



TO: MEMBERS OF THE NYS CONFERENCE OF LOCAL MENTAL HYGIENE DIRECTORS
FROM: COURTNEY DAVID, DIRECTOR OF GOVERNMENTAL RELATIONS
DATE: JUNE 25, 2018
SUBJECT: 2018 LEGISLATIVE REPORT

State lawmakers adjourned on June 20th to mark the close of the 2018 Regular Legislative Session. However, several key priorities for both Houses were stalled in the final hours due to an early morning standoff between Republicans and Democrats in the Senate.

Sports betting, increased gun control measures, stronger ethics rules, bail reform, a renewal of NYC's traffic camera program, decoupling of teacher evaluations from state test scores, and tax extenders for localities all fell to the wayside as a result of the in-fighting. In direct response, the Governor publicly announced his plans to bring the Legislature back before September to deal with the renewal of the City's speed cameras.

Tensions between the Governor and the Senate GOP continue to mount amidst a deal brokered in early April by the Governor and Senate Minority Leader Andrea Stewart-Cousins that reunited the eight-member Independent Democratic Conference with the mainline Democrats for a 32 seat majority. Efforts by the Governor and the Senate Minority to broker a similar agreement with GOP anchor, Brooklyn Democrat Simcha Felder have failed to materialize. Felder has retained his commitment to caucus with the Republicans, keeping the GOP in control of the Chamber by one vote for the time being.

Republicans were thrown yet another curveball a month later with the announcement that Long Island Republican Senator Tom Croci, a Navy reservist, was returning to active duty. The final weeks of Session were riddled with gridlock as Croci's military leave prevented him from being in Albany as scheduled, causing some votes to be split 31-31 along party lines. Croci's departure opens up another swing seat that Democrats will be vying for in November.

With the conclusion of Session, legislators head back to their respective districts to begin campaigning for the upcoming General Elections on November 6th. All eyes will be on Senate "hotseats" as Democrats rally to pick up districts currently held by retiring Republicans, Deputy Majority Leader John DeFrancisco from Syracuse, Hudson Valley Senators, John Bonacic and Bill Larkin, as well as Kathy Marchione from Saratoga County. General Election results will determine party control of the Senate in January 2019.

2018 LEGISLATION

This year, Conference staff closely monitored over 300 bills related to mental health, SUD and developmental disabilities, all with a particular focus on the people we serve. Below is an overview of the most noteworthy bills tracked this Session.

APPROVED BY THE LEGISLATURE/AWAITING ACTION BY THE GOVERNOR

A.3694C/S.1156C (Gunther/Ortt) – Relates to establishing the mental health and substance abuse parity report act

Amends the Insurance Law to require the submission of certain data by insurers and health plans. Insurers and health plans will be required to submit certain data to the Department of Financial Services and the Commissioner of Health, as a way of measuring compliance with federal and state mental health and substance abuse parity laws. The data will be used by the Department of Financial Services to prepare an annual Mental Health Parity report as part of the annual Consumer Guide.

A.7689A/S.6544B (Rosenthal/Akshar) - Prohibits certain practices by providers of substance use disorder services (*Patient Brokering*)

Creates a new section in Mental Hygiene Law to prohibit any individual, addiction professional, credentialed professional, health care provider, health care facility or substance abuse program from giving or receiving a commission, bonus, rebate, or kickback, directly or indirectly, to induce the referral of a potential service recipient in connection with the performance of substance abuse services. Any violation of this section will constitute a misdemeanor.

A.10403/S.8760 (Fahy/Amedore) – Relates to the disposal of property upon a judgment or order of forfeiture

Amends the Civil Practice Law & Rules and State Finance Law to provide law enforcement the flexibility to expend funds received through forfeiture on activities related to Law Enforcement Assisted Diversion (LEAD). Current restrictions in the Civil Practice Law & Rules prevent law enforcement from utilizing forfeited funds for these types of programs. Presently, use of these funds are limited to the investigation or prosecution of Penal Law offenses. Furthermore, this bill would make additional resources available by diverting monies from the state Chemical Dependence Service Fund to the OASAS Commissioner in support of LEAD programs that specifically help individuals struggling with substance use disorders.

A.10708/S.8592 (Gunther/Ortt) - Relates to transportation of individuals

Amends Mental Hygiene Law to require the statute be gender neutral, allowing for individuals to be transported by any staff member, while continuing to provide for same gender staff transportation within staffing limitations and upon an individual's request.

