

2017 REPORT OF THE NEW YORK STATE SENATE STANDING COMMITTEE ON HEALTH



240TH LEGISLATIVE SESSION
SENATOR KEMP HANNON
CHAIRMAN

**REPORT OF THE NEW YORK STATE SENATE
STANDING COMMITTEE ON HEALTH
240TH LEGISLATION SESSION
2017**



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Executive Summary

As Chair of the New York State Senate Standing Committee on Health, I am pleased to provide the 2017 Annual Report detailing activities of the Committee. It was an active year for the Health Committee. In addition to moving 154 bills, 44 of which were enacted into law, and negotiating an over \$68 billion health care budget, the Committee hosted a Roundtable discussion on the Medical Indemnity Fund (MIF) and held a public hearing on Lyme and Tick-Borne Diseases.

Among the important topics addressed by the Committee this year was legislation and funding to address drinking water quality. The January 2017 report of the Committee, “Water Quality and Contamination,” followed a series of public hearings held in 2016. Among other things, the report called for a Clean Water Bond Act and a Drinking Water Quality Institute to make recommendations on regulating emerging contaminants. As part of the 2017-18 Budget, the Senate proposed a \$5 billion Clean Water Bond Act and a record \$2.5 billion was ultimately included to provide for clean water initiatives and infrastructure efforts across the state over five years. Additionally, a Water Quality Council charged with setting appropriate standards for emerging contaminants including PFOA, PFOS and 1,4 Dioxin was created.

As the opioid crisis continued to ravage our state, legislation to create a statewide, drug take back program aimed at reducing access to opioids and protecting our water, passed both houses. The legislation, which despite efforts to make amendments, was vetoed in December; it would have required chain and mail order pharmacies to provide options for consumers to dispose of unused medications. It is well known that leftover medications are often a supply source. Being able to easily dispose of these drugs is key to reducing misuse and saving lives. The Senate will continue to advance legislation to make sure a comprehensive drug take back program becomes reality in New York.

Drug costs continue to rise, pushing up health insurance rates and taxpayer funded Medicaid costs. In addition to legislation to address drug price gouging, the Senate championed a new Drug Cap, established within the Medicaid Global Cap that was adopted in the state’s 2018 Budget. The Drug Cap will reign in prescription drug costs by limiting drug-spending growth, with expected savings of \$55 million in year one and \$85 million in year two. The proposal is a unique approach to controlling drug costs that allows the state to negotiate with pharmaceutical manufacturers before a drug is referred to the DURB for more formal actions.

Among the important public health initiatives addressed last session was legislation prohibiting vaping e-cigarettes in certain public indoor and outdoor areas where smoking is currently prohibited, which was effective November 22, 2017. The Senate successfully fought for measures to protect our most vulnerable infants with donor breast milk coverage and a newborn health and safety study and pilot, aimed at promoting safe sleep practices through the use of baby boxes or similar approved products. The Senate also passed a Sexual Assault Survivors’ Bill of Rights legislation, expanding on legislation enacted in 2016 to make sure all rape kits are inventoried and tested.

Lyme and tick-borne diseases (TBDs) continued to be a priority for the Senate. A Task Force was created in 2013, a report setting forth its findings and recommendations was issued the following year, and the Senate has continually included budgetary funding to draw focus and gather experts in order to advance the fight against ticks and TBDs. To advance the conversation, the Health Committee, joined by

the Senate Task Force on Lyme and Tick-Borne Diseases, convened a public hearing in August. Following this year's hearing, a second report, "Ticking Time Bomb" was issued, calling for a State Action Plan and additional funding to address Lyme and TBDs given New York is at the epicenter. A legislative package based on recommendations from the hearing has been introduced for consideration in the upcoming session.

The attached Committee Report provides further details and summaries of health related legislation from the 2017 session. The Health Committee website <https://www.nysenate.gov/committees/health> provides video footage of many events described, committee reports and additional information that may interest you.

Sincerely,

A handwritten signature in black ink that reads "Kemp Hannon". The signature is written in a cursive, slightly slanted style.

Kemp Hannon, Chair

2017 Health Chapters

Public Health & Safety

Organ Donation

Chapter 26 of 2017: This legislation revives the Transplant Council to advise and make recommendations to the Department of Health in addressing issues and improving rules and regulations surrounding organ donation, procurement and/or transplantation. The legislation also clarifies that a majority of the members shall constitute a quorum. This bill was signed into law on May 12, 2017 and became effective immediately. (S.2495/A.5132)

Chapter 332 of 2017: This legislation makes the provisions of Lauren’s Law permanent and requires individuals who apply for a New York State Driver’s License to complete the Organ Donor Registry section of the application. This bill was signed into law on October 16, 2017 and became effective immediately. (S.1206/A5179)

E-Cigarettes

Chapter 102 of 2017: This legislation prohibits the use of electronic cigarettes on school grounds in order to protect minors from the dangers of these unregulated devices. This legislation was signed into law on July 25, 2017 and became effective immediately. (S.750/A.611)

Chapter 335 of 2017: This legislation includes “vaping” in the provisions of law regulating smoking in certain public areas, and prohibits the use of electronic cigarettes under the Clean Indoor Air Act. This bill was signed into law on October 23, 2017 and became effective November 22, 2017. (S.2543-A/A.516-A)

Epi Pens

Chapter 200 of 2017: This legislation authorizes school staff employed by a contractor of such entity, including school bus drivers, to administer epinephrine auto-injectors in emergency circumstances. In 2015, legislation was enacted to authorize schools to maintain and train staff to administer epinephrine auto-injectors. However, this law did not authorize use on school buses which are often contract employees. Given that thousands of children ride a school bus on a daily basis, ensuring they are equipped with this life saving medication will further help protect the health and safety of thousands of children across the state. This bill was signed into law on August 21, 2017 and became effective on December 19, 2017. (S.6005-A/A.7635-A)

Sepsis Awareness Program

Chapter 347 of 2017: This legislation directs the Commission of Education, in consultation and collaboration with the Department of Health and other stakeholders, to establish a Sepsis Awareness, Prevention and Education Program for school districts, Boards of Cooperative Educational Services (BOCES) and nonpublic schools. The goal of the program is to educate students, parents and school personnel about sepsis which is a potentially life threatening complication of an infection that affects over 1 million Americans annually. This bill was signed into law on October 23, 2017 and becomes effective July 1, 2018. (S.4971-A/A.6053-A)

