



Vermont Bar Association

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www.vtbar.org

35-37 Court Street
PO Box 100
Montpelier, VT 05601-0100
p. 802-223-2020
f. 802-223-1573
www.vtbar.org

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VBA STAFF

Therese M. Corsones, Esq.
Executive Director
tcorsones@vtbar.org

Jennifer Emens-Butler, Esq.
Education and Communication
jeb@vtbar.org

Mary C. Ashcroft, Esq.
Legal Access Coordinator
mashcroft@vtbar.org

Lisa M. Maxfield
CFO/Member Benefits
lmaxfield@vtbar.org

Laura Welcome
Programs Coordinator
lwelcome@vtbar.org

Tami Baldwin
Office Administrator
tbaldwin@vtbar.org

Lalitha Mailwaganam
Lawyer Referral &
Membership Coordinator
lalitha@vtbar.org

February 27, 2017

Ms. Theresa Utton-Jerman, Staff Associate
House Appropriations Committee
Vermont Statehouse
Montpelier, VT 05602

Dear Ms. Utton-Jerman,

I am writing on behalf of the Vermont Bar Association Board of Bar Managers.

On February 17, 2017, the Board voted unanimously to support the request of Vermont Legal Aid (VLA) to reinstate the recommended cuts to two parts of its state-funded budget. The attached memos from VLA Executive Director Eric Avildsen describe the proposed cut in detail.

The Board's view is that the proposed cuts to the health care advocate program and to the mental health law project would severely jeopardize services to the vulnerable populations that both programs serve. If these funds are cut, the Board has a grave concern that VLA will be forced to reduce or eliminate services, or move one or more lawyers from the poverty law project to cover the gap.

As you know, recent years have seen a huge increase in the number of self-represented litigants in Vermont courts. The increase has significantly impacted the court system. The VBA is committed to working to provide Vermonters access both to legal services and the courts. The VBA has raised funds for the last ten years to support a Poverty Law Fellowship, with the Fellow usually placed with VLA to assist it in its mission.

In addition, funding to VLA from the Vermont Bar Foundation has remained flat in recent years, due to the low interest rates being paid on lawyers' trust accounts. Further, it is the Board's understanding that federal funding through the Legal Services Corporation may be at risk in Washington.

All of these factors may well result in a "perfect storm" that will interfere with VLA's ability to carry out its critical work representing disadvantaged Vermonters.

The Board hopes that you will be convinced that restoring funds, some of which are part of a program that brings in matching federal dollars, is the right choice.

Thank you very much for considering this request.

Michael E. Kennedy, Esq.
President, Board of Bar Managers
mknennedysb@gmail.com

VERMONT LEGAL AID, INC.

MENTAL HEALTH LAW PROJECT

264 NORTH WINOOSKI AVE.

BURLINGTON, VERMONT 05401

(802) 863-5620 (VOICE AND TTY)

FAX (802) 863-7152

(800) 747-5022

OFFICES:

BURLINGTON

RUTLAND

ST. JOHNSBURY

OFFICES:

MONTPELIER

SPRINGFIELD

Vermont Legal Aid's Mental Health Law Office Faces \$44,500 Cut

The Administration has proposed a \$44,500 cut to the operating budget of Vermont Legal Aid's Mental Health Law Project (MHLP). This cut is listed in the Talking Points handed out by the Department of Mental Health (DMH) as being "associated with rent at Vermont Legal Aid." That document shows total grant savings of \$44,500 and a General Fund savings of \$20,595. Neither the MHLP staff, nor anyone at Vermont Legal Aid, has been contacted about this proposed cut, its rationale, and the likely impact on services to Vermonters.

Pursuant to a contract with the Agency of Human Services, the MHLP is appointed by the Superior Court to represent anyone in Vermont facing commitment or involuntary medication. The MHLP also has a contract with the Department of Mental Health to pay for an independent psychiatric examination in each of these cases. This has been the arrangement for over 30 years.

In the aftermath of Tropical Storm Irene, the MHLP's offices in Warterbury had to be abandoned. The State of Vermont had always provided Legal Aid with office space, heat, electricity, maintenance, and telephone service at no charge. After trying to identify suitable state office space for five months, the State decided to pay Legal Aid to lease independent space directly. They added \$44,500 to cover this cost and added the funding to the DMH grant for providing psychiatric examinations. That \$44,500 amount has remained unchanged for the past three years.

The funds were never part of a "temporary Irene recovery plan," but were a base cost of providing constitutionally-required representation for those facing commitment. It is a cost the state has always recognized as its obligation to provide.

Recently, the Vermont Supreme Court reaffirmed that legal representation for all proposed patients in mental health proceedings is a vital element of the due process of law to which they are entitled under the Constitution.

Mental health-related caseloads are higher today than they were when Irene struck, and the cost of handling these cases has risen, as those cases must now be handled all over the state. The state has not increased funding for mental health work in almost ten years. Rather than reducing funding for MHLP's office costs, the State should provide a modest increase to cover the increased costs of travel and document production.

The funding that is threatened here is federally matched, so the state's general fund savings would only be \$20,595, rather than the full \$44,500 that Legal Aid will experience. Cutting that that funding will lead directly to a reduction in services, equivalent to almost a half of an attorney position, as Legal Aid must still pay rent and other expenses to house the staff providing mental health representation. And given the size of our mental health caseloads, the resulting cuts will mean a reduction in services to low-income Vermonters whose services have been level funded for 7 out of the last 8 years.

VERMONT LEGAL AID, INC.

OFFICE OF THE HEALTH CARE ADVOCATE

264 NORTH WINOOSKI AVE. - P.O. BOX 1367

BURLINGTON, VERMONT 05402

(800) 917-7787 (TOLL FREE HOTLINE)

(802) 863-7152 (FAX)

OFFICES:

BURLINGTON
RUTLAND
ST. JOHNSBURY

OFFICES:

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Office of Health Care Advocate Faces \$50,000 Cut

The proposed SFY 2018 budget for the Office of the Health Care Advocate (HCA) is not “**net-neutral**” as indicated in the “*AHS FY18 Ups Downs*” spreadsheet. The proposed budget for the HCA is \$50,000 less than the amount appropriated in SFY 2017.

A budget cut of this magnitude will force a reduction in staff at a time when the HCA is already struggling to respond to the calls from Vermonters who need help.

- Call volumes remain at historically high levels with 340 Vermonters seeking help last month alone.

We are all aware of just how uncertain the future is for the Affordable Care Act, Medicare, Medicaid, and other Vermont health care programs. It is particularly unsettling and frightening for Vermonters who receive Medicaid or rely on subsidies to cover themselves and their families. The anxiety that many feel today will increase as the year continues and the President and Congress discuss proposed changes to the Affordable Care Act and changes to Medicare and Medicaid.

The number of calls to the HCA will go up, not down, as changes are made first on the federal level and then here in Vermont. Vermonters will need the HCA more than ever as they try to make reasonable choices in a fast-changing health care marketplace.

The Administration did not meet with anyone at the HCA to discuss the proposed reduction, the rationale, or the impact on the services the HCA provides. We have not seen any description of ups and downs impacting the HCA in the Governor’s recommended budget language.

This is not the time to leave Vermonters without the help they need to understand how changes in health care policy will impact their families. This is not the time to diminish the consumer’s voice at the health care policy table