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June 10, 2022

Health/Mental Hygiene End of Session Bill Summary

The New York State Legislature has adjourned the 2022 session with the Senate gaveling out at 2:30 am on Thursday, June 3rd, and the Assembly continued work through Friday, concluding their business around 8:30 am on June 4th after 20 consecutive hours in session.

Legislators passed 1,007 individual bills during the less than six-month session. Below we have provided a sector-by-sector summary of the bill passed by both the Senate and Assembly in the Health and Mental Hygiene areas. The bill text for this legislation can be viewed at: <https://nyassembly.gov/leg/>

Most bills await action by the Governor (most have yet to be sent to her desk), but we have noted below the legislation that has already been acted on.

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MULTIPLE SECTORS

Employer Compensation Disclosure (S9427-A Ramos/ A10477 Joyner)

This bill would amend the Labor Law to require employers to disclose compensation or range of compensation, a job description, promotions or transfers. In addition, it would prohibit retaliation, allow aggrieved individuals to report a violation, and authorizes the Department of Labor to issue fines for violations.

Requires State Contractors to Disclose Data on Employees (S2239 Hoylman/ A5773 Glick)

This legislation requires the following:

- Businesses and organizations bidding on state contracts will be required, as a condition to winning a bid, to submit data on employee compensation to the NYS Comptroller;
- The data will include compensation broken down by gender, race, ethnicity, and any other information deemed necessary by the Comptroller. The data will be reported in a format that protects individual worker privacy and businesses' proprietary information;
- The Comptroller will annually submit a report on the data collected to the Governor, the Legislature, the Attorney General, and several state agencies, any of which may use the data to ensure that existing wage equity laws are being enforced; and
- The annual reports and the data contained in them will be available for public inspection.

First Aid Instruction for High School Athletics Coaches/Staff (S8615-A May/ A9534-A Stirpe/)

This bill allows a teacher or person who is unable to hold a valid certificate of completion of a course of study in first aid knowledge and skills due to a physical disability to coach any extra-class athletic activity if there is another teacher or person employed by the school system who holds a valid certificate of completion and is present at all times during the extra-class athletic activity including but not limited to practices, scrimmages, and during competitions.

Medical Supplies/Medication Included in State Disaster Preparedness Plan (S1086 Gaughran/ A1905 Dinowitz)

This bill requires that the State Disaster Preparedness Plan make provisions to ensure that medical supplies and medication can be delivered to pharmacies, hospitals, and nursing homes within an area declared to be experiencing a disaster.

HOSPITAL/INSTITUTIONAL CARE

Hospital/Health Care Provider Medical Debt Prohibitions (S6522-A Rivera/A7363-Gottfried)

This bill prohibits hospitals licensed under Article Twenty-eight of the Public Health Law and health care professionals licensed under Title Eight of the Education Law from placing a lien on a patient's primary residence for medical debt judgements. In addition, it prohibits hospitals and health care professionals from wage garnishment for medical debt judgements.

Facility Fees Charged by Hospitals and Health Care Professionals (S2521-A Rivera A3470-C Gottfried)

This bill provides that no hospital, health care system, or health care provider may bill or seek payment from a patient for a facility fee that is not covered by the patient's health insurance unless the patient was notified prior to the date of service that such fee would be applicable. If a health care provider enters into a business relationship with a hospital or health care system that will result in the provider's patients being subject to facility fees, the health care provider must notify its patients of the change.

Compliance with Medicare/Medicaid Antimicrobial Stewardship Programs (S7717 Kavanagh/A8787 Woerner)

This bill clarifies that general hospitals and nursing homes must meet the federal standards for antimicrobial stewardship programs in health care facilities including training requirements for infection prevention and control.

This bill was signed Chapter 83 of the Laws of 2022 on 2/24/2022.

LONG TERM CARE/ HOME CARE

Hospice Services for Assisted Living Programs (S7626 Rivera/ A 8006 Gottfried)

This bill amends the public health law and the social services law, in relation to authorizing residents of assisted living programs to receive hospice services.

Prohibits the Future Establishment or Increased Capacity of For-Profit Hospice (S9387 Krueger/ A8472 Gottfried)

This legislation prohibits the Public Health and Health Planning Council of the Department of Health from approving new applications for establishment, construction or increased capacity by for-profit hospice entities. Existing for profit hospices will remain approved but may not expand capacity.

Workers' Compensation Law for Mental Injury Premised Upon Extraordinary Work-Related Stress (S6373-B/A2020-A Reyes)

This bill expands to all workers the ability to receive PTSD coverage under NYS Workers Compensation Coverage as it relates to work-related stress.

Restrictions on Consecutive Work Hours of Home Care Nurses (S4885 Savino/ A181-A Gunther)

This legislation adds: article thirty-six of the public health law to the definition of employer; regularly scheduled home care visits to the definition of Regularly scheduled work Hours; Home Care visits to the existing law that no health care employer shall require a nurse to work more than that nurse's regularly scheduled work hours or home care visits. In addition, the bill amends section 6510-e of the education law to include home care visits to the terminology to make clear refusal to work overtime does not constitute abandonment.

Penalties for Employer Violations of Consecutive Work Hours for Nurses (S1997-A Jackson/ A286-A Gunther)

Allows for the Commissioner of Labor to impose a civil penalty of an amount not to exceed \$1000 for a first violation, \$2000 for a second violation, and \$3000 for a third violation on any restrictions for consecutive hours of work by a nurse. The employee shall receive an additional 15% of the overtime payment from the employer for each violation as damages.

Patients of Diverse Sexual Orientations and Gender Identities Home Care Curriculum (S2534-A Rivera/ A1880-A Dinowitz)

This legislation will require the Department of Health to add a "patients of diverse sexual orientations and gender identities or expressions" module to the Home Care Curriculum and the Nurse Aide Training Program and require home health aides, personal care aides, personal care staff, and certified nurse's aides receive such training to help ensure that LGBTQ+ individuals of all ages get better, more culturally competent care.

Multi-Agency Study on the Continuum of Caregiving (S5734-A Ryan/ A6202-A Barrett)

This bill will direct a multi-agency study to be conducted by the commissioners of the Department of Health, the Office for the Aging, the Office of Children and Family Services, the Office for People with Developmental Disabilities, the Office of Mental Health, and the Department of Labor to identify the various issues impacting formal and informal caregivers to ultimately determine the best approach to address the ever-increasing statewide continuum of caregiving workforce shortage.

