

RMS End of Session Health/ Mental Hygiene Update July 1, 2016

The New York State Legislature finished the 2016 Legislative Session in the early morning hours of Saturday, June 18, more than a day later than the scheduled last day of June 16th. The delay was due in part to negotiations in the final week of the session between the Governor and Legislative Leaders to reach an agreement dubbed the “Big Ugly” on a number of outstanding issues or other major items.

Final agreements included:

- A package of initiatives to begin to address the State’s opioid/heroin epidemic;
- A 5-part agreement on ethics reform including broader pension forfeiture requirements, expanded lobbying laws and controls on “independent expenditure” campaigns;
- More than \$570 Million in Operating and Capital Funding Available for 2016-2017 Housing Priorities;
- Mayoral Control of New York City Schools Extended with Increased Transparency;
- Legislation to Prevent People from Losing their Homes and Combat the Blight of Vacant Bank-Owned Properties;
- The Nation's First Statewide Legislation to Test for Lead in Schools;
- Additional Flexibility for Charter Schools;
- \$50 Million for SUNY and CUNY in Additional Capital Funding;
- Accelerating the Construction Process on Javits Convention Center; and
- Extending State Control of the New York Racing Association.

Several thousand bills were introduced during the 2016 session and over 600 were passed by both houses of the Legislature. Provided below is a sector by sector update of all bills that passed both houses in the health and mental hygiene areas. Most have not yet been transmitted to the Governor for consideration but we noted those that have and the action taken. To view the text or sponsor’s memo for any of this legislation, you can use the following link: <http://assembly.state.ny.us/leg/>

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Bills Passed Both Houses

Multiple Sectors

Assessment of Human Trafficking Victims A8650B Paulin/ S6835B Lanza

This legislation requires hospitals, public health centers, D&TCs and outpatient departments to establish and implement written policies and procedures for the identification, assessment and treatment or referral of persons suspected as human trafficking victims. Also it requires specified personnel in the service units of such facilities to complete of training regarding the policies and procedures.

This bill passed both houses. It has not yet been transmitted to the Governor.

Access to Quality Complex Rehabilitation Technology for Patients with Complex Medical Needs S3651D Ortt/A5074-A McDonald

This bill would define the term “complex needs patient” to mean an individual with significant functional impairment resulting from a medical condition or disease. “Complex medical technology” is also defined to describe the type of equipment that addresses the needs of complex patients. The Commissioner is required, no later than October 1, 2018, to designate products and services included for billing services and to create new rate codes for the coverage of this equipment.

In addition, all HMOs are required to provide access to services and equipment provided by complex rehabilitation technology suppliers.

This bill passed both houses. It has not yet been transmitted to the Governor.

“Peter Falk’s Law,” Guardianship S5154C DeFrancisco/A3461C Magnarelli

This bill changes the law regarding the “order of appointment” for a guardianship to protect the rights of adult children and other relatives. It requires the order to identify individuals entitled to notice of the incapacitated person’s death, funeral, and burial arrangements. It would allow the order to identify anyone entitled to notice of the person’s transfer to a medical facility. It would also allow the order to identify those entitled to visit the incapacitated person.

This bill passed both houses. It has not yet been transmitted to the Governor.

Sex Offense Conviction Records of Emergency Medical Technicians (EMTs) and First Responder Applicants S5524B Bonacic/A3590 Skoufis

This bill requires the chief officer of an ambulances company or service to search for sex offense conviction records when prospective EMTs and other first responders apply for membership.

This bill passed both houses. It has not yet been transmitted to the Governor.

Reporting of Opioid Overdose Data S6516A Amedore/ A9251A Rosenthal

This legislation clarifies that opioid overdoses and deaths must be tracked by the State Department of Health (DOH) and included in an annual report due by October 1st each year and made available on the Department's website. Such information would have to be provided on a county basis and include data on the dispensing as well as utilization of opioid antagonists, areas of the state that are experiencing particularly high rates of overdoses and ways to determine if services and resources are having a positive impact on reducing overdoses. Current information and data would be required to be provided to each county on a monthly basis to assist in addressing the opioid epidemic.

This bill was signed into law. Chapter 66 of the Laws of 2016

Medical Assistance Coverage of Donor Breast Milk S6583B Hannon/A9353C Solages

This bill would provide Medicaid coverage for donor breast milk for an infant who is unable to receive breast milk or a mother who is unable to provide breast milk when the infant: 1) has a birth weight of one thousand five hundred grams or less; 2) has a congenital or acquired intestinal condition, and is at high risk for development of feeding intolerance or other serious conditions; or 3) otherwise requires nourishment by breast milk.

This bill passed both houses. It has not yet been transmitted to the Governor.

Extender of Limited License for Clinical Laboratory Technology S6929A DeFranciso/A8676-A Magnarelli

This bill extends the current limited licensing provisions for clinical laboratory technicians until 2018.

This bill passed both houses. It has not yet been transmitted to the Governor.

Use of Opioid Antagonists by Public Libraries S7860 Amedore/ A10364 Gottfried

This legislation authorizes the maintenance and use of opioid antagonists at public libraries for the treatment of opioid overdoses.

This bill was signed into law. Chapter 68 of the Laws of 2016

Opioid/Heroin Package (S8137 Ortt/A10725 Rules-Steck, S8138 Amedore/ A10726 Rules-Cusick and S8139 Murphy/A10727 Rules-Rosenthal)

A package of proposals were introduced to address the State's heroin/opioid epidemic following three-way negotiations between the Governor and Legislative Leaders. The final package relates to a variety of areas including insurance, education, reporting, pharmacy and medical practice. Below is a summary of the enacted bills.

Medical Practice Changes

- Reduces prescription limit for the initial treatment of acute pain with a schedule II, III or IV opioid from 30 days to 7 days. According to the language:
 - Acute pain is defined as pain, whether resulting from disease, accidental or intentional trauma, or other cause, that the practitioner reasonably expects to last only a short period of time.
 - This 7-day limit shall not apply to chronic pain, pain treated as part of cancer care, hospice or other end of life care/palliative care.
 - Upon subsequent consultation for the same pain, the practitioner may issue any appropriate renewal, refill or new prescription for the opioid or other drug for up to 30 days.
 - Patient co-pays for the initial “up to 7 day” fill may be pro-rated or a patient may be charged the 30 day co-pay and if there are subsequent prescriptions within that time period there shall be no additional co-pay.
- Requires prescribers (registered under the federal controlled substance act and in possession of a DEA registration number) to complete a 3 hour course every 3 years in addiction, pain management and palliative care beginning July 1, 2017.