Lead Poisoning

Chapter 411 of 2017: This legislation strengthens existing law by requiring the Commissioner of Health to take action when high risk areas of lead poisoning are designated, and to provide written notice instructing such condition be corrected within a specified period of time. This bill was signed into law on November 29, 2017 and becomes effective March 29, 2018. (A.1809-A/S.1200-A)

Women, Children & Family Health

Medical Indemnity Fund

Chapter 4 of 2017: This is a chapter amendment to Chapter 517 of the laws of 2016 which amends the Medical Indemnity Fund (MIF) in order to allow children better access to the services needed to improve their quality of life. This legislation makes technical amendments and provides a sunset date of December 31, 2019 for provision of the new law that set a rate of payment for qualified health care costs to be paid from the fund so changes adopted in 2016 can be re-evaluated. This bill was signed into law on February 1, 2017 and became effective immediately. (A.378/S.986)

Rape Kit Testing

Chapter 6 of 2017: This is a chapter amendment, that makes technical amendments to certain provisions of Chapter 500 of the Laws of 2016, to require that both prosecutorial and police agencies create and maintain an inventory of the sexual offense evidence kits in their possession. This inventory must be submitted to the NYS Division of Criminal Justice Services (DCJS), who in turn must report to the Legislature by January 1, 2018 and annually thereafter. The legislation also shortens the period of time within which police and prosecutorial agencies would have to send kits currently in their possession to a forensic lab for analysis from 180 days to 30 days. Further, the legislation states that failure to comply with its provisions is not, in and of itself, grounds for suppression of such evidence. Lastly, the legislation requires DCJS to submit to the Legislature a quarterly report concerning the inventory and status of sexual offense evidence kits. This bill was signed into law on February 1, 2017 and became effective November 28, 2017. (S.980/A.375)

Specialty Formula

Chapter 12 of 2017: This legislation ensures that participants of the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) have access to all WIC approved products, including specialty formula. This bill was signed into law on March 15, 2017 and became effective immediately. (S.1067/A.379)

Maternal Depression Treatment Providers Database

Chapter 39 of 2017: This bill creates a statewide database of providers and community resources who treat maternal depression and ensures adequate investment in treatment resources for maternal depression. This bill was enacted into law on December 18, 2017 and becomes effective on January 1, 2018. (S.4000/A.8308)

Insect Repellent at Summer Camps

Chapter 163 of 2017: This legislation allows parents to give permission to children's overnight, summer day, and traveling summer camps to administer insect repellent to help decrease the risk of Lyme disease and tick-borne infections. This bill was signed into law on July 25, 2017 and became effective immediately. (S.6710-A/A.8420)

Pediatric Acute-onset Neuropsychiatric Syndrome (PANS)

Chapter 199 of 2017: This bill provides that information on Pediatric Acute-onset Neuropsychiatric Syndrome (PANS) is included in the Health Care and Wellness Education Program. This bill was enacted into law on August 21, 2017 and became effective immediately. (S.5750/A.7614)

Newborn Health and Safe Sleep Pilot Program

Chapter 401 of 2017: This bill establishes a pilot and study program to provide "baby boxes" or similar approved products in areas of the state with high infant mortality rates or poor birth outcomes, as a safe sleep option for newborns. The program includes filling the safe sleeping product with educational resources and other materials to curb the high-risk behaviors engaged in by parents of newborns that can lead to SIDS and other poor outcomes. This bill was signed into law on October 23, 2017 and became effective immediately. (3867-A/A.6044-A)

Patient Safety & Rights

Court Ordered Assisted Outpatient Treatment

Chapter 67 of 2017: This legislation extends for five years until June 30, 2022, Kendra's Law, which provided a statutory framework for court ordered assisted outpatient treatment (AOT). AOT is intended to ensure that individuals with mental illness and a history of hospitalizations, and/or violence participate in community-based treatment appropriate to their individual needs. The law also provides a process for obtaining court orders for individuals with mental illness who met specific criteria to receive and engage in outpatient treatment. This bill was signed into law on June 29, 2017 and became effective immediately. (S.6726/A.7688)

DOH Reporting Requirements

Chapter 121 of 2017: This bill eliminates or modifies obsolete and outdated statutorily required reports from the Department of Health. This legislation was signed into law on July 25, 2017 and became effective immediately. (S.5671-A/A.7747-A)

Special Needs Trusts

Chapter 187 of 2017: This bill provides that individuals may establish Medicaid Supplemental Needs Trusts for their own benefit, without a court order. This legislation was signed into law on August 21, 2017 and becomes effective August 21, 2018. (S.4779/A.6743)

Chapter 475 of 2017: This legislation requires written notice to individuals eligible for the excess income program, of the option to participate in a qualifying pooled trust as a means of qualifying for Medicaid. The aim is to make more people conscious of the trust option, in an effort to help more individuals with disabilities stay in their communities. This bill was signed into law on December 18, 2017 and becomes effective June 16, 2018. (S.1241-A/A.5175-A)

Elder Protections

Chapter 328 of 2017: This legislation amends the Elder Law in relation to establishing guidelines for identifying and reporting suspected self-neglect, abuse and maltreatment in healthcare settings. This bill was signed into law on September 13, 2017 and became effective immediately. (S.6676/A.8258-A)

Crime Reporting in Enriched Housing Programs

Chapter 459 of 2017: This bill improves current reporting requirements related to resident deaths or attempted suicides and felonies committed against residents. The bill makes these requirements, already applicable to adult homes and residences for adults, applicable to enriched housing programs as well. This bill was signed into law on December 18, 2017 and becomes effective on February 16, 2018. (S.787-A/A.2702)

Crohn's and Colitis Fairness Act

Chapter 471 of 2017: This bill makes toilet facilities that are for employee use only, in places of business open to the general public, accessible to those who have an eligible medical condition such as Crohn's disease, ulcerative colitis, or other medical conditions that require immediate access to a bathroom. This bill was signed into law on December 18, 2017 and becomes effective April 17, 2018. (S.3295/A.1982)