Makes Changes to the "Reimagining Long-Term Care Task Force" (S7776 May/ A8798 Cruz)

This bill provides any data received by the task force is to be kept confidential, any findings regarding the coronavirus pandemic is due six months after the effective date and the final study is due one year after the effective date.

Clarifies Definition of "Greatest Social Need" Relative to the Older Americans Act of 1965 (S78-A Hoylman/ A7855 Bronson)

This bill provides that for the purposes of the New York State Office for the Aging administering the federal Older Americans Act of 1965, the term "greatest social need" shall mean the need caused by noneconomic factors that restrict an individual's ability to perform normal daily tasks or that threaten his or her capacity to live independently. Such non-economic factors include physical or mental disability, language barriers, and cultural or social isolation caused by racial and ethnic status, sexual orientation, gender identity or expression, or HIV status.

Retaliatory Action & Releases of Personal Records (S5870 Gounardes/ A7101 Gonzalez-Rojas)

The bill clarifies that release of personnel records to discount victims of workplace discrimination counts as a retaliatory action under the Human Rights Law and to provide additional recourse to victims of such retaliation including actions by the Attorney General.

Establishes the Office of Hospice and Palliative Care Access and Quality (S8206-A Hinchey/ A8881-A Wallace)

This legislation creates the office of hospice and palliative care access and quality within the Department of Health and requires the appointment of a director of the office.

Allows for the Designation of a Simply Primary Essential Support for Medical Decisions (S7884 Addabo/ A8751 Pheffer Amato)

This bill clarifies that a legal guardian of an individual with a disability is also someone who can designate an essential support person on the individual's behalf, in addition to the individual.

Includes Theft in the Definition of Elder Abuse (S7779 May/ A8799 Cruz)

This bill provides amendments to Chapter 655 of the Laws of 2021 related to incorporating identity theft into the definition of elder abuse for the purposes of support services and programs for elder persons.

Enhancements to Annual Reports by the State Long-Term Care Ombudsman Program (S8617 May/ A10045 Clark)

This bill amends the Elder Law to enhance the LTCOP annual report, including patterns of complaints, policy recommendations, and reporting about complaints. This also requires the annual report to include complaints of abuse, mistreatment, neglect, or fraud in facilities.

HEALTH PROFESSIONS

Professional Misconduct and Reproductive Health Care (S9079-B Kaplan/ A9687-B Rosenthal)

This legislation would prohibit professional misconduct charges against health care providers who provide reproductive health care to patients who reside in states where such services are illegal, if the provider is acting within their scope of practice. The provider's license shall not be revoked, suspended or annulled solely on the basis that the provider performed such service for a patient who resides in a state where it is illegal.

Legal Protections for Abortion Service Providers (S9077-A Krueger/ A10372-A Rules (Lavine)

This legislation provides judicial protections for abortion providers in New York by providing an exception for extradition by the Governor, stating a police officer shall not arrest a person for performing an abortion, stating that no state or local law enforcement shall cooperate with or provide information to out of state agencies or departments regarding lawful abortions performed in New York State and the courts and county clerks shall not issue subpoenas in connection with out-of-state abortion proceedings which were legally performed in New York State.

Medical Malpractice and Reproductive Health Care (S9080-B Hinchey/ A9718-B Rosenthal)

This legislation prohibits medical malpractice insurance companies from taking any adverse action against a reproductive health care provider who provides legal reproductive health care.

Wrongful Death (S74-A Hoylman/ A6770 Weinstein)

This bill would amend the estates, powers, and trusts law to authorize an award in a wrongful death action to include compensation for grief or anguish, the loss of love or companionship, loss of services and support, and the loss of nurture and guidance.

Red Flag Law: Extreme Risk Protection Orders (S9113-A Skoufis/ A10502 Cahill)

This bill authorizes specified healthcare professionals including licensed physicians, psychiatrists, psychologists, registered nurses, clinical social workers, clinical nurse specialists, certified nurse practitioners, clinical marriage and family therapists, registered professional nurses, licensed master social workers or licensed mental health counselors, to apply for an extreme risk protection order, and it requires police and district attorneys to apply for extreme risk protection orders if there is probable cause that a person poses a threat.

Licensure and Certification Requirements: Applied Behavioral Analysts (S9402 Stavisky/ A10454 Glick)

This bill updates certification requirements for New York State licensed Applied Behavioral Analysts. Graduates seeking licensure must be under the supervision of a licensed Behavioral Analyst who is licensed and registered in New York State and employed in a setting authorized to provide applied behavior analysis services in the State, acceptable to the State Education Department (SED). The supervising licensed Behavioral Analyst shall submit, upon commencing the supervision of any graduate, on a form prescribed by SED, a sworn statement attesting to compliance with these requirements. The supervising Behavioral Analyst is subject to the full disciplinary and regulatory authority of the Board of Regents and SED.

Clinical Peer Reviewer Definition (S8113 Cleare/ A879 Gottfried)

This legislation amends the public health law and insurance law to clarify that a health plan's "clinical peer reviewer" or utilization review agent not be just a physician, as is currently required, but also by board-certified or board eligible in the same or similar specialty as the physician who typically recommends the treatment or manages the condition under review. Also requires all clinical peer reviewers to be licensed or certified in NYS.

Address Confidentiality Program (S9384-A Cleare/ A9818-A Paulin)

This legislation allows reproductive health care services providers, employees, volunteers, patients, or immediate family members of reproductive health care services providers to enroll in the address confidentiality program run by the Department of State.

Physician Assistants under Medicaid Managed Care (S5956-A Rivera/ A6056 Gottfried)

This legislation allows physician assistants to be recognized as primary care providers for those enrolled in Medicaid managed care.

Clinical Laboratory Practitioners (S7020-B Rivera/ A10162-A Glick)

This legislation establishes requirements for licensure of histotechnologists and changes the term "histological technician" to "histotechnician." The bill allows national licensing and certification to fulfill the education requirements for a clinical laboratory technician to become

a clinical laboratory technologist. The bill also allows national licensing and certification to full education requirements for a cytotechnologist in New York.

Cytomegalovirus Awareness (S6287-C Mannion/ A7560-B Rosenthal L)

This legislation requires that information on the risks associated with and transmission of Cytomegalovirus (CMV) be added to the training and information already required of childcare providers and that NYSDOH provide informational materials on the risks and transmission of CMV to physicians who provide OB/GYN care to provide to pregnant patients at upon their initial visit.

