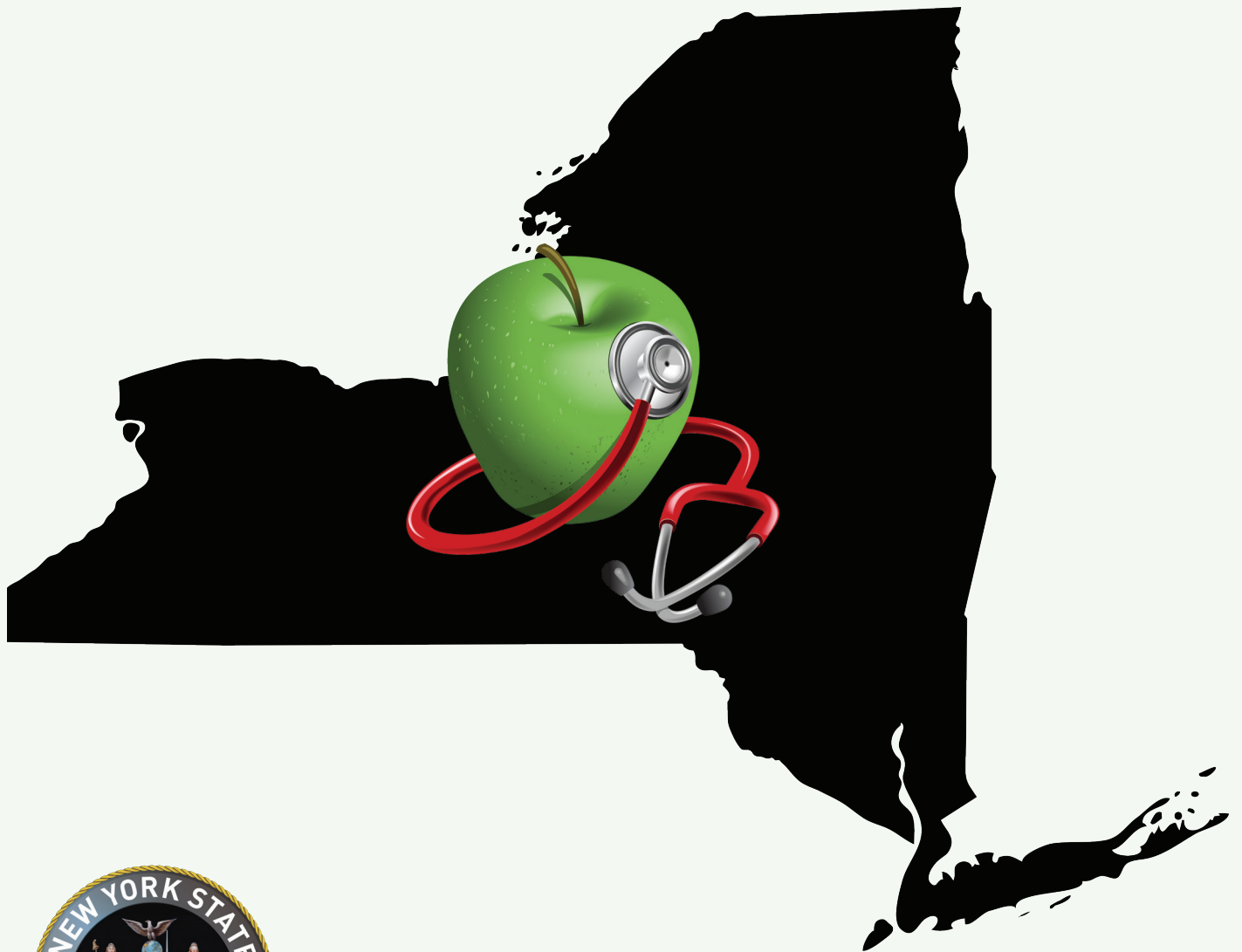


2017-2018 REPORT OF THE
NEW YORK STATE SENATE
STANDING COMMITTEE ON HEALTH

240TH-241ST
LEGISLATIVE SESSION



SENATOR KEMP HANNON
CHAIRMAN

**REPORT OF THE NEW YORK STATE SENATE
STANDING COMMITTEE ON HEALTH
240TH-241ST LEGISLATIVE SESSION**



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Executive Summary

As Chair of the New York State Senate Standing Committee on Health, I am pleased to provide this report detailing the activities of the Committee during the legislative 240th-241st session.