Pharmacy Practice Changes

- Requires pharmacists to provide educational materials prepared by DOH and the Office of Alcoholism and Substance Abuse Services (OASAS) to consumers about the risk of addiction, including information about local treatment services when dispensing controlled substances. Such materials may be provided in hard copy or by electronic means at the option of customers.
- Authorizes pharmacies to offer counseling and referral services to patients who are purchasing hypodermic syringes on a voluntary basis. Such counseling/referral would relate to preventing injection drug abuse, the provision of drug treatment, preventing and treating hepatitis C, preventing drug overdose, testing for HIV, and providing pre-exposure prophylaxis and non-occupational post-exposure prophylaxis. The provision of such counseling/referral services shall be voluntary and at the discretion of the pharmacist.

Insurance Coverage Expansion/ Requirements

- Requires insurers to cover necessary inpatient services for the treatment of substance use disorders without prior authorization.
- Requires that utilization review can begin only after first 14 days of treatment.

- Prohibits insurers from requiring prior approval for emergency supplies of medications medication (5 days) to manage withdrawal symptoms or maintain recovery; Similar provisions will apply to managed care providers treating individuals on Medicaid who seek access to buprenorphine and injectable naltrexone.
- Requires all insurers operating in New York to use objective, state-approved criteria when making coverage determinations for all substance use disorder treatment.
- Requires insurance coverage for opioid overdose-reversal medication (naloxone) for a covered individual or his/her family members on the same insurance plan.

Treatment Changes

- Provides for 72-hour emergency treatment (increase from the current 48 hours) for individuals incapacitated by drugs.
- Requires hospitals to provide discharge-planning services to connect at-risk patients with nearby treatment options.
- Authorizes trained professionals to administer naloxone in emergency situations without risk to their professional license.
- Extends the State wraparound program created in 2014 to provide services to individuals completing treatment including education and employment resources; legal services; social services; transportation assistance, childcare services; and peer support groups.

NYSDOH Data Collection

- Requires the State Commissioner of Health to report county-level data on opioid overdoses and usage of overdose-reversal medication on a quarterly basis.

These bills passed both houses and on June 22nd, the Governor toured the state holding bill signing ceremonies approving the package. The enacted bills are Chapters 69, 70 and 71 of the Laws of 2016.

Hospital/Healthcare Facilities

Midwifery Birthing Centers S4325 Hannon/ A446 Gottfried

This legislation authorizes midwifery birthing centers. It requires DOH to issue regulations related to the establishment, construction and operation of midwifery birthing centers, using state and national professional association standards in consultation with industry and midwives.

This bill passed both houses. It has not yet been transmitted to the Governor.

Adds AAP Recommendations on Safe Sleep and SIDS Risk Reduction to Maternity Leaflet S5100 Lanza / A7181 Paulin

This legislation adds the recommendations from the American Academy of Pediatrics relating to safe sleep and infant death risk reduction to the informational leaflet provided by hospitals and birth centers to prospective maternity patients and the general public upon request. In lieu of a leaflet, a video may be provided.

This bill passed both houses. It has not yet been transmitted to the Governor.

**Hospital Patients' Bill of Rights: Surprise Bills and CARE Act S6347B
Hannon/A9188B Gunther**

This bill updates the Patient' Bill of Rights in a hospital to inform patients that they have a right to:

- be held harmless from “surprise bills” that are not covered by their insurance plan; and
- to designate a caregiver under the CARE Act. The CARE Act which is effective April 23, 2016 requires identification of caregivers while a patient is still in the hospital and includes caregivers in discharge planning, and post-discharge care.

This bill passed both houses. It has not yet been transmitted to the Governor.

Directs the Commissioner of the Department of Health to Distribute Crib Safety Information to Maternity Patients S6730 Golden / A356 Rosenthal

This legislation would require hospitals and birth centers to distribute a leaflet detailing crib safety information to maternity patients at the time of discharge. The leaflet will be made available on the New York State Department of Health website and printed in English and the top six languages spoken in the state. This legislation will also require hospital staff to inquire whether maternity patients have new cribs available, and to distribute information on obtaining new cribs if they are not available.

This bill passed both houses. It has not yet been transmitted to the Governor.

Enhanced Safety Net Hospitals S6948AHannon/A9476-A Gottfried

This bill establishes a hospital supplemental reimbursement rate adjustment for enhanced safety hospitals which:

- not less than 50% of the patients it treats receive Medicaid or are uninsured;
- 25% or less of its discharged patients are commercially insured;
- Not less than 3% of the patients it provides services to are attributed to the care of uninsured patients; and
- provides care to uninsured patients in its emergency room, hospital based clinics and community based clinics; or
- is a public hospital operated by county, municipality or public benefit corporation; or
- is federally designated as a critical access or sole community hospital.

This bill passed both houses. It has not yet been transmitted to the Governor.

Medical Indemnity Fund S7873BHannon/A9835-B Abinanti

This bill would amend the Medical Indemnity Fund to provide that:

- A request for a review of a claim denial or for prior authorization for payment or reimbursement from the fund must be made by the claimant no later than 60 days from receipt of the denial, at the claimant's option, by either: (a) making the application to the court where the judgment was awarded or the case was settled; or (b) following the administrative process established in regulations.
- A request for a review of a determination by the fund administrator that the relevant provisions of the Public Health Law governing the payment of qualifying health care costs from the fund to a plaintiff have not been met and/or that the plaintiff or claimant is not qualified may be made by any of the parties no later than 60 days from the receipt of the denial by making application to the court where the judgement was awarded or the case was settled.
- Qualifying health care costs must be reimbursed at the usual and customary cost which shall mean the 80th percentile of all charges for a particular health care service performed by a provider in the same or similar specialty and provided in the same geographical area as reported by a benchmarking database maintained by a non-profit entity designated by the Superintendent of DFS. If no such rate is available, reimbursement must be calculated on the basis of no less than 130% of Medicaid or Medicare, whichever is more. If no Medicaid or Medicare rate exists, the Commissioner of Health must provide for rates through regulation.
- Qualifying health care costs includes habilitation, respite, transportation to health care related appointments, and other health care services that provide therapeutic benefit.