Limiting Liability: First-Response Emergency Vehicles (S8031-A Felder/ A8933-A Eisenstein)

This bill limits the liability of operators and owners of first-response emergency vehicles by providing for a rebuttable presumption that the driver of an emergency vehicle involved in exceeding the speed limit, running a red light, or driving in a bus lane is not liable for monetary penalties if they provide evidence that at the time of the infraction, the vehicle was involved in a medical emergency call and that the operator of the vehicle is a medically trained first responder.

Crisis Training: Emergency Medical Services Personnel and Firefighters (S7144 Sanders/A7686 Frontus)

This bill adds firefighters and emergency medical services personnel to required training for mental health first aid, implicit bias training, and naloxone training.

Occupational Therapists: Treatment Without Referral (S5663-A Kennedy/ A3202 McDonald)

This bill authorizes occupational therapists (OTs) to treat patients without a referral by a physician, nurse practitioner, or other health care provider when the OT has practiced on a full-time basis equivalent to not less than three years. In addition, the OT must provide written notice to each such patient that the occupational therapy may not be covered by the patient's health care plan without a referral and may be covered if rendered pursuant to a referral.

Commission of The Deaf, Deafblind and Hard of Hearing (S1852-B Skoufis/ A6710-B Zebrowski)

This bill establishes a nine-member Commission of the Deaf, Deafblind and Hard of Hearing. The Commission and Executive Director would be responsible for guiding policy and resources on how New York State can meet the needs of the deaf, deafblind and hard of hearing communities. Responsibilities of the Commission include creating a statewide plan for delivering services, maintaining a website and referral system for complaints, expanding employment opportunities, and developing government policies for consideration by the Governor and the Legislature.

The bill requires the Commission to forward any complaints of abuse and neglect, as defined under Section 491 of the Social Services Law, affecting deaf, deafblind and hard of hearing individuals to the central register.

Premium Reduction for Physicians/Midwives (S3010-A Ramos/ A8392-A Paulin)

This legislation would allow the Commissioner of Health to approve professional education courses covering risk management strategies in obstetrics, including information on potential risks and strategies to fully inform patients of risks associated with their decisions. Physicians and licensed midwives who successfully complete a risk reduction course may receive CME and a premium reduction for insured physicians or licensed midwives.

Non-Opioid Treatment Alternatives for Neuromusculoskeletal Conditions (S4640 Rivera/ A273 Gottfried)

The legislation would require physicians to consider pain management alternatives for patients who are seeking treatment for any neuromusculoskeletal condition before choosing an opioid prescription. The physician should discuss treatment options with the patient including acupuncture, chiropractic, massage therapy, physical therapy, occupational therapy, cognitive behavioral therapy, non-opioid medications, interventional treatments and non-clinical activities such as exercise.

Primary Care Reform Commission (S6534-C Rivera/ A7230-B)

This legislation establishes the Primary Care Reform Commission which will be tasked with reviewing, examining, making finds on the level of primary care spending by all payers and publish an annual report on the findings. The Commission is responsible for defining and measuring New York's baseline spending on primary care, setting targets for enhanced investments in primary care, and testing pilot programs to identify the most promising models that will improve primary care infrastructure and lower costs to patients or the total cost of health care.

Informed Consent Provisions Added to Hospital Patient's Bill of Rights (S1172-C Rivera /A9677 Tapia)

This legislation requires general hospitals to ensure the following rights for patients:

- The right to receive all information necessary to give informed consent for any proposed intervention, procedure or treatment including information regarding foreseeable risks and benefits of the proposed intervention, procedure or treatment;
- The right to receive complete information of a patient's condition, prognosis, and clinical indications for the proposed intervention, procedure, or treatment;
- The right to be informed of the name, position and functions of any hospital staff including medical students and physicians exempt from NYS licensure who provide face-to-face care or direct observation to a patient;
- The right to receive information related to alternative treatment options, including the risks and benefits of such treatment options that take into account any known preconditions;
- The right to refuse the proposed intervention, procedure, or treatment and to be informed of the clinical effects of refusal;

- The right to engage and participate in the process of informed consent, including the patients right to ask any questions they might have and have them answered satisfactorily as deemed reasonable
- The right to be informed of any human subjects research that may directly affect a procedure or treatment received by the patient and to provide voluntary written informed consent to participate, should thpatient be an appropriate candidate for such research, as determined by the attending physician. Informed consent for such human subjects research shall conform with federal requirements related to protections for human research subjects, and any other applicable laws or regulations.

Additional EMT Length of Service Award Program Credits (S7399-A Gaughran/ A8328-A Stern)

This bill will give local governments the ability to increase the number of years of service that a participating volunteer ambulance worker as part of the Length of Service Award Program (LOSAP). This will allow for additional credits for the many volunteer ambulance workers who are still actively participating after forty years of service.

SCHOOL-BASED HEALTH CENTERS

Permanent Medicaid Managed Care Carve-Out (S8447 Rivera/ A9288 Gottfried)

This bill would maintain the 25-year long status quo to allow School-Based Health Centers (SBHCs) to remain carved-out of the Medicaid Managed Care Program (MMCP) and to continue to receive Medicaid on a fee-for-service basis.

PHARMACY

Medication Synchronization in Medicaid (S431-A Hoylman/ A187 Gottfried)

This legislation would allow pharmacists to synchronize the dispensing of multiple prescriptions for Medicaid enrollees so they may pick up multiple prescription refills at once. The bill requires agreement by the patient, prescriber and pharmacist to do so and applies to medications for chronic conditions, that are not schedule II controlled substances or schedule III that contain hydrocodone. The bill requires coverage under fee for service Medicaid and Medicaid managed care for a partial fill and permits pro-rated cost sharing but keeps the dispensing fee whole. A prescription may be synchronized once unless the prescriber changes the dosage or frequency or prescribes a different drug.

Co-Pays for Opioid Treatment Medication (S5690 Harckham/ A372 Rosenthal L)

This legislation requires state-regulated commercial health insurers to cover the treatment of an opioid treatment program with a co-payment during the course of treatment. Opioid treatment program applies to treatment of individuals with an opioid antagonist treatment medication.

Restricts Sale of OTC Diet Pills and Supplements (S16-D Mayer/ A431-C Rozic)

This legislation prohibits the sale of over-the-counter diet pills or dietary supplements for weight loss or muscle building to those under age 18 unless prescribed or order by a health care provider.