Medical Malpractice

Chapter 67 of 2018: Amends the statute of limitations for medical malpractice actions involving failure to diagnose cancer. Under this law, commonly referred to as Lavern's Law, plaintiffs have 2.5 years from the date of discovery to file cancer claims, provided the negligence occurred no more than 7 years prior to the suit being filed. This new statute of limitation applies to any act occurring after the effective date, and any claim that had not yet expired upon enactment. Lavern's Law passed both houses in 2017, with amendments (Chapter 1 of 2018) signed into law on January 31, 2018. (S. 8600/A.8516)

Health Care Facilities and Providers

Automated External Defibrillators

Chapter 119 of 2017: This legislation clarifies that a Nurse Practitioner or a Physician Assistant who has the necessary experience, prescribing authority, and scope of practice, may enter into a collaborative agreement with a person or entity seeking to possess and/or operate an automated external defibrillator. This bill was signed into law on July 25, 2017 and becomes effective on January 21, 2018. (A.7532/S.5718)

Epilepsy - Sudden Death

Chapter 175 of 2017: This bill requires that when an autopsy is conducted on a deceased person who had epilepsy or a history of seizures, a determination on the death certificate is required, of whether the deceased suffered a sudden, unexpected death due to epilepsy. This legislation was signed into law on August 21, 2017 and becomes effective February 17, 2018. (S.2422/A.2380)

Hospice “Swing Beds”

Chapter 205 of 2017: This legislation increases the number of hospice beds which can be used for in-patient pain control or symptom management that would otherwise require hospitalization. This bill was signed into law on August 21, 2017, and became effective immediately. (S.6364/A.7775-A)

Telehealth

Chapter 238 of 2017: This legislation includes any type of adult care facility licensed under Title 2 of Article 7 of the Social Services Law under the definition of “originating site” in order to allow the use of telehealth to provide care to seniors who cannot easily travel to a doctor’s office or other health care setting. This bill was signed into law on August 21, 2017 and became effective immediately. (S.4285-A/A.1464-B)

Chapter 285 of 2017: This legislation includes public, private and charter elementary and secondary schools as well as school age child care programs and child care centers under the definition of “originating site” to allow the use of telehealth to provide care to young children while they are in school or at a child care setting where they spend much of their time. This bill was signed into law on September 12, 2017 and became effective immediately. (A.4703/S.3293)

Care Centers for Eating Disorders

Chapter 259 of 2017: This legislation increases from 2 years to 5 years, the period of validity for the Commissioner of Health’s identification of Comprehensive Care Centers for Eating Disorders in order to reduce the amount of agency and provider staff time devoted to recertification and make the time frames consistent with other types of public health and disease centers. This bill was signed into law on August 21, 2017 and became effective immediately. (S.5927/ A.7949)

Medical Records Access

Chapter 322 of 2017: This legislation prohibits a charge from being imposed for providing, releasing or delivering medical records that are used to support an application for government benefits or programs, such as social security and Medicaid benefits. This bill was signed into law on September 13, 2017 and became effective immediately. (S.6078/A.7842)

Dispensing of Biologic Drugs

Chapter 357 of 2017: This legislation establishes requirements for how pharmacists are to substitute and dispense biologic products. This bill was signed into law on October 23, 2017 and became effective immediately, provided it shall expire five years after enactment. (S. 4788-A/A. 7509-A)

Nurse Practitioners

Chapter 409 of 2017: This legislation directs the president of the Civil Service Commission to study and publish a report on the title of nurse practitioners to be submitted to the Senate, Assembly and Governor’s Office of Employees Relations by July 1, 2018. The report shall inform the president as to whether several classifications for nurse practitioners proportional to their education, experience, and duties should be established, including certifications and the appropriate salary grade allocation of such positions. This bill was signed into law on November 29, 2017 and became effective immediately. (A.834-B/ S. 3567-B)

Chapter 430 of 2017: This legislation authorizes attending nurse practitioners to execute orders not to resuscitate and orders relating to life sustaining treatments. The bill provides a means for a person to express a decision to reject CPR, and family members to exercise certain decisions regarding life sustaining treatments, to the attending physician or attending nurse practitioner. This bill was signed into law on November 29, 2017 and becomes effective May 28, 2018. (S.1869-A/A.7277-A)

Rural Health Council

Chapter 419 of 2017: This legislation established the Rural Health Council within the Charles D. Cook Office of Rural Health to advise the Commissioner of Health on rural health matters, to assist such office, contribute to the biennial report on rural health, and act as an advocate on rural health matters. This bill was signed into law on November 29, 2017 and became effective immediately. (S.4741/A.7203)

Medical Marihuana

Chapter 403 of 2017: This legislation adds Post-Traumatic Stress Disorder to the list of conditions for which medical marihuana may be prescribed. (S.5629/A.7006) This bill was signed into law on November 11, 2017 and became effective immediately

Chapter 438 of 2017: This legislation, related to the disclosure of the list of practitioners registered to certify patients for the use of medical marihuana, provides that if the practitioner notifies the department in writing that he or she does not want his or her name and other information disclosed, such information shall not be provided on the website. This bill was signed into law on November 29, 2017 and becomes effective January 1, 2018. (S.5627/A.2882)

Registered Professional Nurses

Chapter 502 of 2017: This legislation requires Registered Professional Nurses (RPNs) to either have or obtain a bachelor's degree within 10 years of initial licensure beginning in June, 2019, provides certain exemptions and provides for the formation of a temporary nursing program evaluation commission. This bill was signed into law on December 18, 2017 and became effective immediately. (S. 6768/A. 1842-B)

Health Insurance

Breast Cancer Screening

Chapter 414 of 2017: This legislation requires certain health insurance policies to include mammography screening by breast tomosynthesis. This bill was signed into law on November 29, 2017 and becomes effective on January 28, 2018. (A.5677/S.4150)

Neonatal Care Authorization

Chapter 389 of 2017: This legislation prohibits insurers from requiring prior authorization for services provided in a neonatal intensive care unit (NICU). (S.6053/A.8051) This bill was signed into law on October 23, 2017 and became effective December 22, 2017.