Off-Site Primary Care Services S8081 Hannon/A7714 Gottfried

This bill would allow a hospital outpatient clinic or a Diagnostic and Treatment Center (D&TC) to provide off-site primary care services that are:

- primary care services ordinarily provided to patients on-site at the outpatient clinic or D&TC and are not home care services; and
- provided by a primary care professional to a patient with a pre-existing clinical relationship with the clinic or D&TC, or with the health care professional providing the services; and
- provided to a patient who is unable to leave his or her residence to receive services at the outpatient clinic or D&TC without unreasonable difficulty due to circumstances, including, but limited to, clinical impairment.

This bill passed both houses. It has not yet been transmitted to the Governor.

Long Term Care

Creates an Interagency Council for Coordinating Planning for Older Adults

A7628A Barron/S5999 Parker

The legislation would require the creation of an interagency council comprised of the Office for the Aging, Department of Health, Office of Mental Health, Office of Alcoholism and Substance Abuse Services, Office of Temporary and Disability Assistance, Office for Persons with Developmental Disabilities, Division of Housing and Community Renewal, Department of Labor, Department of Financial Services, Department of Transportation, and the Office of Children and Family Services. The interagency council would develop a state plan on aging to plan for the current and future needs of older adults. The plan would focus on several areas including, but not limited to, health services, community-based services, housing, workforce issues, kincare, and mental health and substance abuse services.

This bill passed both houses. It has not yet been transmitted to the Governor.

Adds Financial Literacy and Elder Abuse Education to Congregate Services

A9712A Richardson/S8098 Persaud

The legislation would add financial literacy education and elder abuse education and outreach to the list of services authorized to be provided through the congregate services initiative.

This bill passed both houses. It has not yet been transmitted to the Governor.

Lowers the Community Match for NORCS (Neighborhood naturally occurring retirement communities) A10201 Harris/S7851 Golden

The legislation lowers the community match for NORCS from 100% of State Funding to 25% of State Funding.

This bill passed both houses. It has not yet been transmitted to the Governor.

Creates and Authorizes Advanced Home Health Aides

A10707 Glick/S8110 LaValle

The legislation would:

- add a new Educ. L. § 6908(2) to exempt from the Nurse Practice Act (NPA), advanced tasks to be performed by advanced home health aides in conformance with regulations issued by the State Education Department in consultation with the Department of Health. Such regulations would specify the types of advanced tasks that could be performed by advanced home health aides, which would include administering routine or prefilled medications, and would set forth the qualifications, training and competency requirements for advanced home health aides. The regulations also would state that advanced tasks may be performed only in accordance with and pursuant to an authorized health practitioner's ordered care and only under the direct supervision of a licensed registered professional nurse employed by a homecare services agency, a hospice program

or an enhanced assisted living residence. In developing such regulations, SED would be required to take into account the recommendations of a workgroup of stakeholders convened by DOH for the purpose of providing guidance on these issues;

- add a new Educ. L. § 6908(8) to specify provisions for registered professional nurses who assign tasks to and supervise advanced home health aides, consistent with the new Educ. L. § 6908(2);
- add a new Educ. L. § 6906(9) to require licensed practical nurses to indicate, upon registration or re-registration with SED, if they have previously been authorized as an advanced home health aide. SED would provide such information to DOH for purposes of including it in the report required under § 10 of the bill;
- add a new Public Health Law (PHL) § 206(30) to require DOH to refer to SED any instance in which a registered professional nurse engages in improper behavior while supervising an advanced home health aide.
- add a new PHL § 3602(17) to define advanced home health aides as home health aides who are authorized to perform advanced tasks as set forth in Educ. L. § 6908(1)(a)(v) and regulations issued thereto. In addition, DOH would be required to issue regulations regarding advanced home health aides related to the advanced home health aide's authorization to perform advanced tasks in appropriate cases.
- amend PHL § 3613(1)(a) to include hospice programs and enhanced assisted living residences in the definition of "home care services entity" for purposes of the Home Care Services Worker Registry.
- amend PHL §§ 2899(6) and 2899-a(9) to:
 - provide for criminal history information checks for hospice workers serving individuals at home for purposes of the Home Care Services Worker Registry.
 - require DOH, in consultation with SED, to report by September 1, 2016 on the recommendations of the workgroup convened for the purpose of providing input on the tasks that could be performed by advanced home health aides and the qualifications and supervision of such aides.
 - require DOH, in consultation with SED, to issue a report by October 1, 2022, describing the implementation of the advanced home health aide initiative and setting forth any recommendations in connection therewith. The report would include information such as the number of advanced home health aides, the types of tasks they perform, the number of home health and personal care aides who became advanced home health aides, and the number of advanced home health aides who became licensed practical nurses.
- provide that the bill would take effect 18 months after enactment and expire on March 31, 2023.

This bill passed both houses. It has not yet been transmitted to the Governor.

Electronic Prescribing Nursing Home Exceptions S6778 Hannon/A9334 Gottfried

This bill creates an exception for the practice in nursing homes where prescriptions are provided orally by prescribers (who are not on premises) to nurses. Prescribers sign these orders within 48 hours.

This bill passed both houses. It has not yet been transmitted to the Governor.

Study on Long Term Care Insurance S6802 Seward/A10711 Stirpe

This bill would require the Department of Financial Services to under a study and issue a report within 12 months on concerning the provision of long term care insurance in the State.

Establishes Tax Credits for Premiums Paid for Life Insurance which is used for Long Term Health Care S6369 Klein/A8703 Gjonaj

The legislation expands upon the provisions of Chapter 563 of the Laws of 2010 and Chapter 465 of the Laws of 2014, which expanded the types of end of life care that can be financed by an accelerated death benefit rider attached to a life insurance policy. Under these new laws, persons who have resided in a nursing home for three months or more or require end of life or palliative care for three months or more at a residential, health care facility, receive home care services or hospice care and such services are expected to be needed until death can now be financed by a life insurance policy rider. This bill expands the current tax credit inducements that exist for the purchase of long term care insurance to also include these new life insurance policy riders.

