Introduced by Committee on Health and Welfare

Date:

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 system was in disarray after Tropical Storm Irene flooded the Vermont State Hospital in 2011. The General Assembly recognized at that time that attributes characteristic of a system, such as connections and communications between providers of varying levels of care, were absent in Vermont's treatment for individuals experiencing mental illness and psychiatric disability.

(3) When patients were displaced from the Vermont State Hospital, the General Assembly learned that approximately one-half of the patients were at the hospital because alternative levels of care in the community were not available and that this had been the case for many years. In the aftermath of Tropical Storm Irene, hospitals and designated agencies across the State collaborated with the Department of Mental Health to provide services to patients until appropriate residential beds became available.

(4) 2012 Acts and Resolves No. 79 established a system in which patients with the most acute conditions are served by the Vermont Psychiatric Care Hospital and designated hospitals. The act also funded intensive residential recovery facilities, a secure residential recovery facility, crisis beds, and enhanced community and peer services.

(5) During the transition between the old and new systems, hospital emergency departments experienced an increase in the number of acute patients seeking care. Patients presenting in the emergency departments often remained at that setting for many hours or days under the supervision of peers, crisis workers, or law enforcement officers until a bed in a psychiatric inpatient unit became available. Some of these patients' conditions worsened while they waited for an appropriate placement. Although this circumstance improved slightly after the opening of the Vermont Psychiatric Care Hospital, it has not

been completely resolved due in part to the lack of available community placements in other parts of the system.

(6) Care provided by the designated agencies was and still is the cornerstone upon which the entire mental health system balances. The designated agencies enable individuals with mental illness and psychiatric disability to be served close to home and in a manner that not only addresses an individual's health needs, but also enables an individual to build stronger family and community connections. The State has yet to fund intensive residential recovery beds authorized by 2012 Acts and Resolves No. 79. Their funding could enable the designated agencies to move more patients out of an inpatient hospital setting and into the community, which would alleviate pressure throughout the system.

(7) The designated and specialized service agencies also provide services to children and their families. Many of the families have experienced Adverse Family Experiences (AFEs). AFEs are common in Vermont. One in seven Vermont children has experienced three or more AFEs, the most common being divorced or separated parents, family income hardships, and having lived with someone with a substance use disorder or mental health condition. Children with three or more AFEs have higher odds of failing to engage and flourish in school. The earlier in life an intervention occurs for an individual who has experienced an AFE, the more likely the intervention is to

be successful. AFEs can be prevented when a multigenerational approach is employed to interrupt the cycle, including prevention and treatment services offered by the designated and specialized service agencies as well as other providers.

(8) 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, 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 barriers to 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 a geriatric or forensic nursing home unit or facility, or both, 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 alcohol and drug abuse counselors, as defined in 26 V.S.A. § 3231, and 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.

Sec. 12. EMPLOYMENT MODELS FOR RECOVERY

The Secretary of Human Services, in consultation with the Commissioner of Labor, shall identify programs and models nationwide that provide the best

outcomes for moving individuals with a substance use disorder or psychiatric disability into employment as part of their recovery, including an inventory of current State programs. On or before February 15, 2018, the Secretary shall present the results of his or her findings and any legislative proposals to the Senate Committee on Health and Welfare and to the House Committees on Health Care and on Human Services.

* * * Designated and Specialized Service Agencies * * *

Sec. 13. 18 V.S.A. § 8914 is added to read:

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

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;

(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; and

(3) geographic differences in wages, benefits, housing, and real estate costs in each region of the State.

Sec. 14. 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. 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 September 1, 2017, 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. 15. 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 outlining the plan to coordinate the financing and delivery of Medicaid home and community-based services, including mental health and substance use disorder services, with the All-Payer Financial Target Services under Section 11 of the All-Payer Model ACO Agreement to the Senate Committee on Health and Welfare and the House Committee on Health Care.

Sec. 16. HEALTH INSURANCE; DESIGNATED AND SPECIALIZED SERVICE AGENCY EMPLOYEES

The Secretary of Human Services, in collaboration with the Commissioner of Human Resources, shall evaluate opportunities for employees of the designated and specialized service agencies to purchase health insurance

through the State employees' health benefit plan, for the purpose of finding efficiencies in coverage and budgeting. The evaluation shall include the estimated financial impact of each potential option on the designated and specialized service agencies, employees of the designated and specialized service agencies, and State employees. On or before February 15, 2018, the Secretary shall present a general overview of the evaluation and any related 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. 17. PAY SCALE; 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. 18 of this act with the goal of implementing a pay scale by July 1, 2018 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.

* * * Appropriations * * *

Sec. 18. APPROPRIATION; DESIGNATED AND SPECIALIZED SERVICE AGENCY EMPLOYEE PAY

(a) In fiscal year 2018, a total of $30,200,000.00 from the Global Commitment Fund is appropriated to the Department of Mental Health as follows:

(1) $30,000,000.00 for the purposes of carrying out the provisions of Sec. 17 of this act; and

(2) $200,000.00 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 $13,976,560.00 from the General Fund and $16,223,440.00 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. 19. EFFECTIVE DATE

This act shall take effect on passage.