Among the important topics addressed by the Committee this session was legislation and funding to address drinking water quality. Following a series of public hearings and issuance of a report, the Committee successfully fought for a record \$2.5 billion investment in clean water and infrastructure, and creation of the Drinking Water Quality Council charged with making recommendations on safety levels for water contaminants, starting with PFOA, PFOS and 1,4 Dioxin.

The Committee also fought to reform our rape kit laws. After passing legislation in 2016 to make sure all rape kits are inventoried and tested, it came to light that kits not sent to law enforcement for testing may be discarded after 30 days. Thus, victims who were unsure if they wanted to prosecute immediately following an assault were losing their option to pursue justice after just 30 days. To correct this, we changed to law to require these sexual assault evidence kits be maintained for 20 years and the victim be notified prior to the kits destruction. We also enacted reforms to make sure no victim is ever charged for a forensic rape exam, to ensure a victim can track the processing of his or her rape kit, and establishing a sexual assault survivor bill of rights to ensure victims area aware of the protections afforded to them by state law.


As the opioid crisis continued to ravage our state, legislation to create a manufacturer funded, statewide, drug take back program aimed at reducing access to opioids and protecting our water was ultimately adopted this year. In addition to record funding to combat this epidemic, we enacted a number of insurance reforms and expanded treatment programs to ensure access. We also expanded Naloxone availability and created an opioid stewardship fund.

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 to 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.

Among the important public health initiatives addressed was legislation including vaping of e-cigarettes in the Clean Indoor Air Act, and coverage of donor breast milk coverage and a newborn health and safety pilot program to protect our most vulnerable infants. With the increasing prevalence of Lyme and tick borne diseases (TBDs), the Senate continues to prioritize efforts to advance prevention, diagnosis and treatment through legislation and continued funding.

The attached report provides further details of health related measures addressed this session. For footage of Committee meetings, hearings and roundtables, or additional reports, visit the Health Committee website <https://www.nysenate.gov/committees/health>.

Sincerely,



Kemp Hannon, Chair

Health Legislation Passed Both Houses &/or Chaptered

Public Health & Safety

Opioid Epidemic, Substance Abuse, Treatment & Recovery Legislation:

- ❖ **Drug Take Back Act** - Chapter 120 of 2018, sponsored by Senator Hannon, creates the Drug Take Back Act to require manufacturers of covered drugs to create or participate in a drug take back program. Under this program, manufacturers are responsible for the cost of the take back program; this includes the cost of collecting, transporting and disposing of covered drugs from pharmacies. This Act also requires chain pharmacies and mail-order pharmacies to provide on-site collection, prepaid mail-back envelopes or other Drug Enforcement Agency (DEA) approved methods. This bill was signed into law on July 10, 2018 and becomes effective January 6, 2019. (S.9100/A.9576B)
- ❖ **Substance Abuse Patient Brokering** - Chapter 223 of 2018, sponsored by Senator Akshar, bans the practice of substance use disorder patient brokering in NYS, and makes it a crime to offer or accept any kickback from an entity that provides substance abuse services in exchange for patient referral and admission. This bill was signed into law on August 24, 2018 and becomes effective October 23, 2018. (S.6544B/A.7689A)
- ❖ **Medical Marihuana as Alternative to Opioids** – Chapter 273 of 2018, sponsored by Senator Amedore, allows physicians to certify patients for medical marihuana as an alternative to prescribing opioids for pain management or for treatment of substance use disorder. This bill was signed into law on September 24, 2018 and became effective immediately. (S.8987A/A.11011B)
- ❖ **Rescheduling Drugs** - Chapter 164 of 2018, sponsored by Senator Jacobs, allows the Commissioner of Health to reschedule drugs using regulatory action, should they find that it may impair the health of patients; however, they may only reschedule the drug to a new subdivision in the same numbered schedule or a higher numbered schedule than to which it is rescheduled in the federal act. This legislation will ensure that new FDA approved drugs, such as a new cannabinoid medication for children with epilepsy, can be rescheduled and made available as soon as possible. This bill was signed into law on July 31, 2018 and became effective immediately. (S.8275B/A.10468B)