This bill passed both houses. It has not yet been transmitted to the Governor.

Provides for Increased Regulation of Social Adult Day Programs S7161 Savino/A9130 Cymbrowitz

Currently social adult day programs are regulated by the State Office for the Aging (SOFA) only if they receive a grant through the Office. This means that anyone can start a program and be free from any oversight as long as they never approach the Office for funding. There has been concern across the state that there are abuses taking place in programs that do not operate with sufficient staffing and do not provide adequate services. Families are paying out of pocket for these programs that are not subject to any oversight. This legislation would ensure that all programs must comply with regulations promulgated by SOFA and be overseen as the Office sees fit.

This bill passed both houses. It has not yet been transmitted to the Governor.

Makes Available Criminal History Record Checks to Nursing Homes and Home Care Agencies S7298 Hannon/A10382 Hyndman

The legislation would amend subdivision (7) of section 2899-a of the Public Health law to ensure that only records or information received from the Division of Criminal Justice Services (and not those provided by the FBI) are made available to regulated providers.

Applicants for employment as unlicensed workers seeking employment in DOH regulated nursing homes, adult care facilities, certified home health agencies and long

term care providers are presently subject to New York State and national FBI fingerprint based criminal history record checks. The results of the fingerprint checks are used by the DOH to make employment eligibility determinations in compliance with Executive Law section 845-b and Correction Law Article 23-A, thereby adding further protection to New York's most vulnerable aged or otherwise medically compromised population.

The present PHL statutory authority violates federal law and regulations with regard to the secondary dissemination of FBI criminal history record information to private entities. The Use and Dissemination of Criminal History Information, as referenced by Public Law 92-544 and 28 CFR 50.12(b), requires that records obtained under this authority be used solely for the purpose requested and not disseminated outside the receiving departments, regulated agencies, or other authorized entities. State statutes, such as the involved PHL statute, authorizing dissemination of this information violate the aforementioned federal statute and regulation, and therefore this legislation provides revisions to ensure the uninterrupted FBI processing of DOH civil fingerprint submissions.

This bill passed both houses. It has not yet been transmitted to the Governor.

Physician/Health Care Professionals

Timeline for Health Care Plan Credentialing S2545D Lanza/A501-E Cusick

This bill shortens the time frame from 90 days to 60 days for a health plan to approve a fully complete credentialing application submitted by a health care professional who is part of a physician group. In addition, in instances where additional time is needed because of a lack of necessary documentation, a health plan must make a final determination with 21 days of receiving the additional information.

Scope of Acupuncturists S3911B Nozzolio/ A2558D Gottfried

This legislation clarifies the scope of practice of licensed acupuncturists to include recommendation of dietary supplements and natural products, including, but not limited to, the recommendation of diet, herbs and other natural products, and their preparation in accordance with traditional and modern practices of East Asian medical theory.

This bill passed both houses. It has not yet been transmitted to the Governor.

World Triathlon Corp Events S6650A Little/A9242A Stec

This legislation allows health care professionals who are authorized to practice in other jurisdictions to perform services in New York during the Ironman Triathlon to be held on July 24, 2016 in Lake Placid.

This bill passed both houses. It has not yet been transmitted to the Governor.

Electronic Prescribing: Filing Requirements for Exemptions (S6779-A Hannon/A9333B Gottfried)

Under existing law, physicians or other prescribers who seek one or more of the

exemptions to the e-prescribing mandate must electronically file information with the DOH each time they invoke an exemption. This filing requirement is time consuming and burdensome for prescribers. This legislation replaces the requirement for a filing with DOH to a requirement that the prescriber make a notation in the patient record.

This bill passed both houses. It has not yet been transmitted to the Governor.

Establishes Departmental Promotion Protocol in the Event of Vacancy in EMS Supervisory Positions S6935 Golden / A9441 Abbate

This legislation would provide that supervisory personnel vacancies in the emergency medical service (Captains, Deputy Chiefs, Division Chiefs, Division Commanders and equivalent positions) be filled by promotion from employees holding competitive class positions in a lower grade in direct line of promotion in the department which the vacancy exists. Such promotions would be based on merit and fitness examination. Upon the effective date of this legislation, all EMS supervisory personnel shall be considered holding a permanent appointment their position and eligible for promotion to a higher grade in the event of vacancy.

This bill passed both houses. It has not yet been transmitted to the Governor.

Licensure of Pathologists' Assistants S7932 LaValle/ A10408 Harris

This legislation would create a new licensure category for pathologists' assistants in the education law. It would require clear standards for their scope and practice to be enforced by the State Education Department (SED).

This bill passed both houses. It has not yet been transmitted to the Governor.

Pharmacy

Standing Orders for Naloxone A9078B Mayer/ S6346B, Carlucci

As part of efforts to address opioid/heroin, this legislation would require all pharmacies of 20 or more locations to register with DOH as opioid overdose prevention programs or pursue or maintain a standing order to dispense naloxone.

This bill passed both houses and was signed into law by the Governor on June 22nd during opioid/heroin bill signing ceremonies. It is Chapter 65 of the laws of 2016. *The bill took effect immediately.*

90 Day Refills A9528A Simanowitz/S7078A Felder

This legislation authorizes a pharmacist to use professional judgement and dispense up to a 90-day supply of a non-controlled substance when a prescription is written for a 30-day supply with refills. This is voluntary and may be done after a patient's initial prescription is dispensed, as long as the prescriber has not changed the prescription, the insurer will not charge an additional co-pay and the pharmacist notifies the prescriber of the altered supply within 5 business days.

This bill passed both houses. It has not yet been transmitted to the Governor.

Electronic Prescribing Download Site A9837 Gottfried/ S7334 Hannon

This bill would allow electronic prescriptions to be transferred by prescribers to a central site, upon patient request, where it can be downloaded by a pharmacy. Patients may receive a hard copy of the prescription which includes information on the site or the pharmacy where the prescription has been sent.

This bill passed both house. It has not yet been transmitted to the Governor.