Health Bills Vetoed

Blood Clotting Factor

Veto 156 of 2017: This legislation would have excluded outpatient blood clotting factor products and related services and treatments from Medicaid managed care in order to maintain care for individuals with hemophilia or other blood clotting disorders. The Governor vetoed this bill on June 28, 2017. (S.5774/A.7581)

Authorizing Pharmacists to Refill certain Prescriptions

Veto 159 of 2017: This legislation would have authorized pharmacists to refill non-controlled drug prescriptions up to a 90-day supply. The Governor vetoed this bill on October 23, 2017. (S.5171-B/6371-B)

Medicaid Reimbursement for Complex Rehabilitation Technology

Veto 165 of 2017: This legislation would have allowed patients who require individually configured equipment and technology to sustain independence and avoid institutionalization, to maintain access to quality, complex rehabilitation equipment. The Governor vetoed this bill on October 23, 2017. (S.4557-B/A.6120-B)

Physical Therapy Care

Veto 175 of 2017: This legislation would have allowed certified physical therapist assistants, under certain circumstances including under the supervision of a licensed physical therapist, to provide care under the workers' compensation system. The Governor vetoed this bill on November 29, 2017. (S.3762-B/ A.2859-B)

Medicaid Coverage of Blood Allergy Testing

Veto 183 of 2017: This legislation would have required Medicaid coverage of both blood testing and skin prick testing for allergies. The Governor vetoed this bill on November 29, 2017. (S.1222/A.807)

Retailers of Electronic Cigarettes or Liquid Nicotine

Veto 186 of 2017: This legislation would have required retailers of electronic cigarettes, or liquid nicotine, not otherwise registered with the Department of Taxation and Finance to sell tobacco products, to register with such department. The purpose was to ensure that all sellers of electronic cigarettes and liquid nicotine are registered and subject to compliance checks. The Governor vetoed this bill on November 29, 2017. (S.2542-A/A.4377-A)

Topical Oxygen Wound Therapy

Veto 189 of 2017: This legislation would have established topical oxygen wound therapy as a statutory Medicaid benefit. The Governor vetoed this bill on November 29, 2017. (S.3421/A.2906)

Pediatric Day-Respite Centers

Veto 190 of 2017: This legislation would have established pediatric day-respite centers for medically fragile children, as well as the reimbursement for services at such centers thus saving money spent on higher cost care settings. The Governor vetoed this bill on November 29, 2017. (S.3459-A/A.2187-A)

Certificate of Need for Assisted Living Program

Veto 214 of 2017: This legislation would have established a certificate of need process for the Assisted Living Program, and established a moratorium on the authorization of new assisted living programs in certain cases. This legislation was vetoed by the Governor on December 18, 2017. (S.5840/A.7727-A)

Traumatic Brian Injury

Veto 202 of 2017: This legislation would have authorized Medicaid payments for certain clinical services provided to recipients with a traumatic brain injury (TBI) so the same higher amount received for developmentally disabled patients in Article 28 clinics after the Medicare payment is deducted is received for TBI patients. The Governor vetoed this bill on November 29, 2017. (S.6511/ A.8241)

Asthma Studies

Three pieces of legislation directing the Department of Health to conduct a study on the high incidence of asthma and related pulmonary disorders in three different boroughs of New York City were vetoed by the Governor on December 18, 2017, including:

Veto 219 of 2017: Study in the Bronx (S. 3103/A. 703)

Veto 227 of 2017: Study in Manhattan (S. 5559/ A. 7214)

Veto 233 of 2017: Study in Brooklyn (S.5770/A.947)

Enhanced Safety Net Hospital

Veto 229 of 2017: This legislation would have create a definition of safety net hospitals, based on ratios of patients served who are either enrolled in Medicaid or uninsured, in order to guarantee financial viability of hospitals that are the safety net providers in their community. This bill was vetoed by the Governor on December 18, 2017. (S.5661-B/A.7763)

Hospice Residence Rates

Veto 230 of 2017: This bill would have updated the hospice residence rate to reflect changes in nursing home reimbursement, such as the pricing methodology and the transition to managed care. This bill was vetoed by the Governor on December 18, 2017. (S.5662-A/A.6408-A)

School Based Health Centers

Veto 235 of 2017: This legislation would have permanently carved out school-based health centers (SBHC) from the State's Medicaid Managed Care (MMC) Program. This would have created definitions for SBHC and a Sponsoring Organization of a SCHC. This bill was vetoed by the Governor on December 18, 2017. (S.6012/A.7866)

Reserved Bed Reimbursement

Veto 238 of 2017: This bill would have restored long-standing provisions of law which provide that nursing homes shall be paid for "reserve bed days" and hold a resident's same bed if they are hospitalized for up to 14 days in a given year. This bill was vetoed by the Governor on December 18, 2017. (S.6559/A.8338)

Pharmacy Care in Underserved Areas

Veto 240 of 2017: This bill would have enabled patients to use a not-for-profit pharmacy operated by an institution of higher education located in a low income or medically underserved area for their pharmacy care and would have provided pharmacy students with experience working in underserved areas. This bill was vetoed by the Governor on December 18, 2017. (S.6689/A.7922-A)

SSI Adult Care Facilities Rate

Veto 241 of 2017: This legislation would have incrementally increased the Social Security Income daily rate adult care facilities receive over a five year period beginning April 1, 2018 in order to ensure that such services continue to be available to low income SSI recipients. This legislation was vetoed by the Governor on December 18, 2017. (S.6732/A.6175)

Drug Take Back Program

Veto 247 of 2017: This legislation would have required chain pharmacies to operate a safe disposal site for unused controlled substances. The aim is to provide the state with another means to fight prescription drug abuse by requiring that chain and mail order pharmacies take back unused medications. This legislation was vetoed by the Governor on December 18, 2017. (S.6750/A.387-B)

Significant Legislation Passed by Senate

Clean Water

S. 3772-B: Building upon the Senate’s 2017 report, “Water Quality and Contamination,” and the final SFY 2018 State Budget agreement enacting major water quality funding and initiatives, this legislation authorizes the issuance of bonds in the amount of \$5 billion for preserving, enhancing, restoring and improving the quality of the state’s water. If enacted, the measure would have been placed on a referendum ballot and gone before voters in 2018. This legislation passed on June 15, 2017.

S. 4406: This legislation requires every water works corporation to post the annual water supply statement on its website or on the website of the municipality that the water works corporation serves. This legislation passed on June 20, 2017.

S. 6655: This legislation directs the DOH to post on its website information relating to emerging contaminant notification levels and educational materials so that the information is easily accessible to the public and public water systems. This legislation passed on June 19, 2017.