CoPay Assistance Programs (S5299-A Rivera/ A1741-A Gottfried)

This legislation requires state-regulated commercial health insurers to allow copay assistance program for patient out of pocket drug expenses to count toward their cost sharing requirements.

Step Therapy for Mental Health Treatment (S5909 Kaminsky/ A3276 Gunther)

This legislation prohibits state-regulated commercial health insurers from applying fail first or step therapy requirements for the diagnosis and treatment of mental health conditions including drug coverage.

Thirty-Day Emergency Supply of Medications (S4856 Reichlin-Melnick/ A7469 Cruz)

This legislation requires state-regulated commercial health insurers that provide coverage for prescription drugs to include coverage of an immediate, additional 30-day supply of a prescription drug during a state disaster emergency.

Interchangeable Biological Products (S8465 Rivera/ A8519 Gottfried)

Makes permanent the law that allows pharmacists to substitute FDA-approval biosimilar medications under certain conditions.

Price Gouging of Medication (S3081-B Salazar/ A5860-B Reyes)

This legislation adds medications to the list of goods and services that can be classified as possibly being subject to price gouging when listed in short supply by the US FDA. The bill states that no manufacturer, supplier, wholesaler, distributor or retailer of any drug subject to a shortage is permitted to sell or offer for sale any such drug for an amount which represents an “unconscionable excessive price.” Under the bill, the courts would determine if the price established for a drug in short supply is “unconscionable excessive” and the bill establishes the criteria for the court to consider such determination. Also, the bill extends medication price gouging prosecution powers to the Attorney General of New York State.

Patient Rx Information and Choice Expansion Act (S4620-C Breslin/ A5411-D McDonald)

This legislation requires real-time, patient specific, prescription drug out of pocket cost information to be provided at the point of prescribing by establishing an integration requirement for health insurers/pharmacy benefit managers by July 1, 2023. Information that would be provided in the real time benefit tool would include prescription cost and benefit information, cost sharing, eligibility, alternatives and prior authorization requirements.

Long Acting Injectable Medications (S4870-B Breslin/ A3040-B McDonald)

This legislation would authorize licensed pharmacist to administer long acting injectable medications into the deltoid muscle for the treatment of mental health and substance use disorders pursuant to a prescription or non-patient specific order from a licensed prescriber.

Administration would not commence until after the patient has received the initial injection and is considered eligible for maintenance treatment from a licensed prescriber. NYSDOH in consultation with other relevant state agencies shall issues regulations to include requirements for training, maintaining continued competency, pre-administration consent and education. Reporting of such administration to the patient's licensed prescriber is required.

Rescheduling Controlled Substances (S8618 Rivera/ A9722 Reyes)

This legislation would require the Commissioner of NYSDOH, by regulation, to reclassify a compound, mixture or preparation containing a Schedule I, II, II, IV, or V substance if rescheduled by federal regulation to bring consistency and parity between the New York schedule and federal schedule for these drugs.

Nonresident Pharmacies (S9448 Brouk/ A5413-A Dinowitz)

This legislation allows pharmacies to receive prescription drugs from other pharmacies outside of New York that are not registered with NYSED in the case of a public health emergency. The nonresident pharmacies shall be appropriately licensed in their home states and adhere to additional documentation requirements.

PUBLIC HEALTH/ PATIENT CARE

Study on Unmet Needs of Pregnant Individuals & Impact of Limited Service Pregnancy Centers (S470 Hoylman/ A5499 Glick)

This legislation authorizes the Commissioner of the State Department of Health (NYSDOH) to conduct a study and issue a report examining the unmet health and resource needs facing pregnant individuals and the impact of limited service pregnancy centers on the ability of individuals to obtain health care information and timely access to a comprehensive range of reproductive and sexual health care services.

Professional Misconduct and Reproductive Health Care (S9079-B Kaplan/ A9687-B Rosenthal)

This legislation would prohibit professional misconduct charges against health care providers who provide reproductive health care to patients who reside in states where such services are illegal, if the provider is acting within their scope of practice. The provider's license shall not be revoked, suspended or annulled solely on the basis that the provider performed such service for a patient who resides in a state where it is illegal.

Legal Protections for Abortion Service Providers (S9077-A Krueger/ A10372-A Rules (Lavine)

This legislation provides judicial protections for abortion providers in New York by providing an exception for extradition by the Governor, stating a police officer shall not arrest a person for performing an abortion, stating that no state or local law enforcement shall cooperate with or provide information to out of state agencies or departments regarding lawful abortions performed in New York State and the courts and county clerks shall not issue subpoenas in connection with out-of-state abortion proceedings which were legally performed in New York State.

Medical Malpractice and Reproductive Health Care (S9080-B Hinchey/ A9718-B Rosenthal)

This legislation prohibits medical malpractice insurance companies from taking any adverse action against a reproductive health care provider who provides legal reproductive health care.

Address Confidentiality Program (S9384-A Cleare/A9818-A Paulin)

This legislation allows reproductive health care services providers, employees, volunteers, patients, or immediate family members of reproductive health care services providers to enroll in the address confidentiality program run by the Department of State.

Maternity Patient Leaflets (S8751 Brouk/ A9098-A Paulin)

This legislation specifies the number of years that information currently provided on NYSDOH's website about hospital and birthing centers annual statistics on maternity related procedures performed to be the most recent five years for which data is available.

Vaccine Information Confidentiality (S6541-A Rivera/ A7326-A Gottfried)

This legislation would strengthen the confidentiality protections on personal information related to vaccines regarding preventing disclosure of individually identifiable information in NYSIIS/CIR vaccine registries which could only be shared with the CDC for public health purposes. The bill would ensure that registry information can be used in professional misconduct proceedings. It also limits vaccine navigators from using personal information to schedule appointments or make other arrangements including requesting consent for use. The bill also prohibits vaccine providers from requiring individuals to sign up for bonus or loyalty cards as a pre-condition to making vaccine appointments. Finally, the bill requires providers of COVID-19 immunity passports to collect the minimal amount of information needed to verify an individual's vaccine or test status.

Readily Available Rescue Inhaler Treatment Devices (S4935 Rivera/ A2440 Reyes)

This bill expands the current epinephrine statute to the use of rescue inhaler treatment devices. The legislation requires that all entities and persons that currently have access to epinephrine through a non-patient specific prescription and are protected from liability when using such devices also have rescue inhaler devices readily available for life support and emergency assistance.