Removing {123I} Ioflupane from Controlled Substance Designation A9891A Gottfried/ S7306A Hannon

This legislation conforms state statute to the federal controlled substance act by removing {123I} ioflupane from the schedules.

This bill passed both house. It has not yet been transmitted to the Governor.

Standardized Prior Authorization Form S4721A, Hannon/A6983A McDonald)

This legislation requires NYS DOH and the State Insurance Department (DFS) to create a standardized prior authorization form for utilization review of prescription drugs for use in the commercial market similar to what is in place in Medicaid. The bill requires NYS DOH and DFS to consider existing electronic prior authorization standards including NCPDP's standards in the development of the form to provide for consistent, electronic prior authorizations.

This bill passed both houses. It has not yet been transmitted to the Governor.

Re-Dispensing of Unused Drugs S5903A Hannon/A9905B Gottfried

This legislation requires NYS DOH to develop regulations to allow hospitals, pharmacies, manufacturers, wholesalers, distributors or a third party intermediary (non-profits) to donate/receive uninsured prescription drugs to be used by patients at no cost, except a reasonable processing fee. Re-dispensed drugs must be in tamper-evident packaging. Priority would be given to patients who are indigent, uninsured or underinsured. Participation by all parties is voluntary. The bill exempts REMS drugs unless the re-dispensing is restricted to ensure they are dispensed in accordance with all applicable requirements.

This bill passed both houses. It has not yet been transmitted to the Governor.

Electronic Prescribing Nursing Home Exceptions S6778 Hannon/A9334 Gottfried

This bill creates an exception for the practice in nursing homes where prescriptions are provided orally by prescribers (who are not on premises) to nurses. Prescribers sign these orders within 48 hours.

This bill passed both houses. It has not yet been transmitted to the Governor.

Abuse Deterrent Opioids S6962A Hannon/A10478 Cusick

This legislation requires insurers to cover at least one abuse deterrent “tamper-resistant” opioid on their formularies. Cost sharing for such formulations shall be at same level as non-abuse deterrent brands for brand name drugs or the same copay as non-abuse deterrent generics for generic drugs.

This bill passed both houses. It has not yet been transmitted to the Governor.

Electronic Prescribing Transfer of Prescriptions S7537-A Martins/A10448 Schimel

Effective March 27, 2016, all prescriptions in New York State were required to be filed electronically unless an exception is granted by DOH. This bill authorizes a pharmacy that is unable to fill an initial electronic prescription to transfer or forward that prescription to another pharmacy at the request of a patient. This bill addresses circumstances where a pharmacy that receives an initial e-script is unable to immediately fill the script, forcing the patient to return to the prescriber to obtain a new prescription for a different pharmacy. Our Association supported and advocated for passage of this legislation.

This bill passed both houses. It has not yet been transmitted to the Governor.

Public Health

Tobacco Revenue Guarantee Fund A7292C Farrell/ S5601C Golden

This legislation makes technical changes to the Tobacco Revenue Guarantee Fund. First it categorizes the fund as a joint custody fund held by the Commissioner of Taxation and Finance and the State Comptroller. Second, it conforms the reporting requirement in County Law section 722-f with statutory changes made in 2010 providing that the Office of Indigent Legal Services shall develop and receive the annual report on expenditures for indigent legal services.

This bill passed both houses. It has not yet been transmitted to the Governor.

Disclosure of HIV Related Information A9834 Gottfried/ S7505 Hannon

This legislation allows disclosure of HIV/AIDS related medical information to qualified researchers who have received approval from a human research review committee established and approved by the public health law or a federally approved institutional review board to conduct medical research on the disease.

This bill passed both houses. It has not yet been transmitted to the Governor.

School Compliance with PE Requirements S3344B Lanza/ A3880B Nolan

This legislation requires the Commissioner of Education to create a procedure for school district reporting on physical education requirements in elementary grades in all public schools to ensure compliance with existing law and regulation.

Such reporting shall include availability of a facility or designated space/area adequate for physical education (PE), maximum number of students who can receive PE and how many currently do at each facility/designated area, how many schools employ/designate

PE teachers, how many schools do not provide required PE and reasons why, and how many and which schools are not in compliance with the current law/regulation.

School districts with schools that are not in compliance are required to prepare a correction action plan and begin implementation of the plan the following school year to the extent practicable. Non-compliant schools will be posted on the State Education Department's website.

This bill passed both houses. It has not yet been transmitted to the Governor.

Lyme Disease Awareness Program S5803A Serino/A8106A Barrett

This legislation includes a Lyme disease and tick-borne infection awareness and prevention program with the DOH health care and wellness education and outreach program. The program would promote information related to guidelines and methods of prevention, best practices for tick removal, recommendations for the reduction of exposure to ticks and the appropriate course of action when a tick is removed from the body.

This bill passed both houses. It has not yet been transmitted to the Governor.

E-Cig Vendor Registration S6003 Hannon/A852, Rosenthal

This legislation requires that any person selling electronic cigarettes that is not otherwise registered with the Department of Taxation and Finance for selling tobacco products shall register with DOH. The Department is also required adopt regulations for the establishment of a registry to ensure compliance.

This bill passed both houses. It has not yet been transmitted to the Governor.

Epinephrine Auto-Injectors S6800 Hannon/A9357 Abinanti

This legislation authorizes (does not require) public venues including restaurants, youth organizations, sports leagues, theme parks, sports arenas, day care and education facilities to stock and administer epinephrine auto-injectors in an emergency to individuals experiencing anaphylactic symptoms.

This bill passed both houses. It has not yet been transmitted to the Governor.

Information on Dense Breast Tissue S7369-A Hannon/S5510-B Jaffee

This bill requires NYS DOH to conduct an educational program on breast density which must include the meaning and potential health consequences of having dense breast tissue, the impact of dense breast tissue on mammographic screening and supplemental screening, and access to other educational websites and literature on this topic.

Access to SSNP Program S8077 Klein/ A9648A Crespo

This legislation provides for participants in the Women, Infants and Children (WIC) program to have access to all WIC approved products, including specialty and exempt

infant formulas (unless there is an explicit state or federal prohibition), at any WIC approved vendors.

This bill passed both houses. It has not yet been transmitted to the Governor.