Sexual Assault Survivor’s Bill of Rights

S. 6428: This legislation builds upon legislation requiring timely processing of all sexual offense evidence kits (Chapter 6 of the Laws of 2017), by creating a “Survivor Bill of Rights” to better inform sexual assault survivors of their rights to fair and sensitive treatment during the investigation of their crime. The Sexual Assault Survivor Bill of Rights details the right of survivors to consult with and be accompanied by a victim assistance organization during physical exams and interrogations, the right to preventive treatment for HIV, and the right to get notice about the results of their sexual assault evidence kit and the status of their case. This bill also requires the state to study the feasibility of establishing a statewide sexual offense evidence kit tracking system as a way to streamline law enforcement tracking, create greater transparency and accountability to ensure compliance with the existing law, and to provide a way for survivors to check the status of their sexual offense evidence kit from collection to conviction. This legislation passed on June 21, 2017.

Community Paramedicine

S. 5588: This legislation creates a mechanism for emergency medical services to provide care other than the initial emergency medical care and transportation to the hospital, when such EMS provider has developed a collaborative partnership with hospitals, physicians and home care agencies to serve such at-risk individuals living in the community. This legislation passed on June 8, 2018.

Lyme & TBDs

S. 2168: This legislation requires the New York State Health Care Quality and Cost Containment Commission to meet each year and submit a report to the Governor and Legislature on the impacts of providing insurance coverage for Lyme and other tick-borne related diseases. This legislation passed on May 15, 2017.

S. 2621: This legislation establishes grants for graduate medical education in Lyme and tick-borne disease to ensure medical professionals are properly trained to treat patients with Lyme or other tick-borne diseases. The bill also authorizes the Commissioner of DOH to designate organizations as Centers of Excellence for Lyme and tick-borne diseases, and designate Lyme and tick-borne-disease Resource Centers. This legislation passed on May 15, 2017.



Organ Donation

S. 474-B: This bill mandates that various state-issued forms must provide New Yorkers with the opportunity to register in the Donate Life Registry as an organ, eye and tissue donor. This legislation passed on May 2, 2017.

S. 2496: This legislation establishes the Living Donor Protection Act of 2017 to prohibit discrimination in the provision of life, accident, health and long term care insurance based on the status of an insured as a living organ or tissue donor and ensure eligibility for family leave for organ donation. This legislation passed on May 2, 2017.

S. 2497: This legislation establishes a one-time personal income tax credit for up to \$10,000 for the expenses incurred by a resident taxpayer in the course of donating his or her organs for transplantation and repeals the current tax deduction to provide an enhanced benefit. This legislation passed on May 2, 2017.

S. 5283-B: This legislation allows SUNY, CUNY, and library card applicants to register as an organ, eye and tissue donor as a way to increase the convenience for younger populations to enroll in the Donate Life Registry. This legislation passed on May 15, 2017.

S. 5781: This legislation requires the pre-licensing course to operate a motor vehicle to include information on organ and tissue donation and how to register as a donor in the Donate Life Registry. This legislation passed on June 20, 2017.

S. 6196: This legislation requires the president of the New York State Higher Education Services Corporation to include space for registering in the Donate Life Registry for organ, eye, and tissue donations on applications for student aid and loan programs. This legislation passed on June 15, 2017.

Traumatic Brain Injury (TBI) Patients

S. 517: This legislation allows patients who sustain a traumatic brain injury (TBI) after the age of 21 and are therefore ineligible for OPWDD services, to receive services from OPWDD providers in areas with limited TBI service capacity. This legislation passed on June 15, 2017.

S. 1870: This legislation prevents waived Medicaid services provided to persons suffering from TBIs or in the nursing home diversion and transition program from being provided through Medicaid managed care programs. This legislation passed on March 1, 2017.

Controlled Substances

Many pieces of legislation were passed in the senate to add substances to the list of controlled substances to ensure they are better regulated including:

S. 300 adding Xylazine, nicknamed the “Zombie Drug”

S. 658 adding U-4770, commonly known as "Pink"

S. 816 adding alpha-PVP also known as "flakka" or "gravel"

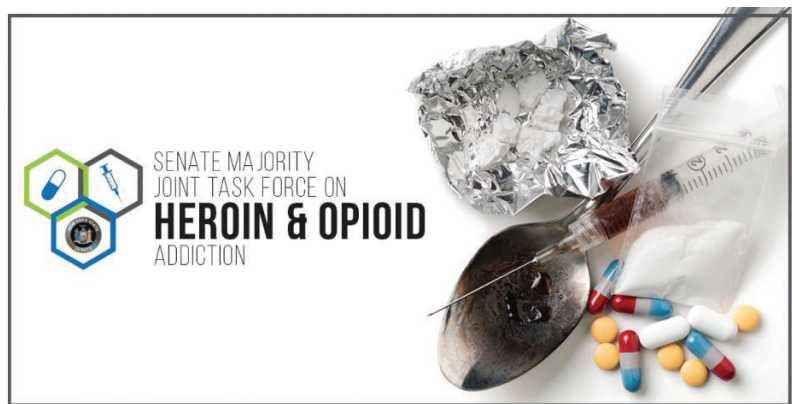
S. 933-A and S. 5884 which add new derivatives of fentanyl

S. 3518 adding synthetic cannabinoids commonly referred to as "K2" and "Spice"

S. 2722 bans the analog substances of already scheduled controlled substances

S. 5357-A and S6750 adds various substances to conform to federal schedule

S. 1246: This legislation directs the Department of Health to establish an electronic database listing all known compounds, chemicals, products and brand names of synthetic cannabinoids so the public can easily find helpful information about these dangerous drugs. This legislation passed on June 13, 2017.



Opioid Addiction

S.2639: This legislation requires that in cases of a patient with a controlled substance overdose, emergency room or hospital staff must consult the Prescription Monitoring Program and notify the patient’s prescribing health care provider of the overdose. This legislation passed on April 24, 2017.

S. 5949: This legislation prohibits practitioners from prescribing opioids to minors for more than 7 days and requires practitioners to address key topics with minors and their parent or guardian before they are issued a prescription containing an opioid. This legislation was passed on June 14, 2017.

S. 6544: This legislation bans the practice of substance use disorder patient brokering in New York in an effort to address the issue of individuals aggressively pursuing people in need of substance use disorder treatment services. This legislation passed on June 14, 2017.

Fraudulent Prescriptions

S. 2814: This legislation establishes new offenses to address the growing black market in non-controlled prescription drugs where expensive medications are sold back to unscrupulous pharmacies and reenter the distribution chain causing potential harm to patients and cost to the system as the same drugs are billed for multiple times. This legislation passed on June 14, 2017.