Lyme & other Tick-borne Diseases:

- ❖ **Lyme and Tick-borne Disease Workgroup** - S.7170A, sponsored by Senator Serino, creates a Lyme and tick-borne disease working group composed of experts across various disciplines for the purpose of reviewing and providing recommendations on current best practices for the diagnosis, treatment and prevention of Lyme and tick-borne diseases.
- ❖ **Lyme & Tick-borne Disease Warning Signs in Parks** - S.7242, sponsored by Senator Serino, directs the New York State Office of Parks, Recreation and Historic Preservation to install and maintain Lyme and tick-borne disease warning signs at all state-managed parks, including trail entryways and campgrounds.
- ❖ **Study on Infectious Diseases & Blood-borne Pathogens** - S.7171A, sponsored by Senator Serino, requires the Department of Health, in conjunction with the Office of Mental Health, to conduct an impact study considering how infectious diseases and blood-borne pathogens, including Lyme and tick-borne diseases, may be correlated with mental illness in infected individuals.

Organ Donation:

- ❖ **The Living Donor Protection Act of 2018** - S.2496B, sponsored by Senator Hannon, requires the Commissioner of Health, the Transplant Council and other interested parties to work together to develop and distribute information about live organ donations. The Act also makes it clear that no insurer can discriminate against an individual based on their donor status. Lastly, the Act includes transplantation preparation and recovery related to organ or tissue donations in the “serious health conditions” covered under paid family leave in the Workers’ Compensation Law.
- ❖ **Life Pass it On Tax Check Off** - Chapter 215 of 2018, sponsored by Senator Carlucci, establishes a check off on New York State income tax forms to allow individuals to contribute to the Life Pass it On Trust Fund to support outreach and research regarding organ and tissue donation. This bill was signed into law on August 24, 2018 and becomes effective January 1, 2019. (S.1033A/A.5159B)
- ❖ **Transplant Council** - Chapter 26 of 2017, sponsored by Senator Hannon, 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)
- ❖ **Lauren’s Law** - Chapter 332 of 2017, sponsored by Senator Carlucci, 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/A.5179)

Water Contamination:

- ❖ **Posting of Emergency Contaminants on DOH Website** - Chapter 314 of 2018, sponsored by Senator Hannon, requires the Department of Health to post information on its website relating to emerging contaminant notification levels and education materials, so that such information is easily accessible to the public and public water systems. (S.6655/A.10927)
- ❖ **Peconic Bay Region Septic System Replacement Loan Program** - S.8254A, sponsored by Senator LaValle, authorizes towns in the Peconic Bay region to establish septic system replacement loan programs to help protect residents and the environment by improving water quality.
- ❖ **Monitoring of Groundwater Impacts from Mines** - Chapter 298 of 2018, sponsored by Senator LaValle, authorizes the enactment of local laws that require the monitoring of groundwater impacts from mines within counties with a population of one million or more, and draw their primary source of drinking water from a designated sole aquifer; the aim is to help determine which groundwater resources may be impacted, and provide an early warning system for any current or future groundwater contamination. (S.4812/A.6314)
- ❖ **Water Quality Improvement Projects in the Town Law** - S.7853A, sponsored by Senator LaValle, expands the list of water quality improvement projects in Town Law to include the construction of public water mains and connections in order to provide a pure source of drinking water to inhabitants whose drinking water supply has been contaminated by toxic chemicals, hazardous substances or emerging contaminants.
- ❖ **Drinking Water Quality Council and Emerging Contaminant Monitoring Act** - Chapter 57 of 2017 adopted historic funding and important new laws to protect our water, which are described in more detail on page XXX under the budget section of this report.