Mammography Screening & Coverage (S8093 Flanagan/A10679 Barrett)

Governor Cuomo put forward a new proposal in the final days of the Session to increase screening mammography. The final bill provides for the following:

- Puts the requirements for extended hours for mammography screening for hospitals and extension clinics that were enacted in regulation earlier this year in the public health law.
- Eliminates annual deductibles, co-payments, and co-insurance payments (“cost-sharing”) for screening and diagnostic imaging for the detection of breast cancer. This includes mammograms, breast ultrasounds, and MRIs covered under a patient’s insurance policy.
- Eliminates cost-sharing for all screening mammograms, including those provided to women who may not meet current federal screening guidelines but need screening.
- Provides four hours of paid annual leave for breast cancer screening for public employees in New York City.

Governor toured the state on June 27th to announce the signing of this legislation as Chapter 74 of the laws of 2016.

Excused Leave for Prostate Cancer Screening S8107 Hannon/ A409B Dinowitz

This legislation affords civil service employees in New York City the same right to excused leave for prostate cancer screening as civil service employees in the rest of the state have.

This bill passed both houses. It has not yet been transmitted to the Governor.

HIV Changes "Ending the Epidemic" S8129 Hannon/A10724 Rules-Gottfried)

In the final days of the Session, Governor's Program bill 30 was introduced to implement the "Ending the AIDS Epidemic" recommendations. This legislation would:

- Remove requirement for informed consent from an individual prior to performing an HIV related test. The bill would require that the individual be advised that an HIV related test is going to be performed, and that any objection by the individual be noted in the individual's medical record;
- Eliminate the existing upper age limit (64) for purposes of the required offering of an HIV related test by primary care physicians and similar providers;

- Authorize a physician to issue a non-patient specific order for registered nurses to screen persons at increased risk for syphilis, gonorrhea and chlamydia and to allow a registered nurse to do such screening; and
- Authorize a physician or nurse practitioner to prescribe and order a patient specific or non-patient specific order to a pharmacist for dispensing a seven day starter kit of post-exposure prophylaxis (PEP) for the purpose of preventing HIV. Also it would allow a licensed pharmacist to dispense the seven day starter kit of PEP pursuant to such an order.

This bill passed both houses. It has not yet been transmitted to the Governor.

Cystic Fibrosis Foundation License Plate A8165-A Mayer /S 5637-A Seward

The legislation authorizes the issuance of a Cystic Fibrosis Foundation motor vehicle license plate and allocates annual service charges resulting from the sale of such plates to the cystic fibrosis research and education fund. Cystic Fibrosis is a life-threatening disease affecting nearly thirty thousand Americans, according to the Cystic Fibrosis Foundation. It results in the progressive deterioration of the lungs and pancreas. The creation of the Cystic Fibrosis research fund will support on-going research to improve the quality of life for patients and hopefully, make a significant contribution toward finding a cure.

This bill passed both houses. It has not yet been transmitted to the Governor.

Allows Sixteen and Seventeen Year Olds to Make an Anatomical Gift S5313-A Hannon / A4990-B Ortiz

This legislation would amend public health law to allow individuals who are sixteen or seventeen years old to register their consent to donate their organs, eyes, and tissue in the NYS Donate Life

Registry and require the DOH to create a process to do so through the DMV, Board of Elections, online or directly with the Registry. This legislation would allow parents or legal guardians to rescind the donor's authorization for donation at the time of death if it were to occur before the potential donor turned eighteen.

This bill passed both houses. It has not yet been transmitted to the Governor.

Extends Lauren's Law an Additional Four Years S6228 Carlucci / A5894 Ortiz

This legislation would extend for an additional four years, until 2020, the provisions of state law requiring individuals who apply for a New York State Driver's License to complete the organ donor registry section. The applicant must check the box for either "yes" or "skip this question" under the organ donor registry section of the application.

This bill passed both houses. It has not yet been transmitted to the Governor.

Behavioral Health

Health Education Requirements A3887B, Nolan/ S6046A, Marcellino

This legislation requires school districts to expand health education programs to include mental health and the relation between physician and mental health in the programs.

This bill passed both houses. It has not yet been transmitted to the Governor.

Inspecting Out of State Facilities A7226A Gunther/ S7584 Ortt

This legislation authorizes the Justice Center for the Protection of People with Special Needs to visit, inspect and appraise the management of schools and facilities located outside New York State that serve NY residents.

This bill passed both houses. It has not yet been transmitted to the Governor.

Medical Disclosure Forms for DOCCS A9406 Blake/ S6892 Rivera

This legislation requires the Department of Corrections and Community Supervision (DOCCS) to provide forms to disclose medical information and mental health treatment information to inmates upon arrival and transfer to a new facility so inmates may opt to appoint family or other person to receive such information. Such authorization form shall be retained in inmate's medical file and blank forms maintained in all facility law libraries.

This bill passed both houses. It has not yet been transmitted to the Governor.

Substance Abuse Treatment in Judicial Diversion Programs S6322A Ranzenhofer/ A9104A Gunther

This legislation permits defendants in Judicial Diversion Programs to participate in an alcohol and substance abuse treatment program in a jurisdiction where the defendant resides or in any other jurisdiction.

This bill passed both houses. It has not yet been transmitted to the Governor.

Mental Health Training for Staff in Correctional Facilities S6380A Carlucci/ A9162 Gunther

This legislation requires new correction officers and other new department staff who regularly work in residential mental health treatment unit programs receive at least 8 hours of training about the types and symptoms of mental illnesses annually. Also the bill requires all staff with direct inmate contact to receive training each year regarding identification of and care for inmates with mental illnesses.

This bill was signed into law. Chapter 20 of the Laws of 2016

Opioid Abuse Treatment under Judicial Diversion Program S6874A Murphy/ A9313C Rosenthal

This legislation prohibits a drug court from conditioning the participation of a defendant in a Judicial Diversion Program upon the specified type or brand of medically prescribed treatment.

This bill was signed into law. Chapter 67 of the Laws of 2016

Powers of the Commissioner of OMH S6916C Ortt/ A9620A Gunther

This legislation requires the Commissioner of OMH to report to the Legislature on a quarterly basis the number of assaults or overt acts by persons resulting in injury to any staff member or patient and degrees of injuries within one of four categories defined by OMH.

