



**TO: MEMBERS OF THE NYS CONFERENCE OF LOCAL MENTAL HYGIENE DIRECTORS**  
**FROM: COURTNEY DAVID, DIRECTOR OF GOVERNMENTAL RELATIONS**  
**DATE: JUNE 28, 2019**  
**SUBJECT: 2019 END OF SESSION LEGISLATIVE REPORT**

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Two days past schedule, State Lawmakers adjourned the morning of June 21<sup>st</sup> to mark the conclusion of the 2019 Regular Legislative Session. While the Senate ended business around 1am, the Assembly pushed through a myriad of bills before issuing closing remarks, six hours later.

For the first time since 2010, the Democratic Majority in the Senate had the opportunity to advance its agenda by approving a slew of the most progressive initiatives on record. Rent stabilization, voting reforms, expansion of the State's anti-harassment laws, allowing driver's licenses for undocumented immigrants, enhanced gun-control measures, college tuition aid for children of illegal immigrants (Dream Act), cash bail and other criminal justice reforms, as well as increased protections for the LGBTQ community and climate change were all taken up and approved by lawmakers this year.

One major initiative of the Governor's that did not come to fruition was the legalization of adult-use marijuana. Early on, the Administration was clear that this was to be a priority in 2019. However, failed budget negotiations opened up an opportunity for members in the Senate and Assembly to tailor legislation to meet their priorities, including oversight of revenue expenditures and a municipal opt-in vs. an opt-out on retail sales. Thirty (30) Democratic Senators were said to have backed the initiative, two shy of the minimum needed for passage, with nine Senators on the fence or who had outright opposed. Those who held out in opposition resided downstate and ultimately took the heat for stalling the measure in that House. In the end, lawmakers approved the decriminalization of marijuana which will increase the amount allowable for possession, reduce fines for low-level possession, and expunge the records of those previously convicted of minor marijuana related violations.

As you know, CLMHD heavily advocated its position related to marijuana legalization and its impact on community behavioral health, as well as our opposition to legislation requiring all county jails to provide all forms of medication-assisted treatment (MAT) which had the potential to cripple county governments with millions of dollars in fiscal responsibility. While we are extremely pleased with the level of support received during our advocacy efforts and ultimately the Legislature's decision to not advance either issue this year, CLMHD staff will continue to meet off-session with legislators and key staff to maintain the Conference's credibility and to serve as a resource for these and other critical county-based initiatives.

With legislators returning to their respective districts, the focus will now turn to the 2020 agendas that will influence many campaign platforms going into next year's General Elections. As a look-ahead, a few measures we could see taking center-stage next year include, another stab at marijuana legalization, the

decriminalization of prostitution, single-payer health care, and initiatives that piggyback off the agenda of the Democratic candidate for President.

## **2019 LEGISLATION**

This year, Conference staff closely monitored over 550 bills related to mental health, addiction/SUD, developmental disabilities and Medicaid, 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.7489A/S.5637 (Gunther/Carlucci)** - An act to create a temporary commission relating to the office of mental health housing programs.

This bill would establish a temporary commission to investigate, and provide policy guidance and recommendations relating to the adequacy of funding levels and need for sufficient staffing in all supportive housing under the auspices of the Office of Mental Health (OMH).

***CLMHD issued a Memo In Support as this effort is aligned with the Bring It Home Campaign***

**A.670A/S.6212A (Bronson/Kennedy)** – An act to amend the insurance law, to require health insurance coverage of outpatient care provided by a mental health practitioner and clinical social workers.

Timothy's law currently requires an insurer to provide benefits for the diagnosis and treatment of mental, nervous or emotional disorders provided by a psychiatrist, psychologist or a licensed clinical social worker with an additional three years of experience. This bill would require insurers to reimburse mental health providers licensed under article 163 of the education law and licensed clinical social workers licensed under 154 of the education law in addition to psychiatrists and psychologists.

**A.2758A/S.3200A (Ortiz/Parker)** – An act to amend mental hygiene law, to create a public education initiative designed to eliminate stigma and misinformation about mental illness and substance use among military service members.

This bill creates a public education initiative designed to eliminate stigma and misinformation about mental illness and substance use among military service members.

**A.2787/S.3960 (Gottfried/Rivera)** - An act to amend the social services law and public health law, to require Medicaid managed care plans and managed long term care plans to implement required changes in rates, provide coverage or payments for behavioral health on the same date the change takes effect for Medicaid non-managed care, or to make updated payments retroactively to that date.

Under current law, plans can delay making the necessary system updates to reflect new provider payment rates and are not required to make retroactive payment adjustments, despite receiving increased payments from the state for that purpose. This bill will ensure that state payments intended to reimburse behavioral health providers are distributed appropriately.

**A.1130A/S.1073A (Gottfried/Rivera)** – An act to amend the public health law, in relation to expanding health department review of correctional health services in Department of Corrections and Community Supervision (DOCCS) and local correctional facilities.

Section one amends subdivision 26 of public health law § 206 by adding additional categories of health services - women's health, transgender health, chronic health conditions, substance use disorder, health care services for individuals-fifty years of age or older, and discharge planning to DOH's existing power to review DOCCS and local jail HIV/AIDS and Hepatitis C policies.

The bill also creates a requirement to develop a biennial study of health care staffing adequacy in DOCCS and local jails.

**A.4737/S.1674 (Steck/Skoufis)** – An act to amend the executive law, to establish the office of the advocate for people with disabilities.

This office will function as an advocate for the rights of people with disabilities to help receive services and support that enable them to make informed choices and decisions.

**A.648A/S.3421A (Bronson/Savino)** - An act to amend the social services law, to require care and services provided by licensed mental health practitioners eligible for coverage under the Medicaid program.