Smoking-related Legislation:

❖ E-Cigarettes -

- **Prohibition on Free Distribution** - Chapter 4 of 2018, sponsored by Senator Akshar, prohibits the free distribution (i.e. free samples) or sale of electronic cigarettes to minors by any person engaged in the business of selling or distributing electronic cigarettes for commercial purposes, or by any agent or employee. This bill was signed into law on April 18, 2018 and became effective immediately. (S.1223/A.8014)
- **Prohibition on School Grounds** - Chapter 102 of 2017, sponsored by Senator Ritchie, 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)
- **Indoor Clean Air Act** - Chapter 335 of 2017, sponsored by Senator Hannon, 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 on November 22, 2017. (S.2543A/A.516A)

❖ **Smoking in Home-based Day Care Facilities** - Chapter 201 of 2018, sponsored by Senator Hannon, protects children from second and third-hand smoke in home-based day care by prohibiting smoking, at all times, in facilities that provide child care services in a private home; this excludes rooms where child care services are not provided. This bill was signed into law on August 20, 2018 and becomes effective on November 18, 2018. (S.7522A/A.397B)

❖ **Smoking Near Libraries** - S.169B, sponsored by Senator Rivera, prohibits smoking within 100 feet of the entrances or exits of any public or association library.

The Crohn’s & Colitis Fairness Act - Chapter 42 of 2018, sponsored by Senator Hannon, enacts the Crohn’s and Colitis Fairness Act, which makes employee restrooms available to individuals with eligible medical conditions, or those who use an ostomy device. This bill was signed into law on April 18, 2018 and took effect on April 17, 2018, the same date as Chapter 471 of 2017. (S.7327/A.8989)

Tanning Salons - Chapter 194 of 2018, sponsored by Senator Boyle, prohibits those under 18 from using tanning salons. Current law prohibits children under 16 from using tanning facilities and allows 17 year olds to use tanning salons with written parental consent. This bill would remove this consent loophole and extend the prohibition to 17 year olds. This bill was signed into law August 16, 2018 and took effect immediately. (S.5585A/A.7218A)

Lead Poisoning - Chapter 20 of 2018, sponsored by Senator Alcantara, is a chapter amendment to Chapter 411 of the Law of 2017, which required that written notice be given to the Commissioner of Health whenever an area at high risk of lead poisoning is designated. This legislation provides the Department with more flexibility by authorizing rather than requiring the Department to take action. This bill was signed into law on April 18, 2018 and took effect on March 29, 2018, the same date as Chapter 411 of 2017. (S.7295/A.8992)

Prostate Cancer Screening - S.6882A, sponsored by Senator Tedisco, ensures that men have access to prostate screenings at no cost to them. This legislation would require information regarding the availability of insurance coverage for prostate cancer screening without cost sharing to be included in the standardized written summary prepared by the Commissioner of Health. Additionally, diagnostic

testing for prostate cancer for men having a prior history, men 40 and over with a family history, and men 50 and over who are symptomatic will not be subject to annual deductibles or coinsurance under this legislation.

Sepsis Awareness - Chapter 10 of 2018, sponsored by Senator Marcellino, is a chapter amendment to Chapter 347 of the Laws of 2017, which established a sepsis awareness, prevention and education program within the Department of Education to educate students, parents and school personnel about sepsis. 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 legislation clarifies that sepsis itself is not contagious; rather it is the pathogens that can cause sepsis transmission from person to person. This bill was signed into law on April 18, 2018 and took effect on July 1, 2018. (S.7280/A.9001)

Purchase of Multivitamins Through SNAP - S.9008, sponsored by Senator Flanagan, directs the Office of Temporary Disability Assistance to apply for a waiver from the federal government to allow for a program in New York where people may use their Supplemental Nutrition Assistance Program (SNAP, also known as food stamps) benefits towards the purchase of multivitamin-mineral dietary supplements.