Cytomegalovirus Awareness (S6287-C Mannion /A7560-B Rosenthal L)

This legislation requires that information on the risks associated with and transmission of Cytomegalovirus (CMV) be added to the training and information already required of childcare providers and that NYSDOH provide informational materials on the risks and transmission of CMV to physicians who provide OB/GYN care to provide to pregnant patients at upon their initial visit.

Prevention and Screening for Elevated Lead Levels in Children (S5024-D Rivera/ A7325-C Peoples-Stokes)

This legislation would enact Dakota's law and would require that primary health care providers provide parents of children under six years of age anticipatory guidance on lead poisoning prevention as part of routine care. Primary care providers would also be required to conduct a lead exposure risk assessment questionnaire at each routine well-child visit. Would also grant

pre-K institutions access to statewide immunization information system or citywide immunization registry and the blood lead information in such system for the purpose of confirming an enrolling student has been screened for lead.

Requires Certain Health Clubs to Have At Least One Automated External Defibrillator (AED) (S5262 Brooks/ A744 Wallace)

This bill requires health clubs with fifty members or more to have at least one AED on the premises and ensure that the AED is available in a manner that provides obvious and ready accessibility to staff, members, and guests.

Prohibits Smoking in Public Parks (S4142 Stavisky/ A5061 Dinowitz)

This bill prohibits smoking on any municipal or state operated park including includes beaches, boardwalks, marinas, playgrounds, recreation centers, group camps and all other property, equipment, buildings and facilities that are located at or on any property under charge or control of any state or local government.

Women’s Health Service Provider Representative on PHHPC (S7628 Salazar/ A8536 Gottfried)

This legislation raises the number of appointed members of the Public Health and Health Planning Council (PHHPC) from 24 to 25, and to require that the additional member be a representative of women’s health service providers.

This bill was signed Chapter 179 of the Laws of 2022 on 5/3/2022.

Sickle Cell Disease Detection and Education Program (S5605-B Sanders/ A6430-B Hyndman)

This legislation creates the Sickle Cell Disease Detection and Education Program and requires the Commissioner of Health to make grants available to approved organizations and community based organizations. It also establishes an advisory council and requires the Commissioner to submit an annual report.

Myalgic Encephalomyelitis/Chronic Fatigue Syndrome Education and Outreach Program (S6928-B Rivera/ A7712-B Gottfried)

This bill adds myalgic encephalomyelitis/chronic fatigue syndrome to the education and outreach program administered by the Department of Health.

Minority Coordinating Council on Asthmatic Affairs (S410-A Biaggi/ A5828 Reyes)

This legislation enacts the Lydia Soto law which would establish a Minority Coordinating Council of Asthmatic Affairs to assess the asthma risk factors for minority citizens in NY. The Council would identify existing barriers to quality asthma treatment and care among minorities, develop action steps for addressing care issues, and launch a statewide asthma awareness campaign.

Tax Checkoff for Lyme Prevention Efforts (S6871-A Harckham/A7400-A Barrett)

This legislation would allow for gifts for Lyme and tick-borne diseases education, research, and prevention. Contributions shall be in the whole dollar amount and not reduce the amount of state tax owed by the taxpayer. Contributions would be dedicated toward Lyme and tick-borne

diseases education, research, and prevention efforts approved by the Department of Health with reporting requirements for the utilization of such monies.

Financial Responsibility for Human Postexposure Rabies Treatment (7501 Hinchey/ A7408-A Gottfried)

This legislation would require insurance coverage of postexposure treatment for rabies when authorized by a county health authority, and would require health care providers who are paid directly by the county health authority to accept a reimbursement rate set by the Commissioner of Health.

Newborn Glucose-6-phosphate Dehydrogenase Deficiency Screening (S7694 Rivera/ A8836 Gottfried)

Amends Chapter 730 of the laws of 2021 and adds glucose-6-phosphate dehydrogenase deficiency and adrenoleukodystrophy to the list of disorders included in the State's Newborn Screening Program.

This bill was signed Chapter 70 of the Laws of 2022 on 2/24/2022.

Requires Information to be Provided to Patients at Risk of Sudden Unexpected Death in Epilepsy (S67-A Hoylman/ A3298-A Epstein)

The bill would require health care practitioners to provide patients with epilepsy and at elevated risk for sudden unexpected death in epilepsy (SUDEP) with current and evidence-based information about SUDEP risk factors and conditions, as well as contact information for nonprofit organizations that provide support services for epilepsy conditions.

Postpartum Depression Screening Test Impacts Study (S7753 Brouk/ A9102 Gonzalez-Rojas)

This bill would require the Office of Mental Health in conjunction with the Department of Health and/or postpartum experts within the maternal health field to conduct a comprehensive study and prepare a report on the differential impacts of postpartum depression screening measures in relation to black and brown women and birthing people and to detect racial and other disparities within postpartum depression screenings.

Lactation Accommodations in Airports (S3866 Kennedy/ A7813 Solages)

Establishes the Lactation Accommodation in Airports Act which would require airports to provide at minimum, a private room or location with a chair and electrical outlet away from public view for the purposes of providing lactation accommodations.

BEHAVIORAL HEALTH

Co-Pays for Opioid Treatment Program (S5690 Harckham/ A372 Rosenthal L)

This legislation requires state-regulated commercial health insurers to cover the treatment of an opioid treatment program with a co-payment during the course of treatment. Opioid treatment program applies to treatment of individuals with an opioid antagonist treatment medication.

Mental Health Practitioner Licensing (S9449 Brouk/ A6008-E Bronson)

This legislation would establish a new privilege for certain mental health practitioners to diagnose and develop assessment-based treatment plans. In particular, the bill provides a pathway for Licensed Mental Health Counselors (LMHCs), Licensed Marriage and Family Therapists (LMFTs) and Psychoanalysts to apply and receive a privilege to diagnose and develop assessment-based treatment plans if they:

- File an application with the NYS Education Department (NYSED);
- Are licensed and registered as a LMHC, LMFT or psychoanalyst in NYS;
- Verify completion of 60 semester hour master's degree or higher including a core curriculum which includes at least 12 hours of clinical courses preparing them to diagnose and develop assessment-based treatment plans (note, those who have a master's degree or higher that did not complete the required hours may satisfy such requirement by completing equivalent post-graduate courses);
- Have at least 2000 hours supervised, direct client contact including diagnosis, psychotherapy, and development of assessment-based treatment plans; and
- Pay a fee of \$175 for privilege which is valid for the life of the holder unless revoked.

