

2014 Legislative Session: Health Wrap-Up

The regularly scheduled 2014 Legislative session wrapped up on June 20, with the Senate gaveling out the day after the Assembly finished its work. While most legislation affecting the health care sector is dealt with during the State's budget-making process, the Legislature and Governor did agree on landmark legislation to allow for the use of medical marijuana as well as a suite of bills focused on fighting opioid addiction, which reached epidemic proportions in areas of the State. Below we have summarized those and some of the other legislation that passed both houses.

Opioid Legislation. The session closed with the Legislature and the Governor agreeing on a comprehensive suite of bills to address the epidemic of opioid abuse in the State. The bills cover education, public safety, prescribing practices, treatment services, prevention services, and insurance coverage for substance use disorder services. The Senate held round-table discussions across the State to learn more about the problems that communities and families are facing as a result of rising opioid addiction and possible solutions. The Governor signed the bills last week.

The list of bills agreed to is below. Please contact us if you have any specific questions on any of the bills.

- S.7912 (Seward)/A.10164 (Cusick): Relates to insurance coverage for substance abuse disorder.
- S.7911 (Boyle)/A.10161 (Cymbrowitz): Relates to a heroin and opioid addiction awareness and education program
- S.7910 (Martins)/A.10163 (Cymbrowitz): Relates to updating instruction on drugs in health education courses.
- S.7909 (Felder)/A.10162 (Lupardo): Relates to assessment services for youth alleged to be suffering from substance use disorder.
- S.7908 (Hannon)/A.10157 (Stirpe): Relates to the designation of criminal sale of a prescription for a controlled substance or a controlled substance by a practitioner or pharmacist.
- S.7907 (Marcellino)/A.10155 (Peoples-Stokes) : Creates the offense of prescription medication fraud and deceit.
- S.7906 (Martins)/A.10158 (Cymbrowitz): Allows certain employees of the bureau of narcotic enforcement access to criminal history information.
- S.7905 (Marchione)/A.10156 (Dinowitz): Relates to requiring an informational card or sheet prior to distribution of opioid antagonists in certain cases.
- S.7904 (Hannon)/A.10159 (McDonald): Establishes the opioid treatment and hospital diversion demonstration program.
- S.7903 (Carlucci)/A.10160 (Gunther): Relates to heroin and opioid addiction wraparound services demonstration.

- S.7902 (Hannon)/A.10154 (Hennessy): Relates to criminalizing the sale of a controlled substance by a practitioner or pharmacist.
- S. 6477-B (Hannon)/A.8637-B (Dinowitz): Provides for the use of opioid antagonists.

Medical Marijuana. Another big health bill negotiated during the final days of session was to legalize the use of medical marijuana. Unlike some other states, New York will not establish a lax statutory structure that is a guise for permitting recreational use. Governor Cuomo and the Legislature’s narrowly tailored bill:

- **Prohibits smoked marijuana** as a “certified medical use”
- Limits the **dose** of the active ingredient in marijuana (THC) to 10mg per individual dose; no more than a 30-day supply or 2.5 ounces may be dispensed at a time
- Restricts prescriptions to those diagnosed with one of the following **serious medical conditions**, or certain conditions associated with the following conditions (or side-effects from treatment thereof):
 - Cancer
 - HIV/AIDS
 - Lou Gherig’s disease
 - Parkinson’s disease
 - MS
 - Epilepsy
 - “Damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity”
 - Inflammatory bowel disease
 - Neuropathies
 - Huntington’s disease

The bill allows for the Commissioner to decide within 18 months of the effective date of the bill whether to add specified additional conditions (Alzheimer’s, muscular dystrophy, dystonia, rheumatoid arthritis, and post-traumatic stress disorder).

Prescribers must be qualified to treat the defined serious conditions and have completed a 2-4 hour course on medical marijuana. Nurse practitioners may be deemed by the Commissioner as practitioners for purpose of the bill.

The bill also specifies a detailed regulatory scheme to govern organizations wishing to engage in the business of medical marijuana. Only five organizations will be registered to manufacture medical marijuana; only 4 will be registered to both manufacture and distribute. The organizations shall be geographically distributed. Organizations must complete a rigorous registration process. Growing shall be done in secure, indoor locations (including greenhouses). Pricing will be set by the Commissioner. A 7% excise tax will be imposed on gross receipts.