Epi Pens - Chapter 200 of 2017, sponsored by Senator Murphy, 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.6005A/A.7635A)

Women, Children & Family Health

Rape Kit Reform:

- ❖ **Sexual Assault Bill of Rights** - S.8977, sponsored by Senator Hannon, builds on measures adopted in the 2018-19 budget by creating a Sexual Assault Victim Bill of Rights and a Victim's Right to Notice about the status of their sexual offense evidence kit. Under this legislation, the Department of Health, in consultation with the Division of Criminal Justice Services (DCJS), the Office of Victim Services, hospitals, other health care providers, and victim advocacy organizations, must establish a Bill of Rights to inform sexual assault victims of their rights under state law. This legislation also mandates every police agency, prosecutorial agency, and other law enforcement agency to adopt policies and procedures regarding contact with sexual assault victims, as well as procedures regarding the sharing of information with victims. Lastly, the Victim's Right to Notice establishes that a sexual assault victim has the right to be notified of the date and location at which their sexual assault evidence kit was assessed and analyzed, whether a CODIS profile was developed, and of any information regarding a DNA match.
- ❖ **Maintaining Unreported Kits for 20 Years** - Chapter 57 of 2018 changed the time unreported rape kits must be held from 30 days to 20 years and made many other important changes to the law and funding. More information can be found on page XXX of this report.

❖ **Testing All Kits** - Chapter 6 of 2017, sponsored by Senator Hannon, 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 by March 1, 2017. This bill was signed into law on February 1, 2017 and became effective through staggered dates. (S.980/A.375)

Educating Women on Transmission of CMV - Chapter 307 of 2018, sponsored by Senator Hannon, raises public awareness of the transmission of cytomegalovirus (CMV) to a woman from a toddler by educating women about the virus, and requires that any newborn identified or suspected of having a hearing impairment be tested for CMV, unless the parent of the newborn objects. (S.2816B/A.587C)

Newborn Health & Safe Sleep Pilot Program - Chapter 46 of 2018, sponsored by Senator Hannon, amends the Newborn Health and Safe Sleep Pilot Program, designed to reduce infant mortality rates across New York State through the use of “baby boxes” or other products that encourage safe sleep practices, by creating a study to be conducted before the implementation of the pilot program. This study will examine the role that baby boxes can play in infant health and begin a pilot program in areas with high infant mortality rates. This bill was signed into law on April 18, 2018 and became effective on October 23, 2017, the same date as Chapter 401 of 2017. (S.7408/A.8957)

Early Diagnosis & Long-term Treatment of Autism - Chapter 210 of 2018, sponsored by Senator Parker, directs the Commissioners of the Office for People with Developmental Disabilities, Education, Health, the Office for Children and Family Services, and Mental Health to conduct a study on the early diagnosis and long-term treatment of autism spectrum disorder. This bill was signed into law on August 24, 2018 and became effective immediately. (S.3895/A.261)

Maternal Depression - Chapter 62 of 2018, sponsored by Senator Krueger, requires the Department of Health (DOH) and the Office of Mental Health (OMH) to provide information on how to locate treatment providers and supports for maternal depression. It also requires DOH to inform healthcare providers of the importance of raising awareness about maternal depression. This bill was signed into law on June 1, 2018 and became effective on June 30, 2018, the same date as chapter 463 of 2017. (S.7409/A.8953)

Therapy Dogs - Chapter 37 of 2018, sponsored by Senator Marchione, requires the Commissioner of Agriculture and Markets to conduct a study on the necessity of standards for the certification, training, and evaluation of therapy dogs. This bill was signed into law on April 18, 2018 and became effective on December 18, 2017 the same date as Chapter 497 of 2017. (S.7319/A.8926)

Medical Indemnity Fund - Chapter 4 of 2017, sponsored by Senator Hannon, 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. (S.986/A.378)

Specialty Formula - Chapter 12 of 2017, sponsored by Senator Klein, 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)

Insect Repellent at Summer Camps - Chapter 163 of 2017, sponsored by Senator Little, 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.6710A/A.8420)

Pediatric Acute-onset Neuropsychiatric Syndrome (PANS) - Chapter 199 of 2017, sponsored by Senator Little, 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)

Patient Safety & Rights

Medical Malpractice - Chapter 1 of 2018, sponsored by Senator DeFrancisco, amends the statute of limitations for medical malpractice actions involving failure to diagnosis 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 these amendments signed into law on January 31, 2018. (S.7588A/A.9633A)