A.10938/S.8632 (Gunther/Ortt) – Relates to authorizing the geriatric service demonstration program to promote mental health and home care collaboration within the program

Amends the Mental Hygiene Law (the Geriatric Services Demonstration Program) to authorize the Office of Mental Health (OMH) to include under the demonstration promotion of home care provider collaboration with mental health providers for the purpose of coordination, integration and improved access of health and mental health services for individuals with mental health and physical health needs. The goal is to better assist individuals to age-in-place in their homes and communities, avoid hospitalizations, and promote better care transitions from hospital to home.

A.10644/S.8769 (Gunther/Ortt) - Relates to a hospital's policies and procedures regarding discharge of individuals with a mental health disorder

Creates a new section in Mental Hygiene Law to set forth policies and procedures for discharge of an individual with a mental illness. This bill would require the Office of Mental Health (OMH), in

consultation with the Department of Health (DOH) to develop or utilize existing educational materials for distribution by hospital staff to individuals who appear to have or be at risk for a mental health disorder during discharge planning.

A.11011B/S.8987A (Gottfried/Amedore) - Relates to allowing for the use of medical marihuana as an alternative to opioids for pain management and substance use disorder.

Amends the Public Health Law to allow physicians to certify patients for medical marijuana as an alternative to prescribing opioids. This bill adds eligibility under the law, for patients with pain whose use of medical marijuana is as an alternative to opioids. This bill also adds substance use disorder to the list of conditions for which a doctor may authorize medical marijuana use.

BILLS THAT FAILED TO ADVANCE TO THE GOVERNOR

A.6830C/S.4736D (Weprin/Lanza) - Relates to the duty to report incidents to 911 and the county district attorney's office **CLMHD Signed On To Advocate Opposition Memo******

Amends the Social Services Law to include all suspicious and unexplained injuries to include broken bones, hematomas, open wounds beyond minor first aid, black eyes, swollen noses, extreme and questionable bruising, choke marks, burns, all individuals served found unresponsive and all death incidents be reported to a 9-1-1 operator and the County District Attorney's Office. This bill would further require human services employees of specific agencies to report suspected abuse to a 9-1-1 operator, the district attorney's office and the vulnerable person's central register and make willful failure to do so a Class A Misdemeanor.

Status: Held in Assembly MH/Senate Finance Committees

S.446 (Young) - Provides for the emergency or involuntary admission of persons with mental illness when there is a risk of serious physical harm or serious psychiatric harm. **Conference Opposes******

Amends the Mental Hygiene Law, in relation to involuntary and emergency admissions of the mentally ill. This bill would provide for the emergency or involuntary admission of persons with mental illness when there is a risk of serious physical harm or serious psychiatric harm.

Status: Passed Senate/One House Bill - No Assembly Sponsor

S.516B/A.604A (Young/Gunther) - Enhances the assisted outpatient treatment program and eliminates the expiration and repeal of Kendra's Law. **Conference Opposes******

Amends the Mental Hygiene and Correction Laws to establish substantial changes to NY's AOT program. This bill would also repeal the current sunset date of June 30, 2022 for Kendra's Law creating a permanent program.

Status: Passed Senate/Held in Assembly Mental Health Committee

S.710 (Carlucci) - Establishes protocols for assisted outpatient treatment for substance abuse. **Conference Opposes******

Creates a new section in Mental Hygiene Law, to establish a process in which court-ordered assisted outpatient treatment for substance abuse can be obtained for individuals who are in need of services and are incapable of helping themselves. This bill would establish a procedure in which someone could petition a court and obtain an order for assisted outpatient treatment for a substance abuser.

Status: Passed Senate/One House Bill – No Assembly Sponsor

S.1912/A.3254 (Ritchie/Ortiz) - Relates to fees for services rendered to patients in state inpatient facilities pursuant to court orders. **Conference Bill/Support******

Amends the Mental Hygiene Law, in relation to fees charged for services rendered to patients held in state inpatient facilities for competency restoration pursuant to court orders. This bill would relieve counties of fiscal responsibility for services rendered to patients held in state inpatient facilities pursuant to court order in excess of thirty days.

