONAL REGULATION; INTERSTATE COMPACTS

The Director of Professional Regulation shall engage other states in a discussion of the creation of national standards for coordinating the regulation and licensing of mental health professionals, as defined in 18 V.S.A. § 7101,

for the purposes of licensure reciprocity and greater interstate mobility of that workforce. On or before September 1, 2017, the Director shall report to the Senate Committee on Health and Welfare and the House Committee on Health Care regarding the results of his or her efforts and recommendations for legislative action.

* * * Designated and Specialized Service Agencies * * *

Sec. 12. 18 V.S.A. § 8914 is added to read:

§ 8914. RATES OF PAYMENTS TO DESIGNATED AND SPECIALIZED SERVICE AGENCIES

(a) The Secretary of Human Services shall have sole responsibility for establishing rates of payments for designated and specialized service agencies that are reasonable and adequate to meet the costs of achieving the required outcomes for designated populations. When establishing rates of payment for designated and specialized service agencies, the Secretary shall adjust rates to take into account factors that include:

(1) the reasonable cost of any governmental mandate that has been enacted, adopted, or imposed by any State or federal authority; and

(2) a cost adjustment factor to reflect changes in reasonable cost of goods and services of designated and specialized service agencies, including those attributed to inflation and labor market dynamics.

(b) When establishing rates of payment for designated and specialized

service agencies, the Secretary may consider geographic differences in wages, benefits, housing, and real estate costs in each region of the State.

Sec. 13. PAYMENTS TO THE DESIGNATED AND SPECIALIZED SERVICE AGENCIES

The Secretary of Human Services, in collaboration with the Commissioners of Mental Health and of Disabilities, Aging, and Independent Living, shall develop a plan to integrate multiple sources of payments to the designated and specialized service agencies. In a manner consistent with Sec. 12 of this act, the plan shall implement a Global Funding model as a successor to the analysis and work conducted under the Medicaid Pathways and other work undertaken regarding mental health in health care reform. It shall increase efficiency and reduce the administrative burden. On or before January 1, 2018, the Secretary shall submit the plan and any related legislative proposals to the Senate Committee on Health and Welfare and the House Committee on Health Care.

Sec. 14. INTEGRATION OF PAYMENTS; ACCOUNTABLE CARE ORGANIZATIONS

(a) Pursuant to 18 V.S.A. § 9382, the Green Mountain Care Board shall review an accountable care organization's (ACO) model of care and integration with community providers, including designated and specialized service agencies, regarding how the model of care promotes seamless

coordination across the care continuum, business or operational relationships between the entities, and any proposed investments or expansions to community-based providers. The purpose of this review is to ensure progress toward and accountability to the population health measures related to mental health and substance use disorder contained in the All Payer ACO Model Agreement.

(b) In the Board's annual report due on January 15, 2018, the Green Mountain Care Board shall include a summary of information relating to integration with community providers as described in subsection (a) of this section received in the first ACO budget review under 18 V.S.A. § 9382.

(c) On or before December 31, 2020, the Agency of Human Services, in collaboration with the Green Mountain Care Board, shall provide a copy of the report required by Section 11 of the All-Payer Model Accountable Care Organization Model Agreement, which outlines a plan for including the financing and delivery of community-based providers in delivery system reform, to the Senate Committee on Health and Welfare and the House Committee on Health Care.

Sec. 15. HEALTH INSURANCE; DESIGNATED AND SPECIALIZED SERVICE AGENCY EMPLOYEES

On or before September 1, 2017, the Commissioner of Human Resources shall consult with Blue Cross and Blue Shield of Vermont and Vermont Care

Partners regarding the operational feasibility of including the designated and specialized service agencies in the State employees' health benefit plan and submit any findings and relevant recommendations for legislative action to the Senate Committees on Health and Welfare, on Government Operations, and on Finance and the House Committees on Health Care and on Government Operations.

~~Sec. 16. PAYSCALE; DESIGNATED AND SPECIALIZED SERVICE AGENCY EMPLOYEES~~

~~The Secretary of Human Services shall allocate to designated and specialized services agencies an appropriation as specified in Sec. 17 of this act with the goal of implementing a pay scale by July 1, 2017 that:~~

~~(1) provides a minimum hourly payment of $15.00 to direct care workers; and~~

~~(2) increases the salaries for employees and contracted staff to be at least 85 percent of those salaries earned by equivalent State, health care, or school-based positions with equal lengths of employment.~~

Sec. 16. PAY SCALE; DESIGNATED AND SPECIALIZED SERVICE AGENCY EMPLOYEES

It is the intent of the General Assembly that funds be appropriated to designated and specialized service agencies for the following purposes:

(1) in fiscal year 2018, to fund increases in the hourly wages of workers to $14.00 and to increase the salaries for crisis response team personnel to be at least 85 percent of those salaries earned by regionally equivalent State, health care, or school-based positions of equal skills, credentials, and lengths of employment;

(2) in fiscal year 2019, to fund increases in the hourly wages of workers to $15.00 and to increase the salaries for clinical employees and other personnel in a manner that advances the goal of achieving competitive compensation to regionally equivalent State, health care, or school-based positions of equal skills, credentials, and lengths of employment; and

(3) in fiscal year 2020, after the completion of a market rate analysis by the designated and specialized service agencies, to further increase the salaries for clinical employees and personnel in a manner that advances the goal of achieving competitive compensation to regionally equivalent State, health care, or school-based positions of equal skills, credentials, and lengths of employment.

* * * Appropriations * * *

Sec. 17. APPROPRIATION; DESIGNATED AND SPECIALIZED SERVICE AGENCY EMPLOYEE PAY

(a) In fiscal year 2018, a total of $30,240,000.00 from the Global Commitment Fund is appropriated to the Agency of Human Services as follows:

(1) $30,000,000.00 for the purposes of carrying out the provisions of Sec. 16 of this act; and

(2) $240,000.00 for the purpose of expanding staffing of the existing peer-run warm line by eight hours a day.

(b) In fiscal year 2018, a total of $13,995,072.00 from the General Fund and $16,224,928.00 in federal funds is appropriated to the Agency of Human Services Global Commitment for funding the appropriations made in subsection (a) of this section.

* * * Effective Date * * *

Sec. ~~18~~ *17*. EFFECTIVE DATE

This act shall take effect on passage.