Provider Misconduct

S. 1380-A: This legislation ensures the State Education Department, which oversees all licensed health care professionals other than physicians and physician assistants, has the necessary tools to investigate and prosecute professional misconduct, including access to criminal background checks and authority to take summary action to suspend a professional license as the Department of Health's Office of Professional Medical Conduct (OPMC), which oversees physicians and physician assistants, currently can. This legislation passed on June 20, 2017.

Electronic Health Records

S. 2248: This legislation requires urgent care and other providers who see patients on a walk-in, episodic basis to have electronic health records. This legislation passed on April 24, 2017.

Elder Abuse

S. 2136: This legislation directs the Commissioner of Health to develop screening tools and procedures to be used by health care providers in an effort to detect elder abuse or maltreatment in their patients. This legislation passed on April 4, 2017.

S. 2154-A: This legislation creates a hotline for the reporting of various forms of abuse that could jeopardize the health or welfare of vulnerable adults. This legislation passed on June 13, 2017.

2017- 2018 State Fiscal Year Health Budget Highlights **(S. 2007-B ADOPTED APRIL 20, 2017)**

Medicaid

The enacted Budget extends the Medicaid Global Cap through fiscal year 2018-19 (FY 2019). Language from the Senate one-house aimed at increasing transparency in Global Cap spending by codifying all spending included thereunder was rejected by the Executive, but the enacted Budget aims to achieve greater transparency by discretely lining out programs under the Global Cap in the Aid to Localities appropriation bill. The Executive also agreed to hold monthly meetings with the Legislature to provide updates on actual spending and potential changes during the fiscal year. Global Cap reports, which are publicly available, must also include all non-Medicaid expenditures included in the Cap and any material changes made within the previous month.

Given uncertainties in Washington D.C., the budget established a process whereby the Budget Director is authorized to submit a plan to the Legislature should federal financial participation in Medicaid funding be reduced by \$850 million or more during federal fiscal years 2017 or 2018. The plan must provide detailed information on the reductions proposed and affected programs and activities. Upon submission of the plan, the Legislature has 90 days to prepare and adopt its own plan by concurrent resolution passed by both houses. Failure to act within the 90-day timeframe, shall result in the Budget Director's plan going into effect automatically.

A unique measure creating a Medicaid Drug Cap proposed by the Senate was adopted in the final budget to address high priced pharmaceuticals. The Drug Cap aims to control Medicaid drug costs and allows the state to collaborate with pharmaceutical manufactures to reduce costs to the state before a drug is referred to the Drug Utilization Review Board (DURB). The new Drug Cap limits drug-spending growth in SFY 2018 and is expected to achieve savings of \$55 to \$119 million. In August, 30 drugs produced by twelve manufactures and accounting for nearly 70% of the state's Medicaid drug spending, were identified for possible referral to the DURB under this process.

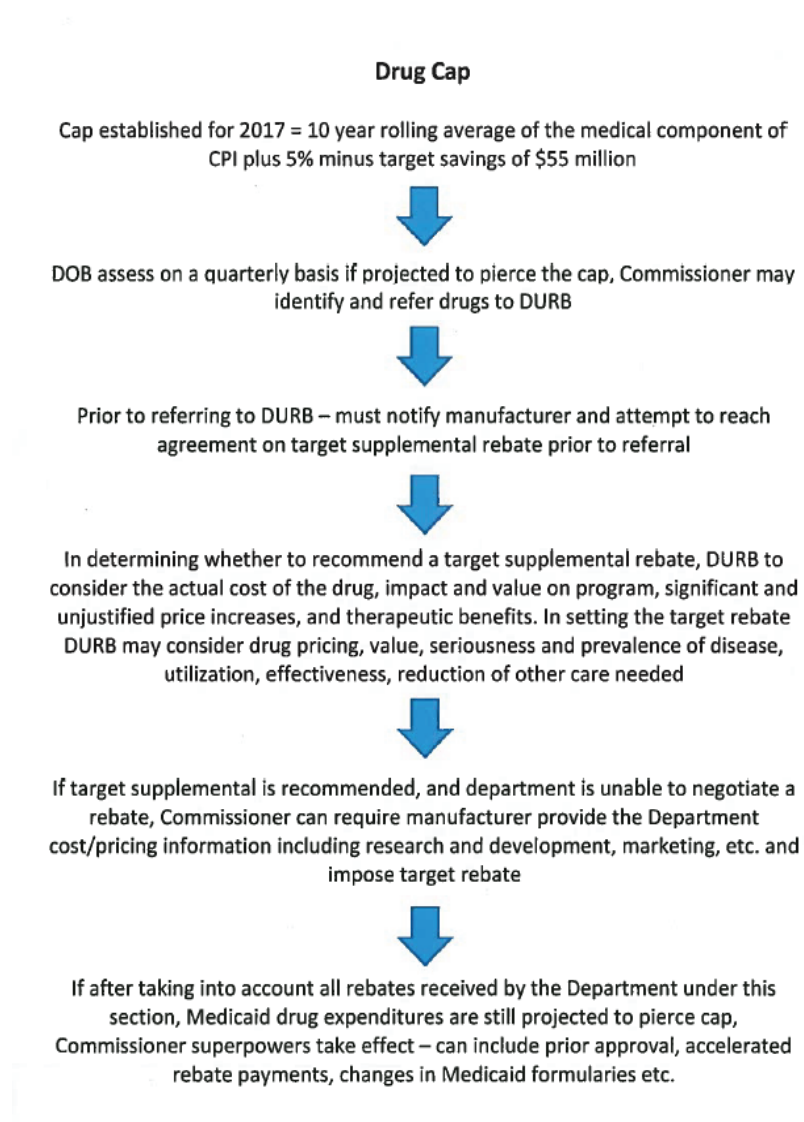
The Legislature rejected the elimination of prescriber prevails for another year, and also rejected the reduction in coverage of over-the-counter medications as well as the increase in over-the-counter co-payments. An Executive proposal on comprehensive Medication Management was also rejected by the Legislature. The enacted budget does include changes to the generic drug CPI penalty, changes to lower the early refill to seven days, changes to conform pharmacy reimbursement with federal regulations, and provisions making it an unacceptable practice within Medicaid to prescribe opioids in violation of other statutory provisions.