Experience/Attestation

Under the bill, the standard for experience is at least 2000 hours supervised experience in direct clinical contact including diagnosis or development of assessment-based treatment plans **OR** an attestation from a supervisor of an individual licensed prior to June 24, 2024 who is working in a facility or other supervised setting which attests that the licensee had at least 3 years direct clinical contact (application with such attestation must be submitted to NYSED within three years of the effective date of this section or 6/24/25).

Privilege Required by 6/24/24

The bill further states that LMHCs, LMFTs or psychoanalysts who engage in diagnosis or develop assessment-based treatment plans without a privilege may be charged with professional misconduct beginning 6/24/24.

Diagnosis with Supervision through 6/24/25 in Applicable Facility/Supervised Setting

The bill also includes language saying nothing in the bill shall prohibit or limit a LMHC, LMFT or psychoanalyst from engaging in diagnosis and development of assessment-based treatment plans in a facility or other supervised setting under supervision through 6/24/25.

Grandparenting of Unlicensed Personnel Employed by 6/24/22

Based on the current law, unlicensed direct care workers in applicable O agency-regulated and supervised settings may continue to practice as they are currently as long as they were employed by 6/24/22 and remain employed there or move laterally in agency. New hires will be required to comply with this bill and LMHCs, LMFTs and Psychoanalysts will need to get their diagnosis privilege by 6/24/24 to diagnose independently.

Limited Permit

Finally, the bill includes a limited permit process to gain experience. The bill states that NYSED may issue a limited permit to an applicant who meets all qualifications for licensure, except

exam or experience including those who are gaining experience for the diagnostic privilege, in accordance with regulations by NYSED.

Coverage for Outpatient Treatment for Mental Health Practitioners (S6574-A Kennedy/ A1171-A Bronson)

Requires state regulated commercial health insurers which provide coverage for physician services to also coverage outpatient care by mental health counselors, marriage and family therapists, creative arts therapists, psychoanalysts and licensed clinical social workers.

Step Therapy for Mental Health Treatment (S5909 Kaminsky/ A3276 Gunther)

This legislation prohibits state-regulated commercial health insurers from applying fail first or step therapy requirements for the diagnosis and treatment of mental health conditions including drug coverage.

Red Flag Law: Extreme Risk Protection Orders (S9113-A Skoufis/ A10502 Cahill)

This bill authorizes specified healthcare professionals including licensed physicians, psychiatrists, psychologists, registered nurses, clinical social workers, clinical nurse specialists, certified nurse practitioners, clinical marriage and family therapists, registered professional nurses, licensed master social workers or licensed mental health counselors, to apply for an extreme risk protection order, and it requires police and district attorneys to apply for extreme risk protection orders if there is probable cause that a person poses a threat.

Reports on Community Reinvestment (S4253 Skoufis/ A6506 Gunther)

This legislation codifies in law a requirement for the Commissioner of the Office of Mental Health (OMH) to provide monthly status reports on the community investments and impact on inpatient census to the Chairs of Senate Finance and Assembly Ways & Means and to post the reports on OMH's website.

Stakeholder Awareness of Behavioral Health Ombudsman Program (S8057-A Harckham/ A9344-A Steck)

This legislation requires the Office of Addiction Services and Supports (OASAS), in consultation with OMH to provide annual outreach services to other state and local entities, including Veteran's Services, OPWDD, the Office of Children and Family Services, Corrections or providers contracted by such agencies to make them aware of the independent substance use disorder and mental health ombudsman program.

Annual Report for Behavioral Health Ombudsman Program (S8219-A Harckham/ A9730 Gunther)

This legislation requires that by October 31st of each year, the substance use disorder and mental health ombudsman program shall submit an annual report summarizing its work and include recommendations to address systemic issues identified during the prior year. The report is to be submitted to the Governor, Senate President, Assembly Speaker and relevant Committee Chairs.

Mental Health Housing Study (S9041 Brouk/ A10139 Gunther)

This legislation would establish a temporary commission to study aging in place in mental health housing and make recommendations on solutions to remove barriers including removing barriers in policy, procedure or regulatory changes, challenges in hiring health care professionals, an action plan for making residences ADA compliant, necessary training for residential staff and types of assistance to consider when transporting residents to care. The Commission would consist of nine members appointed by the Governor and Legislature and the Commission would be required to make a report on its findings, recommendations and any legislative or budgetary initiatives needed. The report would be due 12 months after the bill becomes law and the Commission would be repealed after the report is issued.

Crisis Respite Programs (S334-A Myrie/ A9743 Fernandez)

This legislation would require OMH to develop and issue a report to the Governor and Legislative leaders one year after enactment of the bill looking at the need statewide for mental health short term and intensive crisis respite programs.

Opioid Overdose Education and Opioid Antagonists (S2976-A Harckham/ A348-A Braunstein)

This legislation would require that a patient about to be discharged or conditionally released from an inpatient facility under OASAS or a correctional facility, who has been diagnosed with an opioid use disorder, be provided with opioid overdose education and two doses of an opioid antagonist and a prescription for an opioid antagonist for take home use.

Long Acting Injectable Medications for MH/SUD (S4870-B Breslin/ A3040-B McDonald)

This legislation would authorize licensed pharmacist to administer long acting injectable medications into the deltoid muscle for the treatment of mental health and substance use disorders pursuant to a prescription or non-patient specific order from a licensed prescriber. Administration would not commence until after the patient has received the initial injection and is considered eligible for maintenance treatment from a licensed prescriber. NYSDOH in consultation with other relevant state agencies shall issue regulations to include requirements for training, maintaining continued competency, pre-administration consent and education. Reporting of such administration to the patient's licensed prescriber is required.

Fentanyl Abuse and Overdose Prevention Task Force (S8516 Savino/ A9348 Cusick)

This legislation establishes the fentanyl abuse and overdose prevention task force which will contain sixteen members appointed by the Governor, Senate, Assembly, OMH, OASAS, and members representing the District Attorney's Association, the Superintendent of the State Police, and the NYS Association of Counties. The task force will meet quarterly and will be required to prepare a report containing the findings and recommendations of the task force within one year of the effective date.

