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, in 2012 Acts and Resolves No. 79, added over 50 long- and short-term residential beds to the State's mental health system, most of which are operated by the designated agencies. It also strengthened existing communication, coordination, and case management resources to turn co-

existing elements into a "system" that fosters the movement of patients between appropriate levels of care as needed.

(3) Over the past five years, Vermont has seen a gradual increase in the number of psychiatric patients, both voluntary and involuntary, who are held in the emergency departments because there are no appropriate beds for them in terms of acuity and unit milieu. Currently, the Vermont Psychiatric Care Hospital is full, and crisis beds are full or understaffed.

(4) Patients presenting in emergency departments often remain in 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 becomes available. Many of these patients are in rooms without windows, are not allowed free movement, and hear the sounds of other patients in physical distress 24 hours a day. Some of these patients' conditions worsen while waiting for an appropriate placement. Hospitals also struggle under these circumstances because their staff is demoralized by the notion 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 half of the

psychiatric patients admitted to an emergency department receive services from designated agency crisis teams. Many of these patients are moved from emergency departments to crisis beds or other residential care closer to home. Relying on supportive programming provided by the designated agencies, many patients return to either independent or supported living situations within their own communities.

(6) There is a shortage of psychiatric care professionals both nationally and statewide. Psychiatrists who work in Vermont have testified that they regret practicing in the State because they find boarding psychiatric patients in emergency departments inhumane and that there is an overall lack of health care parity between physical and mental conditions.

(7) Designated agencies currently have nearly 400 vacant positions. Hourly wages for designated agency employees have risen by less than 1% per year over the past decade. Designated agencies experience a pattern wherein newly hired clinicians work for two years to become licensed and then leave for more lucrative positions. Turnover rates at designated agencies average 27 percent statewide. This leads to less experienced providers treating some of the State's most acute psychiatric patients. On average it cost over $4000.00 to hire and train each new clinician. With approximately 400 vacancies, $X is diverted annually from direct patient care and services for the purpose of

attaining appropriate staffing levels. The cornerstone of the mental health system is severely underfunded.

(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 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 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 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 rates 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' 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 and the State. 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, 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.

* * * Appropriations * * *

Sec. 18. 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 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) $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. 19. EFFECTIVE DATE

This act shall take effect on passage.