This bill will enable mental health practitioners licensed pursuant to Article 163 of the education law to bill Medicaid directly for their services.

**A.7246B/S.5935A (Rosenthal/Harkham)** - An act to amend the social services law and the public health law, in relation to medication for the treatment of substance use disorders.

Under current law, Medicaid eligible individuals are not given the opportunity to access all forms of MAT and may be limited to one specific type. This legislation would allow individuals under Medicaid the ability to access whichever medication is most beneficial to them and their needs, without utilization control, mandated prior authorization, or lifetime limits.

**A.7944/S.6154 (Weprin/Sepulveda)** - An act to amend the correction law, to allow for an inmate's transfer between local correctional facilities for participation in beneficial programming.

Current law allows the State Commission of Correction to transfer an inmate from the jail of one county to another, via substitute jail order, only if there is no jail in a county; the jail becomes unfit or unsafe for the confinement of some or all of the inmates, civil or criminal; is destroyed by fire or otherwise; if a pestilential disease breaks out in the jail; or the vicinity of the jail and the physician to the jail certifies that it is likely to endanger the health of any or all of the inmates in the jail.

The Commission of Correction seeks the authority to approve an inmate's transfer between local correctional facilities for the purpose of participating in beneficial programming. As proposed, any such transfer would be dependent on the consent of the inmate and any involved sheriff. Beneficial programming can include alcohol and substance abuse programs, and programs to assist incarcerated military veterans.

## **BILLS THAT FAILED TO ADVANCE TO THE GOVERNOR**

**A.833B/S.2161B (Rosenthal/Bailey)** - An act to amend the correction law and mental hygiene law, to require DOCCS and Commission of Corrections to require MAT programs in state correctional facilities and local jails.

This bill would require every prison and jail to offer all forms of MAT combined with an appropriate level of counseling and transition services.

**CLMHD/NYSAC/NYSSA strongly opposed due to unfunded mandate on counties.**

**A.7977A/S.6376 (Gottfried/Rivera)** - An act to amend the state finance law, to designate at least 25% of the funds deposited into the state health care transformation fund to community-based behavioral health care providers.

The Healthcare Transformation Fund account was to be used “to support care delivery, including for capital investment, debt retirement or restructuring, housing and other social determinants of health, or transitional operating support to health care providers.” However, in October 2018, when the State deposited \$675 million into the Fund from the proceeds of the sale of the insurer Fidelis Care to Centene, the funding was used to implement a Medicaid rate increase for most hospitals and nursing homes. Community-based mental health and SUD providers were unfairly, left out of this equation and this bill would provide the neglected allocation to these providers from these funds.

**CLMHD issued a Memo In Support as this is aligned with Workforce Retention Efforts**

**A.2500/S.1623 (Aubry/Sepulveda)** - An act to amend the correction law, to restrict the use of segregated confinement and establishing creating alternative therapeutic and rehabilitative confinement options.

This bill known as the "Humane Alternatives to Long-Term Solitary Confinement" Act (the HALT Solitary Confinement Act) would limit the time an inmate can spend in segregated confinement, end the segregated confinement of vulnerable people, restrict the criteria that can result in such confinement, improve conditions of confinement, and create more humane and effective alternatives to such confinement.

\*\*During the final week of session, the Governor publicly stated his opposition to the HALT bill due to the multi-million dollar unfunded fiscal impact to the State and counties. As a result, the legislation did not advance and instead the Administration issued guidance that pointed to the June 5<sup>th</sup> regulations promulgated on cell confinement and essential service deprivation. The development of these regulations were in direct response to a prior court action taken against the State.

*The memo issued by Commission of Corrections outlining these regulations can be viewed here:*

[https://scoc.ny.gov/pdfdocs/cm\\_2019\\_01.pdf](https://scoc.ny.gov/pdfdocs/cm_2019_01.pdf)

**A.8166/S.4741A (Ortiz/Harckham)** - An act to amend mental hygiene law, to require notice to certain persons of a patient treated in a chemical dependence program or facility.

To be known as Stephen’s Law, this bill would require medical providers to alert certain individuals who have a patient's consent to access medical information when that patient demonstrates warning signs of relapse.

*\*\*Named in memory of Stephen Canastraro Jr. Legislation was supported by Save the Michaels and directs providers to call the patient's loved ones (up to three) who already have the patient's consent to access their medical information, and inform them of life threatening warning signs of relapse.\*\**

**A.2077/S.3757 (Gunther/Carlucci)** - An act to amend the mental hygiene law, to establish a credentialing pilot program for direct support professionals.

The bill authorizes OPWDD to implement a professional credential pilot program for direct support professionals in the I/DD field. The pilot will build on the use of existing core competencies, skills building and other educational resources. Comprehensive training may include on-line Glasswork, mentorships and other educational components.

An Advisory Council for direct support professional credentialing would be established to advise, oversee and assist with the implementation of the pilot. The Commissioner of OPWDD shall chair the council.

**A.5141/S.3117 (Walker/Hoylman)** - An act to amend the mental hygiene law, the state finance law and the general municipal law, to establish a crisis intervention team program in NYC.

This bill would create a demonstration for crisis intervention teams in New York City in order to increase the effectiveness of first responders and law enforcement who frequently come into contact with seriously emotionally disturbed individuals.

- Amends MHL by adding three new sections 7.46, 7.47 and 7.48 to create the crisis intervention program, the crisis intervention team training program advisory committee and the crisis intervention team training fund grant program.
- Amends STF law by adding a new section 99-w to create the crisis team training fund.
- Amends GMU by adding a new section 204-ff to establish the criteria and goals for a crisis intervention team.
- Amends section 19.07 of MHL by adding a new subdivision (j) to provide for the collaboration of OASAS, OMH and law enforcement to establish criteria for the development of crisis intervention teams.