Body Scanners in Local Correctional Facilities - Chapter 313 of 2018, sponsored by Senator Hannon, allows the non-medical use of body scanners, which emit low dosage ionizing radiation, on inmates in local correctional facilities. The goal is for these scanners to reduce invasive body cavity searches and the amount of contraband getting into jails. Of particular concern are ceramic craft blades, which are not detected by metal detectors or pat downs, and have led to increased slashings on Rikers Island. (S.5337/A.6838)

Death in Adult Care Facilities - Chapter 64 of 2018, sponsored by Senator Alcantara, improves current reporting requirements related to resident deaths, attempted suicides, or felonies committed against residents in certain adult care facilities. This bill makes these requirements, already applicable to adult homes and residences for adults, applicable to enriched housing programs as well, and requires that felonies be reported within 24 hours rather than 48 hours, as set forth in existing law. This bill was

signed into law on June 1, 2018 and became effective February 16, 2018 on the same day as Chapter 459 of 2017. (S.7282/A.9034)

Long-term Care (LTC) Ombudsman Program - Chapter 259 of 2018, sponsored by Senator Dilan, brings the Elder Law in line with federal statute and newly promulgated federal regulations so that the state law that governs the Long-Term Care Ombudsman Program (LTCOP) is in conformance with the federal law and regulations that govern the LTCOP. The New York State Office for the Aging compelled to have the Elder Law be in compliance and conformance with federal law and regulations because failure to do so would jeopardize federal funding not only for the LTCOP, but for all the Older Americans Act (OAA) funded services administered by NYSOFA and their network of aging services providers, which includes county sponsored area agencies on aging and not-for-profit aging services providers. This bill was signed into law on August 24, 2018 and becomes effective on December 31, 2019 the same date as Chapter 462 of 2015. (S.9002/A.11050)

Court Ordered Assisted Outpatient Treatment - Chapter 67 of 2017, sponsored by Senator Young, extends Kendra's Law for 5 years until June 30, 2022, 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 meet 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, sponsored by Senator Hannon, 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.5671A/A.7747A)

Special Needs Trusts:

- ❖ **Eliminating Barriers** - Chapter 187 of 2017, sponsored by Senator Hannon, 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 became effective immediately. (S.4779/A.6743)
- ❖ **Raising Awareness** - Chapter 475 of 2017, sponsored by Senator Ortt, 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 became effective on June 16, 2018. (S.1241A/A.5175A)

Medical Records Access - Chapter 322 of 2017, sponsored by Senator Valesky, 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)

Elder Protections - Chapter 328 of 2017, sponsored by Senator Serino, 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.8258A)

Dispensing of Biologic Drugs - Chapter 357 of 2017, sponsored by Senator Hannon, 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.4788A/A.7509A)

Crime Reporting in Enriched Housing Programs - Chapter 459 of 2017, sponsored by Senator Alcantara, 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.787A/A.2702)

Health Care Facilities and Providers

Pharmacy Benefit Managers - S.6940, sponsored by Senator Hannon, bars Pharmacy Benefit Managers (PBMs) from prohibiting or penalizing pharmacists from disclosing the cost of a prescription medication and the availability of therapeutically equivalent alternatives or alternative payment methods that may be less expensive to individuals. It also bars the imposition of copayments that exceed the total submitted charge by the pharmacy and prohibits the PBM from redacting or recouping the adjusted cost from the pharmacy. This provision was ultimately adopted as part of the SFY 18-19 budget, and became effective April 12, 2018. (Chapter 57 of 2018).

Standing Order for the Care of Newborns - S.8774B, sponsored by Senator Hannon, allows hospitals to establish non-patient specific standing orders for registered nurses (RNs) to initiate upon the birth of a healthy newborn in their facility. New York law authorizes "non-patient specific regimens" to allow RNs to conduct tests without a patient-specific order from a physician for each individual. Since the law does not explicitly include standing orders for the care of healthy newborns, some authorities interpret hospital standing orders for newborn care to be illegal. This legislation would make the changes necessary to allow hospitals to establish standing orders for the care of newborns.