Status: Held in Assembly Ways and Means/Senate Finance Committees

A.4899C/S.7905A (Rosenthal/Griffo) – Requires insurers providing coverage of prescription drugs for opioid addiction

Amends the Insurance Law by requiring health insurers to provide coverage, without prior authorization, for an initial or renewal prescription for drugs prescribed for the treatment of substance abuse disorder.

Status: Held in Assembly Rules/Senate Insurance Committees

A.3080B/S.4784A (Aubry/Parker) - Restricts the use of segregated confinement and creates alternative therapeutic and rehabilitative confinement options.

Amends the Corrections Law to limit segregated confinement and provide more humane and effective alternatives. This bill would be known as the "Humane Alternatives to Long-Term Solitary Confinement" Act (the HALT Solitary Confinement Act.)

Status: Passed Assembly/Held in Senate Crime & Corrections Committee

A.7868/S.1916 (Gunther/Ritchie) - Relates to the reimbursement of local services provided to persons with a disability

Amends the Mental Hygiene Law, in relation to reimbursement of certain programs and services for persons with a disability to ensure local service providers are reimbursed from the Office for People with Developmental Disabilities (OPWDD), for the rendering of approved services, while such approval is pending.

Status: Held in Assembly Ways & Means/Senate Finance Committees

A.8774B/S.8914A (Rosenthal/Bailey) – Relates to the establishment of a program for the use of medication assisted treatment for inmates

Amends the Corrections Law, to establish a program for the use of medication assisted treatment for inmates; and amends Mental Hygiene Law to implement substance use disorder treatment and transition services in jails. This bill would require the Commissioner of the New York State Department of Corrections and Community Supervision and the Chairman of the New York State Commission of Corrections to establish a medication assisted treatment program at all state correctional facilities and local jails. Program participation would be voluntary and offered to eligible inmates who are facing an opioid addiction and would include the use of medications such as methadone, buprenorphine and naltrexone combined with an appropriate level of counseling.

Status: Held in Assembly Ways and Means/Senate Rules Committees

A.8888A/S.7173A (Gunther/Serino) – Relates to Telepsychiatry

Amends the Mental Hygiene Law, to promote the use of telepsychiatry to address geriatric social isolation. This bill would establish a telepsychiatry component under the geriatric service demonstration program to promote grant funding in this area. Additionally, this bill would direct the Commissioner of the Office of Mental Health (OMH), in consultation with the State Office for the Aging and Department of Health (SOFA), to study the issue of geriatric social isolation, including an assessment of at-risk

populations, the mental health impacts, and life stages that may put a person at higher risk. To also look at community supports that may help address these concerns, and provide recommendations on how to address this issue, including through the use of telepsychiatry.

Status: Passed Assembly/Held in Senate Finance Committee

A.10707A/S.3981B (Bronson/Savino) – Makes care and services provided by licensed mental health practitioners eligible for coverage under the Medicaid program

Amends the Social Services Law, in relation to making care and services provided by licensed mental health practitioners eligible for coverage under the Medicaid program. This bill would enable mental health practitioners licensed pursuant to Article 163 of the Education law to bill Medicaid directly for their services.

Status: Passed Assembly/Held in Senate Health Committee

S.725A/A.3751A (Ortt/Magnarelli) - Relates to access to mental health services for children who are referred to the pre-admission certification committee (PACC) in a residential placement facility

Amends the Mental Hygiene Law, in relation to access of mental health services for children who are referred to the pre-admission certification committee. This bill would require that Medicaid eligible individuals up to age twenty-one that have been referred to the pre-admission certification committee (PACC) process by a physician, have access to mental health services for up to thirty days pending expedited PACC review. This bill would also require the Office of Mental Health (OMH) to collect information on children requiring 30 day placements and expedited PACC review, and evaluate the referral process for admission to residential treatment facilities.

Status: Held in Assembly Ways and Means/Senate Finance Committees

S.8600A (Amedore) - Authorizes the provision of opioid treatment services by certain entities including corporations owned by another corporation in order to increase consumer accessibility to opioid treatment services in geographic areas determined by the commissioner to be in need of such services.

Amends the Mental Hygiene Law, in relation to establishing an opioid treatment services demonstration program. This bill would authorize the Office of Alcoholism and Substance Abuse Services (OASAS), at its discretion, to approve qualified opioid treatment applicants seeking to establish in a region that is in need of such services, regardless of whether the company is owned by natural people or another business entity.

Status: Passed Senate/One House Bill – No Assembly Sponsor