This bill passed both houses. It has not yet been transmitted to the Governor.

Medication Assisted Treatment S7301 Amedore/ A10294 Rosenthal

This legislation requires a Credentialed Alcoholism and Substance Abuse Counselor (CASAC) to complete a one-time course in medication assisted treatment as part of their continuing education requirement.

This bill passed both houses. It has not yet been transmitted to the Governor.

Notice of Service Reductions at State Hospitals S7627 Ortt/ A10557 Rules (Gunther)

This legislation requires that the notice of closure or significant reductions at state operated hospitals and state operated research institutes must be at least 12 months (current law) and no more than 1 year and 1 month prior to commencing a service reduction.

This bill passed both houses. It has not yet been transmitted to the Governor.

Developmental Disabilities

Inspecting Out of State Facilities A7226A Gunther/ S7584 Ortt

This legislation authorizes the Justice Center for the Protection of People with Special Needs to visit, inspect and appraise the management of schools and facilities located outside New York State that serve NY residents.

This bill passed both houses. It has not yet been transmitted to the Governor.

Extension of Authorization for School Psychologists to Conduct Multidisciplinary Evaluations for Children Suspected of Having a Disability A9422 Glick/S6851 LaValle

This bill would extend for 2 years the authority for certified school psychologists to conduct multidisciplinary evaluations for preschool children with handicapping conditions. The State Education Department issued a field advisory in 2014 stating that certified school psychologists are not authorized under the law to conduct evaluations of preschool students with disabilities. Due to a severe shortage of evaluators, a law was passed in 2014 to permit this practice to continue until June 30, 2016. This bill extends this authority until June 30, 2018.

Insurance Industry Representation: EICC A9889 Jaffee/S7689 Serino

This bill would add three representatives from managed health care plans to the Early Intervention Coordinating Council (EICC). This is currently no representation of the insurance industry on the EICC.

Autism Spectrum Disorders Advisory Board A10558-A Santabarbara/S8036-A Nozzolio

This bill establishes a 19-member Autism Spectrum Disorders Advisory Board in the Office for People with Developmental Disabilities (OPWDD).

The Board is charged with identifying legislative and regulatory proposals to improve existing service systems, identifying methods to improve interagency coordination of services, and other matters deemed appropriate by the Board. The Board is required to submit a written report to the Governor and the Legislature on October 1, 2017 and annually thereafter.

The Board would consist of 19 members, 10 to be appointed and 9 to serve as ex officio. The 10 appointed members would be selected as follows:

- 2 by the Governor
- 2 by Temporary President of the Senate;
- 2 by the Speaker of the Assembly;
- 2 by the Minority Leader of the Senate;
- 2 by the Minority Leader of Assembly

The above appointing bodies must select 1 member with expertise working in the field of autism and 1 member who is a family advocate or self-advocate in the community.

The ex officio members would include the following State agencies

- Office of People with Developmental Disabilities;
- Office of Children and Families;
- Department of Education;
- Office of Mental Health;
- Department of Health;
- Disabilities Planning Council;
- Council on Children and Families; and
- Office of Vocational and Educational Services for Individuals with Disabilities

This bill passed both houses. It has not yet been transmitted to the Governor.

Transformation Panel: Office for People with Development Disabilities A10053-A Gunther/S7644-A Ortt

The purpose of this bill is ensure that changes to the OPWDD service delivery model are made in an open and transparent process. It requires OPWDD to provide quarterly updates to the State Legislature on its implementation plan for transitioning disabled

individuals to community based settings in order to comply with the ruling of the Supreme Court of the United States in *Olmstead v. L.C. and E.W.*

This Supreme Court ruling requires New York State to provide services for individuals with disabilities in the most integrated setting that is appropriate to the needs of such individuals. Advocates, consumers and their families have raised concerns that this transition lacks transparency and that OPWDD may not have adequate supports and services in place to effectively provide community based care and meet the needs of individuals with disabilities.

This bill passed both houses. It has not yet been transmitted to the Governor.

Provides a Ten Thousand Dollar PIT Deduction for the Adoption of Special Needs Children S4121-A Ritchie / A10658 Rules-Simon

This legislation establishes an individual Personal Income Tax deduction of ten thousand dollars for the adoption of a child with special needs, under the age of twenty-one, who possesses a specific physical, mental, or emotional condition or disability of such severity or kind that constitutes an obstacle to the child's adoption.

This bill passed both houses. It has not yet been transmitted to the Governor.

Exempts the Justice Center from Record Access Fees S6622 Ortt / A9117 O'Donnell

This legislation clarifies that record access fees should not be charged by the OMH and OPWDD to the Justice Center for the Protection of People with Special Needs.

This bill passed both houses. It has not yet been transmitted to the Governor.

Amendments to Surrogate's Court Procedure Act S7132AOrtt/A2125A Abinanti

This bill amends the Surrogate's Court Procedure Act to replace all references to "mentally retarded" or "Office of Commissioner of Mental Retardation" with "Persons Who Are Intellectually Disabled" and the "Office of Persons with Developmental Disabilities"

This bill passed both houses. It has not yet been transmitted to the Governor.

Access to Criminal History Records, OPWDD S7410A Carlucci/A10566 Titone

This bill would provide access OPWDD with access to criminal history information on par with access currently provided to OMH.

This bill passed both houses. It has not yet been transmitted to the Governor.

Report on Recruitment and Retention of Direct Care Workers S7677-A Ortt/A10409 Gunther

This bill requires the Commissioner of OPWDD to study and provide a report on the recruitment and retention of direct support professionals working with people with developmental disabilities by November 1, 2016. The report must include:

- Identification of the causes of high vacancy and turnover rates;
- Identification of resources necessary to attract and retain a quality work force.

This bill passed both houses. It has not yet been transmitted to the Governor.