The Senate advanced provisions that were vetoed last year, on the basis that they should be addressed in the budget, to require Medicaid coverage of donor breast milk on an inpatient basis for certain premature infants that would benefit from the nutrients of breast milk but the mother is unable to provide, or the baby is unable to receive such milk from the mother. This provision was ultimately adopted in the final budget.

Numerous other provisions relating to Medicaid were adopted in the final budget, including but not limited to a provision advanced by the Legislature to provide workers under the Consumer Directed

Personal Assistance Program (CDPAP) with wage parity protections currently provided to other home care aides in certain areas of the state effective July 1, 2017 and a proposal advanced by the Legislature to require DOH authorization and oversight of fiscal intermediaries in the CDPAP. The Legislature fought to restore the nursing home bed hold cut proposed by the Executive, and was ultimately able to restore bed hold payments for therapeutic absences. Reduced bed hold payments were not implemented.

Although the Executive was unwilling to adopt Article VII language advanced by the Legislature creating high need rate cells, DOH committed to explore, with the federal Centers for Medicare and Medicaid Services (CMS), separate rate cells/reimbursement methodologies for nursing homes, high cost/high need populations and Health and Recovery Plan (HARP) populations. The final Budget extended provisions to benchmark the reimbursement rates paid to nursing home providers (by managed care organizations) at the fee-for-service rate through at least December 31, 2020, authorized the implementation of alternative value payment methodologies, and maintained the carve out from Medicaid managed care those services for participants of the Traumatic Brain Injury and Nursing Home Transition and Diversion (TBI/NHTD) Medicaid waivers until January 1, 2019.



Hospitals, Nursing Homes and Other Providers

The final Budget included \$500 million in capital funding for the continuation of the Health Care Facility Transformation Program (HCFTP). This funding builds on the initial HCFTP enacted in the SFY 2016-17 Budget that was allocated \$195 million, \$30 million of which was set aside for community based providers.

Of this year's \$500 million HCFTP, a minimum of \$75 million will be earmarked for community-based health care providers, a substantial increase from the minimum of \$30 million proposed by the Executive. In addition, the Legislature stipulated that up to \$300 million of these funds may be awarded based on applications submitted to DOH in response to the initial request for applications (RFA) issued in 2016 by the Department for the same purpose, and included language requiring these awards to be made no later than May 1, 2017. The awardees were notified in July, and more than \$490 million was awarded to 92 providers across the state. The awards granted in July 2017 reflect the entirety of the initial \$195M appropriation, \$59M of which was awarded to community-based providers (30%) and \$296M of the SFY 2017-18 \$500M appropriation, \$28M of which went to community-based providers (9%).

On January 8, 2018 a new request for proposals to allocate the remaining \$203.7 million in HCFTP funding, of which approximately \$47 million will be awarded to community based providers, was issued and applications are due by March 14, 2018.

In addition to these substantial investments in capital, the Legislature included \$10 million in the budget to increase rates to certain enhanced safety net hospitals and the Senate included \$10 million to increase rates to facilities federally designated as critical access hospitals. The Senate restored \$9.30 million of the cuts the Executive made in the portion of DSH state share payments the Executive was paying on behalf of SUNY.

Public Health

The Legislature rejected the Executive's proposal to pool together 39 public health programs to compete against each other for funding. The Legislature was unable to restore the 20% (\$25 million) cut the Executive also made to these programs. Moreover, the Legislature rejected the reduction in reimbursement to NYC under the Greater Public Health Works (GPHW) program from 36% to 29% and restored the \$11 million in funding. The Legislature provided \$1.3 million in funding to increase organ donation efforts and provided \$1.06 million in additional funding for Comprehensive Care Centers for Eating Disorders.

In response to the growing opioid epidemic, the Legislature added funding to that proposed by the Executive in order to secure record-high funding of \$214 million to fight heroin and opioid addiction in the enacted budget. Funding will be used to strengthen prevention, treatment, recovery and education services in FY 2018.

Given the increased alarm about Lyme and other tick-borne disease, the Senate allocated \$400,000 toward Lyme and Tick-Borne Disease initiatives. The Legislature rejected the Executive's proposal to mandate commercial insurance reimbursement and exhaustion of the appeals process prior to providers receiving payment from the state, and restored the \$4.05 million (plus \$1.35 million within the Medicaid Cap) in funding. In the Enacted Budget, the Legislature allocated \$1.8 million towards various initiatives for women's health services and approximately \$3.3 million in various programs to assist the aging population.

Water

The Senate Standing Committees on Health and Environmental Conservation held hearings around the state jointly with the Assembly in the fall of 2016. As a result of those hearings, the Senate released a report in January 2017 entitled *Water Quality and Contamination*. Many of the recommendations from this report were adopted as part of the FY 2018 Budget, including substantial funding for infrastructure and other drinking water quality initiatives, and the creation of a Drinking Water Quality Council to make recommendations regarding state specific emerging contaminants and notification levels to inform the public of potential threats to public health.

As proposed by the Senate's Health and Environmental Conservation Committees earlier this year, the final budget creates the Emerging Contaminant Monitoring Act to require all public water systems to test for unregulated contaminants identified by the Department of Health that are known, or anticipated to be present in drinking water, including PFOA, PFOS and 1,4-Dioxane. A new Drinking Water Quality Council was also established in the budget after being advocated by the Senate and will bring together experts to review existing evidence, study contaminants of concern, and make recommendations to the DOH.

"Clean Water Infrastructure Act of 2017"

This year's budget included the largest single investment in Clean Water in New York's history. The budget made a historic investment of \$2.5 billion to ensure all New Yorkers have access to clean, safe drinking water. The final budget included:

- \$1 billion for a new Water Infrastructure Improvement Act of 2017 to fund municipal water infrastructure projects over the next five years;
- \$245 million for the Water Quality Improvement Program grants;
- \$150 million for a new inter-municipal water infrastructure grant program to help fund projects that serve multiple municipalities and promote cost savings;
- \$100 million in new funding for municipal water quality projects that would not currently qualify for existing state grants;
- \$75 million for a new state rebate program to incentivize the replacement of failing septic systems and cesspools (the Septic System Replacement Fund);
- \$20 million for the replacement of lead pipes, with preferences given to communities with a high percentage of elevated childhood lead blood levels;
- \$100 million over five years for the state Superfund program to be used for clean water projects;
- \$30 million over five years for solid waste and drinking water mitigation and remediation projects;

- \$10 million for a new emergency infrastructure loan program to repair breaches of infrastructure that cause an imminent threat to the public health or the environment and funding for new measures to control point-source pollution, protect water sources, promote green infrastructure, address water contamination, and improve data collection to better track water quality information; and
- \$275 million in continued funding for Clean Water and Drinking Water State Revolving Funds.