Medical marijuana may be dispensed to patients or their caregivers, provided they have a valid registration card, which will include form of dosage and any limitations. The bill imposes requirements and restrictions on labeling and packaging.

The effective date is 18 months after signing or until the Commissioner and Superintendent of State Police determine that implementation can be done without compromising public safety. It is expected that the Governor will sign the bill within the next couple of weeks.

E-Cigarettes. The Legislature introduced a suite of bills to regulate or limit the growing use of e-cigarettes. Only one of these bills (A.9299-D (Rosenthal)/S.7027-C (Hannon)) -- to prohibit the sale of liquid nicotine to minors – passed both houses.

Telehealth. Senator Catherine Young has been promoting the use of telehealth, and her bill (S.7852/A.9129-A (Russell)) to require insurers (including Medicaid) to cover telehealth services passed both houses this year. The bill would require every comprehensive health insurance policy to cover telemedicine services, provided that the services either comply with laws and regulations governing Medicare or state laws governing telehealth.

The bill defines “provider” for purposes of the law as licensed mental health and health practitioners acting within his or her scope of practice, Article 28 facilities, home care agencies, or hospices. Additionally, the bill provides definitions for both telemedicine and telehealth.

Eating Disorder Prevention and Awareness. DOH will be required to establish an eating disorder prevention and awareness education campaign under S.2530-A (Hannon)/A.5294-A (Gunther).

Maternal Health Education. The Legislature passed a bill (A.9610-B (Gottfried)/S.7234-B (Krueger)) that would require the Commissioner of DOH, in collaboration with the Commissioner of the Office of Mental Health, to review and update educational information on maternal depression, and to make the information in the top six languages spoken in the State. The bill would require the information to be made available to maternal health providers and on the DOH website. Maternal health provider is defined to include physicians, midwives, physician’s assistants, nurse practitioners and others caring for new mothers up to one year after birth. The bill defines maternal depression to include “a wide range of emotional and psychological reactions a woman may experience during pregnancy or after childbirth.” The information provided shall include a summary of evidence-based and professional guidelines and tools for screening and information about follow-up support.

Adult Immunization Registry. Currently, the immunization registry for the City of New York accepts immunization information for children, and provides discretion to the City to accept immunization information of persons 19 years of age or older. The Legislature passed a bill (A.956-A (Paulin)/S.7253-A (Hannon)) that would strike that language and allow any health care provider that administers any vaccine to a person 19 years of age or older, upon his or her consent, to make a record of that with DOH or the City. The bill would also allow registered nurses and

pharmacists administering vaccinations to make that record, upon consent of the patient. Such records must be made within 14 days of the immunization.

Hospital Mortgage Refinancing. This bill (A.9201-D(Davila)/S.7387-A (Golden)) would allow not-for-profit hospitals to refinance any outstanding mortgage loan financed with the proceeds of special hospital bonds. The Commissioner of DOH must approve the refinancing and determine the term of the refinancing. Any applicant under the bill would have to “include analytical evidence sufficient to demonstrate that the proposed refinancing is being undertaken for the furtherance of sustaining, maintaining and improving the financial condition of the hospital.” The bill would further establish and provide for the funding and administration of a hospital special debt reserve service fund and a secured hospital capital reserve fund.

Audio Discharge Plan and Pre-Admission Information. The Legislature passed a bill (A.746-A (Rosenthal)/S.328-A (Avella)) to require hospitals to provide, upon request, to a blind or visually-impaired patient a large-print or audio recording of his/her discharge plan. The bill imposes the same requirement on pre-admission information. This bill was delivered to the Governor for approval or disapproval on July 11.

Emergency Department Quality. The Legislature passed a bill that would require reporting and quality assurance measures relating to deaths occurring in patients treated in the emergency department. (S.7271(Hannon)/A.9611(Gottfried).)

Transitional Care for Persons Aging Out of Certain Mental Hygiene Services. This bill (S.7374 (Bonacic)/A.9729 (Jaffee)) would allow the parent(s) or guardians of an adult with developmental disabilities due process protections to challenge the determination regarding the appropriate setting for that individual. Current due process protections are limited for individuals reaching the age twenty-one.

Covered Lives Assessment. A bill (A.9421-A (Morelle)/S.7800 (Rules)) passed both houses that would allow a regionally-specific (Rochester) application of the Covered Lives Assessment. This bears noting if only for the potential of precedent setting.