Insurance

Step Therapy Regulation S3419C Young/ A2834D Titone

This bill regulates the use of step therapy or “fail first” policies by commercial health insurers by including two patient protections to improve the safety and efficacy of such policies:

- (1) It requires that the clinical review criteria used by an insurer to establish fail first/ step therapy policies be based on science and evidence-based clinical practice guidelines to ensure that they are not exclusively driven by cost; and
- (2) It requires a clear and expedient appeals process through utilization review that can be used by physicians and other prescribers to request an override of a fail first/ step therapy requirement. Under the bill, an override would be given if the patient’s physician demonstrates that the drug(s) being required by the insurer:
 - a) will likely cause patient harm
 - b) is expected to be ineffective
 - c) has been tried by the patient and was proven ineffective
 - d) the patient is stable on the drug being recommended by the physician, or
 - e) the drug is otherwise not in the best interest of the patient.

This bill passed both houses. It has not yet been transmitted to the Governor.

Surgical First Assistant Services S6392A Little/ A9198 Lavine

This legislation is an agreed-to chapter amendment to clarify reimbursement for non-physician first assistant services provided by a registered nurse certified in operating room nursing under commercial insurance, workers’ compensation and Medicaid. It also eliminates a provision that allowed insurers in their sole discretion, to provide a global or capitated payment or electing to reimburse a non-physician first assistant directly for such services. Rather, such payment can only be provided as permitted by law.

This bill has been signed into law. Chapter 23 of the Laws of 2016

Enrollment in Child Health Plus S6421 Funke/ A9165 Gottfried

This legislation would allow coverage under Child Health Plus to take effect retroactively to the first day of the month in which a child is born, provided that the applicant for insurance submits a completed and signed application and other required information within 60 days of the child's birth.

This bill was signed into law. Chapter 27 of the Laws of 2016

Enrollment of Pregnant Women in Health Exchange S6429A Seward/ A9223 Simotas

This legislation moves language allowing a pregnant woman to enroll in the State Health Benefit Exchange outside of open enrollment to Insurance law where special enrollment periods are already defined. Also the bill state that upon enrollment, coverage would be effective on the first day of the month in which the woman's health care professional certifies she is pregnant, unless the woman elects to have coverage begin on the first day of the following month.

This bill was signed into law. Chapter 11 of the Laws of 2016

Qualified Wellness Programs S6466B Klein/A9067B Crespo

This legislation expands the types of qualified wellness programs that insurers can offer to enrollees including hypertension management, substance or alcohol abuse cessation and a program to managed and cope with chronic pain. Also the bill expands and provides for full or partial reimbursement for the cost of participating in authorized programs including programs related to stress/hypertension, worker injury prevention and nutrition education.

This bill passed both houses. It has not yet been transmitted to the Governor.

Donate Life Registry Promotion on Health Exchange Application S6952A Hannon/ A9667A Gunther

This legislation requires that every application for health insurance coverage through the State Health Benefit Exchange include an opportunity for an individual to register in the "donate life registry" allowing them to check a box for "yes" or "skip the question."

This bill was signed into law. Chapter 40 of the Laws of 2016

Directs the Department of Financial Services to Study and Report upon the Provision of Long Term Care Insurance Coverage S6802 Seward / A10711 Rules-Stirpe

This legislation would require the Department of Financial Services to study and make recommendations concerning long term care insurance. This study shall include a review of the actuarial assumptions and methodologies it uses in rate setting for long term care insurance and how New York is handling increases in the cost of long term care insurance. As part of the report, the Department shall recommend solutions to make long term care insurance more affordable and attractive to consumers.

This bill passed both houses. It has not yet been transmitted to the Governor.

Provides That Further Administrative Functions be Performed by DFS with Regards to Company Examinations S7534-A Seward / A10292-A Cahill

This legislation amends Insurance Law to consider insurance company examinations closed when the report on examination is adopted by the Superintendent of the Department of Financial Services. The legislation also requires that such report on

examination must include information regarding whether any fine or regulatory action will be imposed as a result of the examination and the amount of the fine or nature of the regulatory action.

This bill passed both houses. It has not yet been transmitted to the Governor.

Establishes the State Insurance Advisory Board S7536-A Seward / A10267-A Cahill

This legislation establishes a State Insurance Advisory Board within the Department of Financial Services.

The Advisory Board will consist of seventeen members who will be appointed by the Superintendent of the Department of Financial Services, including nine representatives of domestic insurance companies, five representatives of foreign insurance companies, two insurance producers and one consumer representative.

The Board will consider and recommend to the Superintendent ways to maintain and grow the insurance industry of the state and ways to encourage insurers to offer a diversity of affordable insurance & financial products throughout the state. The Board will recommend new laws or amendments, regulations and guidance or repeal of such existing laws and regulations to provide for such growth.

This bill passed both houses. It has not yet been transmitted to the Governor.

Medicare Part D Employer Group Waiver Plans S7867A Seward/ A10524 Cahill

This legislation removes Department of Financial Services requirements regarding benefit mandates, filing policies and contracts, and rate review and approval of Medicare Part D employer group waiver plans, known as EGWPs. These plans offer Medicare Part D prescription drug coverage as well as additional benefits such as ‘donut hole’ coverage. The stated rationale for the bill is that these plans are already subject to CMS oversight.

This bill passed both houses. It has not yet been transmitted to the Governor.

Workers’ Compensation

Participation of Physical Therapy Assistants in Workers’ Compensation S2718 Griffo/A2116A Zebrowski

This bill would allow a physical therapist (PT) assistant to provide care under the Workers' Compensation program. The care can be provided by the PT assistant under the supervision of the physical therapist. Under the current law, PTs cannot participate in the program.

This bill has not yet been transmitted to the Governor. A similar bill was vetoed by the Governor in 2014.

Participation of Chiropractors in Worker’s Compensation Program S7431A Martins/A2462ABronson

This bill authorizes licensed or certified acupuncturists to provide care to injured workers under the Workers' Compensation program. To participate in the program, the acupuncturist must file an application with the Board. The acupuncturist must agree to refrain from subsequently treating a private patient in connection with, or as a result of, any injury if he or she was removed from the list of providers authorized to provide services under the Workers' Compensation Program. The Chair of the Board is authorized to establish a schedule for charges and fees for acupuncture services.

This bill has not yet been transmitted to the Governor. A similar bill was vetoed by the Governor in 2014.

All of us at Reid, McNally & Savage wish you a relaxing and enjoying summer and look forward to continuing to work with you to pursue your priorities in New York.