Alcoholism & Chemical Dependency Screening (S345 Kaplan/ A8419 Cymbrowitz)

This legislation requires the Office of Addiction Services and Supports to develop training materials for screening for alcoholism and chemical dependency for health care providers and qualified health professionals which supports the expansion of screening, brief intervention and referral to treatment (SBIRT).

Opioid Sales Reports (S7378-A Harckham/ A8339-A Gonzalez-Rojas)

This legislation establishes the Registered Opioid Sales for Transparency and Epidemic Recovery which would require the Department of Health to publish their annual report detailing all opioids sold by such registrants in New York.

Maternal Mental Health Workgroup (S7752 Brouk/ A9085 Clark)

This legislation would authorize the Commissioner of Mental Health to establish a maternal mental health workgroup comprised of OMH, OCFS, DOH and other stakeholders. The workgroup would be directed to study and issue recommendations related to maternal mental health and perinatal and postpartum mood and anxiety disorders in a report before December 31, 2022.

DEVELOPMENTAL DISABILITIES/ SPECIAL EDUCATION SERVICES

EmployAbility Pledge (S7746-B Mannion/ A8915-B Burdick)

This legislation directs the NYS Office for People with Developmental Disabilities (OPWDD) to establish a voluntary training and certification program for employers that have taken the OPWDD EmployAbility Pledge to promote techniques and strategies employers can implement to increase diversity to the employers workforce through hiring of individuals with disabilities.

Group Home Working Group (S7377 Mayer/ A9162 Santabarbara)

This legislation would establish a working group within OPWDD to hold regional meetings to solicit feedback on the operation of group homes from residents and their families/guardians, including comments on care, financial matters, improving communication between the state and residents/families. The bill also requires consideration and discussions of these recommendations in the 5 year plan by OPWDD and OASAS.

EMTs as Designated Camp Health Director (S7883 Brouk/ A8773 Abinanti)

This legislation allows for an emergency medical technician to act as a designated camp health director or to provide health services in assistance to the camp health director at children's camps and camps for children with developmental disabilities. Also allows these type of camps to contract with licensed medical professionals to provide professional services during any period in which the camp has a valid permit to operate.

This bill was signed Chapter 142 of the Laws of 2022 on 3/18/2022.

Hotline Pilot Program for Individuals with Developmental Disabilities (S6274-B Mannion/ A7357-A Abinanti)

This bill requires the commissioner of OPWDD to establish a 3-year pilot program for a 24-hour, 7 day a week assistance hotline staffed by employees trained to provide assistance to individuals with developmental disabilities.

Tuition Methodology: Special Education Schools (S9132 Manion/A10191 Rules (Benedetto)

This bill clarifies that the amount of funds that special education providers, such as 853 schools, 4410 programs, and Special Act School Districts, are authorized to retain will be based on program expenses before reconciliation takes place. The bill is effective for the 2022-23 School Year and annually thereafter.

Tuition Reimbursement: Special Education Schools (S9134 Mannion/A10192 Benedetto)

This bill ensures that all special education schools get the full value in their rates of the 11% growth factor provided for in the 2022-23 State Budget. The bill is necessary because the current methodology does not allow for the application of a growth factor in the calculation of such interim rates.

Replaces Derogatory Terms for Individuals with Disabilities/Illnesses(S6195-B Persaud/A7443-C Abinanti)

This bill amends various sections of the Social Services law to replace derogatory language referring to people living with mental illness and developmental disabilities. For example, the term “mentally retarded” is replaced with “individual with a developmental disability and the term “epileptic’ is eliminated.

OTHER HUMAN SERVICES

Task Force on Adverse Childhood Experiences (S8320 Brisport/ A4908 Solages)

This legislation establishes a 10-member task force to identify evidence-based and evidence informed solutions to examine, evaluate, accept public comment and make recommendations to reduce children’s exposure to adverse childhood experience.

Nourish NY Program (S7771 Hinchey/ A8705 Cruz)

This bill makes the Nourish New York program permanent and amends definitions for processed products in the program as those grown, produced, or harvested, and further altered, butchered, canned, or frozen in New York, and includes processed products as surplus agricultural products. The bill also provides for annual assessments, rather than reports, under the Hunger Prevention and Nutrition Assistance Program.

This bill was signed Chapter 101 of the Laws of 2022 on 2/24/22.

Provision of Two SNAP Electronic Benefit Transfer Cards for Certain Households (S8972-A Salazar/ A9749-B Eichenstein)

This bill would make two electronic benefit transfer cards available to households with more than one parent or guardian that qualify for the Supplemental Nutrition Assistance Program (SNAP).

Nutritional Information for School Meals Provided by Private Companies (S6289-C Gaughran/ A1874-C Jean-Pierre)

This bill requires all contracts with private food service management companies to disclose ingredients lists and nutritional information for all the meals they provide school districts and requires the school districts to publish the ingredients lists and nutritional information on their district's website.

Eliminates Public and Private Income for Those Enrolled in EPIC Program (S3483-A Bailey/ A928-A Carroll)

This bill would allow seniors to retain their eligibility in the EPIC program if they have previously qualified but are no longer eligible because of an increase in a public or private pension or social security benefit.

INSURANCE/MEDICAID

Co-Pays for Opioid Treatment Medication (S5690 Harckham/ A372 Rosenthal L)

This legislation requires state-regulated commercial health insurers to cover the treatment of an opioid treatment program with a co-payment during the course of treatment. Opioid treatment program applies to treatment of individuals with an opioid antagonist treatment medication.

Coverage for Outpatient Treatment for Mental Health Practitioners (S6574-A Kennedy/ A1171-A Bronson)

This legislation requires state regulated commercial health insurers which provide coverage for physician services to also coverage outpatient care by mental health counselors, marriage and family therapists, creative arts therapists, psychoanalysts and licensed clinical social workers.

CoPay Assistance Programs (S5299-A Rivera/ A1741-A Gottfried)

This legislation requires state-regulated commercial health insurers to allow copay assistance program for patient out of pocket drug expenses to count toward their cost sharing requirements.

Colorectal Cancer Screening Coverage (S906-B Sanders/ A2085-A Dinowitz)

This legislation requires state-regulated commercial health insurers to coverage colorectal cancer screenings in accordance with the American Cancer Society guidelines and to cover all screening lab tests and follow up colonoscopies without patient cost sharing requirements.