Nurse Education - S.7320, sponsored by Senator Flanagan, is a chapter amendment to Chapter 502 of the laws of 2017, which increased the level of education for continued registration as a registered professional nurse to ten years after initial licensure, and created a temporary nursing program evaluation commission. This bill would make technical changes to chapter 502 of 2017 by allowing the temporary commission on nursing program evaluation to make recommendations on the impacts of requiring a baccalaureate degree and adding a new exemption to requiring baccalaureate degrees for certain areas of the state. Thus, the bill aims to increase the level of education while still maintaining the multiple entry points into the profession.

Early Intervention Coordinating and MCHSBG Councils - Chapter 304 of 2018, sponsored by Senator Hannon, clarifies the definition of a quorum for the Early Intervention Coordinating Council (EICC) and the Maternal Child Health Services Block Grant Advisory Council (MCHSBG) to mean a majority of the appointed voting membership, as opposed to a majority based on the total number of members required to be appointed to the Council. (S.8392A/A.10675)

Dormitory Authority (DASNY) - Chapter 183 of 2018, sponsored by Senator Hannon, amends the Medical Care Facilities Finance Agency Act (MCFFA Act) to increase the authorization of DASNY to issue hospital and nursing home project bonds and notes from \$15.8 billion to \$16.6 billion. This legislation is needed to ensure that DASNY has sufficient capacity to support additional healthcare projects as they seek financing. This bill was signed into law on July 31, 2018 and became effective immediately. (S.8648/A.10673)

The Terence Cardinal Cooke Health Care Center - Chapter 174 of 2018, sponsored by Senator Hannon, extends the authority to include the Terence Cardinal Cooke Health Care Center on the list of entities for which The Dormitory Authority of the State of New York (DASNY) may provide financing and construction services from December 31, 2018, to December 31, 2023. This bill was signed July 31, 2018 and became effective immediately. (S.8822/A.10813)

Classifications for Nurse Practitioners - Chapter 17 of 2018, sponsored by Senator Hannon, requires the civil service department to study and report on establishing classifications for nurse practitioners that are proportional to their education, experience, duties, certifications, and to recommend an appropriate salary grade allocation for such positions, by July 1, 2018. This bill was signed into law on April 18, 2018 and became effective on November 29, 2017 on the same date as chapter 409 of 2017. (S.7290/A.8928)

Clinical Laboratory Supervisory Requirements - S.7521A, sponsored by Senator Hannon, establishes supervision requirements for each clinical laboratory that work to accommodate and cater to the differing supervisory needs of each laboratory. Currently, the clinical lab supervision requirements laid out in New York's Codes, Rules, and Regulations greatly exceed the requirements contained in the federal Clinical Improvement Act (CLIA). This legislation would allow supervision via phone or synchronous 2-way AV communication, pursuant to regulations by the Department, and cap the number of labs a supervisor can oversee at five.

Physical Therapy Assistants in Home Care Settings - Chapter 107 of 2018, sponsored by Senator LaValle, allows physical therapy assistants to provide services in home care settings when the supervising physical therapist establishes a program of care for the patient. This bill was signed into law on July 1, 2018 and became effective immediately. (S.8217/A.10381A)

Hospice:

- ❖ **Services for Residents of Assisted Living Programs** - S.8353A, sponsored by Senator Hannon, allows assisted living residents to remain in their facility at the end of their life by permitting individuals receiving Assisted Living Program (ALP) services to also receive hospice services. It also allows the Commissioner to modify the scope of personal care services in order to prevent duplicative services by hospice and the Assisted Living Program.

- ❖ **“Swing Beds”** - Chapter 205 of 2017, sponsored by Senator Hannon, 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.7775A)

Funeral Director Licensure - Chapter 270 of 2018, sponsored by Senator LaValle, ensures that licensed funeral directors, whose registrations were not renewed as of June 30, 2018, are able to continue practicing funeral directing without interruption, unless the NYS Department of Health determines that the licensee committed misconduct with regards to obtaining their license. This legislation was signed into law on September 7, 2018 and became effective immediately. (S.8878/A.11068)

Treatment of Injured Employees - S.6666, sponsored by Senator Amedore, allows injured employees to receive specialized medical treatment from qualified acupuncturists under the Workers’ Compensation Program by expanding the current Workers’ Compensation Law in the state to include acupuncturists.