The budget continued the state’s record commitment to the protection of natural resources with \$300 million for the Environmental Protection Fund (EPF). The EPF helps protect water resources through the preservation of open spaces and upgrading sewage treatment plants, among many other environmental initiatives. To further support clean water projects, \$20 million from the EPF will help support existing funding in the Water Quality Improvement Program.



Senate Health Committee Chair, Kemp Hannon (left) and Assembly Health Committee Chair, Richard Gottfried (right)

Public Hearings

Lyme and Tick-Borne Diseases

August 29, 2017

Albany, NY



The Senate Standing Committee on Health and the Senate Lyme Disease Task Force joined forces to hold a hearing to identify and discuss best practices for combatting the spread of Lyme and other tick-borne diseases in New York State. The public hearing highlighted the need for an assertive and comprehensive statewide plan to effectively combat the spread of Lyme and tick-borne diseases (TBDs).

The State Senate has worked tirelessly in recent years to draw much-needed attention and resources to the issue of tick-borne illnesses. Created in 2013, the Task Force on Lyme and TBDs released a report within a year setting forth findings and recommendations for swiftly addressing the issue. The Senate has since ensured the inclusion of budgetary funding to draw focus and gather experts in order to advance the fight against ticks and TBDs. However, the hearing made clear that much more is needed from our partners at the State and Federal levels in order to advance research, expand prevention and awareness initiatives, and develop more effective testing and treatment options. As Chairs of the Senate's Task Force on Lyme and Tick-Borne Diseases and the Health Committee, respectively, Senators Serino and Hannon heard testimony from the State Department of Health, researchers, medical professionals, insurance representatives, patients and advocates, presenting a uniquely holistic view of the complicated and controversial issues surrounding Lyme and TBDs.

A video recording and testimony from the hearing is available at:

<https://www.nysenate.gov/calendar/public-hearings/august-29-2017/public-hearing-identify-and-determine-best-practices-0>

Participants:

- **Howard A. Zucker, MD, JD**, Commissioner of NYS Department of Health
- **P. Bryon Backenson**, Deputy Director, Bureau of Communicable Disease Control Center for Community Health, NYS DOH
- **Dr. Ronald Limberger**, Director, Division of Infectious Diseases Wadsworth Center, NYS DOH
- **Andrew Evans**, Dutchess County DOH
- **Jean Ralston, RN, MSN**, Putnam County DOH
- **Marianne Yourdon, RN**, Broome County DOH
- **Steven Bock, MD**, Hudson Valley Physician, International Lyme and Associated Diseases Society
- **Jill Auerbach**, Patient, Chair of the Hudson Valley Lyme Disease Association
- **Martin Wilson**, Patient, Long Island
- **Audrey Mitchell**, (Video), Patient, Central New York
- **Sunil Sood, MD**, Chairman of Pediatrics, Southside Hospital, Infectious Diseases Attending, Cohen Children's Medical Center, Professor of Pediatrics and Family Medicine, Hofstra Northwell School of Medicine Infectious Disease Society of America
- **Craig Hersh, MD**, Chief Clinical Officer Empire Blue Cross/Blue Shield
- **Matthew Frye, Ph.D.**, Community IPM Extension Area Educator Cornell College of Agriculture and Life Sciences
- **Luis Marcos, MD, FACP, MPH**, Stony Brook University
- **Christy Beneri, DO**, Assistance Professor of Pediatric Infectious Diseases Stony Brook Children's Hospital
- **Susan V. Donelan, MD**, Attending Physician, Infectious Disease Stony Brook University Hospital
- **Holly Ahern, MS**, Associate Professor of Microbiology, SUNY Adirondack
- **Robert Bransfield, MD, DLFAPA**, Department of Psychiatry, Roger Wood Johnson Medical School, Rutgers University
- **Richard Otsfeld, Ph.D.**, Senior Scientist Cary Institute of Ecosystem Studies
- **Christina Fisk**, President Lyme Action Network



Roundtable Discussions

Medical Indemnity Fund Roundtable

June 14, 2017

Albany, NY

The Senate Standing Committee on Health and the Senate Standing Committee on Insurance joined forces to hold a Roundtable discussion on the Medical Indemnity Fund (MIF). The MIF was established in 2011 to reign in medical malpractice premiums and was designed to ensure that infants with birth-related neurological injuries are able to have their medical needs met and access services that they need to improve their quality of life. There were a number of concerns expressed by families with children enrolled in the fund, as well as the Trial Lawyer's Association, which were addressed by Chapter 517 of 2016 and a chapter amendment to that legislation (Chapter 4 of 2017). The Roundtable brought together agencies, administrators, insurers, attorneys and families of children enrolled in the fund to follow-up on the results of this new law, and to discuss the MIF's implementation, financial condition and future viability. Following the Roundtable, legislation was introduced (S. 6948) to establish a MIF Ombudsman and MIF advisory Council.

A webcast of the roundtable can be viewed at <https://www.nysenate.gov/calendar/public-hearings/june-14-2017/nys-medical-indemnity-fund-its-implementation-financial>.

Participants:

- **Sally Dreslin**, Executive Deputy Commissioner Department of Health
- **Scott Fischer**, Executive Deputy Superintendent Department of Financial Services
- **Jay Martin, Esq.**, Medical Liability Mutual Insurance Company
- **David Walsh**, President & CEO AliCare Medical Management
- **Sean Doolan, Esq.**, Hinman Straub
- **Laura Alfredo, Esq.**, Greater New York Hospital Association
- **Matt Gaier, Esq.**, NYS Trial Lawyers Association
- **Peter Kolbert**, Senior Vice President FOJP Service Corporation
- **Heidi Skau**, Mother of Patient
- **Cameron Brown**, Father of Patient

A report, entitled “**Report on New York State Medical Indemnity Fund**,” issued by the New York State Department of Financial Services in June, 2017 can be found at:

https://www.nysenate.gov/sites/default/files/mif_report_2017.pdf.