Step Therapy for Mental Health Treatment (S5909 Kaminsky/ A3276 Gunther)

This legislation prohibits state-regulated commercial health insurers from applying fail first or step therapy requirements for the diagnosis and treatment of mental health conditions including drug coverage.

Thirty-Day Emergency Supply of Medications (S4856 Reichlin-Melnick/ A7469 Cruz)

This legislation requires state-regulated commercial health insurers that provide coverage for prescription drugs to include coverage of an immediate, additional 30-day supply of a prescription drug during a state disaster emergency.

Medication Synchronization in Medicaid (S431-A Hoylman/ A187 Gottfried)

This legislation would allow pharmacists to synchronize the dispensing of multiple prescriptions for Medicaid enrollees so they may pick up multiple prescription refills at once. The bill requires agreement by the patient, prescriber and pharmacist to do so and applies to medications for chronic conditions, that are not schedule II controlled substances or schedule III that contain hydrocodone. The bill requires coverage under fee for service Medicaid and Medicaid managed care for a partial fill and permits pro-rated cost sharing but keeps the dispensing fee whole. A prescription may be synchronized once unless the prescriber changes the dosage or frequency or prescribes a different drug.

OMIG Reform (S4486-B Harckham/ A7889-A Gottfried)

This legislation would provide protections for both Medicaid providers and consumer enrollees related to audits by the Office of Medicaid Inspector General (OMIG). Provider protections include:

- Requiring that recovery of an overpayment must not take place until at least 60 days after issuance of a final audit report and OMIG must provide a minimum of 10 days advance written notice to the affected provider;
- Prohibiting repeating a review or audit within the last three years of the same contracts, cost reports, claims, bills or expenditures unless OMIG has new information, good cause to believe the previous audit was erroneous, or a significantly different scope of investigation;
- Requiring OMIG to apply all laws, regulations, policies, guidelines, standards and interpretations that were in place at the time the claim or conduct occurred;
- Prohibiting OMIG from making a recovery from a provider based solely on an administrative or technical defect, except where OMIG has informed the provider of the error and given 30 days to correct it. If not corrected OMIG may take a recovery. Further, where a claim for a service provided over 2 years prior to the audit, the provider may resubmit the claim or accept the disallowance;
- Requiring OMIG to provide an exit conference or detailed written explanation of any draft audit findings to the provider;
- Requiring that OMIG may only use statistically valid extrapolation methods for audits where extrapolation is permitted;
- Requiring OMIG to notify a provider if their compliance program is not satisfactory, and to allow the provider 60 days to submit a proposal for a satisfactory program; and
- Requiring OMIG to consult with the Commissioner of NYSDOH on preparing and filing an annual report on the impacts that all civil and administrative enforcement actions taken in the prior year had or will have on the quality and availability of medical services.

Medicaid Model Contract Transparency (S9207 Rivera/ A9442-A Gottfried)

This legislation requires that whenever the Commissioner of NYSDOH makes changes to the terms, conditions or time frames contained in the Medicaid managed care model contract with plans, they shall provide public notice of the changes on NYSDOH's website and through publication in the State Register as a Public Notice prior to finalizing the changes or submitting them to CMS for approval, if required. This would include all request for proposals issued by NYSDOH for managed care plans to participate in the program.

Enhanced Coverage for Medically Fragile Children (S2121-C Rivera/ A289-C Gottfried)

This legislation would require all state regulated health plans including commercial insurance, Child Health Plus, Medicaid managed care plans, the Essential Plan, and the state public employee health plan to conform with medical coverage requirements for medically fragile children as determined by the Department of Health.

Insurance Coverage for HIV Pre and Post-Exposure Prophylaxis (S688 Hoylman/ A807 O'Donnell)

This legislation would require that any insurance policy that provides coverage for prescription drugs must include coverage for the cost of pre-exposure prophylaxis for the prevention of HIV and post-exposure prophylaxis to prevent HIV infection.

Medicaid Coverage of Digital Therapeutics (S559 Harckham/ A3642 Rosenthal L)

This bill directs the Department of Health to request guidance from the Centers for Medicare and Medicaid Services to determine whether the state can claim federal financial participation for coverage of and payment for certain prescription digital therapeutics.

Health Plans: Prohibited Contract Provisions (S7199-A Gounardes/A8169-A Cruz)

This bill prohibits "most favored nation" clauses in contracts between a health insurer and a hospital or hospital system which would guarantee that the insurer receives terms from a hospital or provider that are at least as favorable as those provided to any other buyer. In addition, the bill would bar anti-disclosure clauses which are contractual provisions that prevent a party to the contract from revealing actual claims costs, negotiated rates or discounts, or patient cost-sharing data. Under the bill, protected health information would remain privileged and could not be disclosed.

Establishes a Portable Diagnostics Program under the Medicaid Program (S8290-A May/ A9298-A McDonald)

This bill establishes a portable diagnostic program under the New York State Medicaid Program. The program is designed to demonstrate the cost-effectiveness of Medicaid coverage of portable diagnostic services, including X-rays, electrocardiograms, echocardiograms and ultrasounds. Reimbursement will be according to the Medicare fee schedule.

Clinical Peer Reviewer Definition (S8113 Cleare/ A879 Gottfried)

This legislation amends the public health law and insurance law to clarify that a health plan's "clinical peer reviewer" or utilization review agent not be just a physician, as is currently required, but also by board-certified or board eligible in the same or similar specialty as the physician who typically recommends the treatment or manages the condition under review. Also requires all clinical peer reviewers to be licensed or certified in NYS.

Insurance Coverage & Information on Chest Wall Reconstruction Surgery (S7881 Stavisky/ A8537 Pheffer Amato)

This bill amends the insurance law to include the coverage of chest wall reconstruction surgery, in addition to breast reconstruction surgery, after a mastectomy or partial mastectomy. It includes aesthetic flat closure, a type of chest wall reconstruction, as defined by the National Cancer Institute. Also adds chest wall reconstructive options to the information provided to patients.

Non-Invasive Prenatal Testing Medicaid (S8157 Cleare/ A8604 Forrest)

This bill removes the age restriction on access to non-invasive prenatal testing (NIPT) for Medicaid patients in line with the practices of most commercial insurance plans, and in line with recommendations by the American College of Obstetricians and Gynecologists.

All of us at Reid, McNally & Savage wish you an enjoyable summer and looking forward to continuing to work with you to achieve your priorities before state government.