Eligibility for Medical Assistance - S.7328, sponsored by Senator Ortt, requires the Department of Health to provide a written notice to applicants for medical assistance whose income may be in excess of that required to qualify for Medicaid on the availability of special needs trusts. This legislation would help ensure that people with disabilities have more options when it comes to remaining in the most integrated setting appropriate for their needs.

Residential Care Off-site Facility - Chapter 101 of 2018, sponsored by Senator Robach, extends the demonstration project that allows for the provision of physical, occupational and speech therapy by a residential health care facility at an off-site location until June 2021. Under the demonstration project, the Department of Health approves up to three residential health care facilities to provide physical, occupational and speech therapy, as well as related educational services, at an off-site facility as a means to assess reimbursement methodologies and delivery methods related to such services. This bill was signed into law on July 1, 2018 and became effective immediately. (S.8926/A.10758)

Autism Screening - Chapter 241 of 2018, sponsored by Senator Ortt, directs DOH to establish protocols for developmental screenings for children three years and under that are in compliance with guidelines established by the American Academy of Pediatrics for children in that age bracket. This bill was signed into law on August 24, 2018 and became effective immediately. (S.8955/A.9868A)

Automated External Defibrillators - Chapter 119 of 2017, sponsored by Senator Hannon, 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 became effective on January 21, 2018. (S.5718/A.7532)

Epilepsy - Sudden Death - Chapter 175 of 2017, sponsored by Senator Griffo, 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 in epilepsy. This legislation was signed into law on August 21, 2017 and became effective on February 17, 2018. (S.2422/A.2380)

Telehealth - Originating Site:

- ❖ **Homes and OPWDD Homes** – Chapter 57 of 2018 amended the definition of originating site for telehealth to include a patient’s place of residence. (S.7507C/A.9507C)
- ❖ **Adult Care Facilities** - Chapter 238 of 2017, sponsored by Senator Serino, 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.4285A/A.1464B)
- ❖ **Schools** - Chapter 285 of 2017, sponsored by Senator Hannon, 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. (S.3293/A.4703)

Comprehensive Care Centers for Eating Disorders - Chapter 259 of 2017, sponsored by Senator Hannon, 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)

Nurse Practitioners:

- ❖ **Health Care Proxies** - S.7713B, sponsored by Senator Hannon, adds “nurse practitioner,” “attending nurse practitioner,” or “psychiatric nurse practitioner,” to the list of health care providers involved in determining capacity for purposes of executing or implementing a health care proxy, and allows them to act as witnesses to state that the proxy was willingly executed and done so free from duress.
- ❖ **Civil Service** - Chapter 409 of 2017, sponsored by Senator Hannon, 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, 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. (S.3567B/A.834B)

- ❖ **DNR** - Chapter 430 of 2017, sponsored by Senator Hannon, 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 became effective on May 28, 2018. (S.1869A/A.7277A)

Rural Health Council - Chapter 419 of 2017, sponsored by Senator Hannon, 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:

- ❖ **PTSD** - Chapter 403 of 2017, sponsored by Senator Savino, adds Post-Traumatic Stress Disorder to the list of conditions for which medical marihuana may be prescribed. This bill was signed into law on November 11, 2017 and became effective immediately. (S.5629/A.7006)
- ❖ **Registered Providers** - Chapter 438 of 2017, sponsored by Senator Savino, provides for 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 became effective January 28, 2018. (S.5627/A.2882)

Health Insurance

Enteral Formula Coverage - S.8924, sponsored by Senator Seward, clarifies the law to ensure health insurance coverage of medically necessary enteral formula.

Breast Cancer Screening - Chapter 414 of 2017, sponsored by Senator Griffo, requires certain health insurance policies to include mammography screening by breast tomosynthesis. This bill was signed into law on November 29, 2017 and became effective on January 28, 2018. (S.4150/A.5677)

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

2018- 2019 State Fiscal Year Health Budget Highlights **(S.7507C ADOPTED APRIL 12, 2018)**

MEDICAID

The SFY 2018-19 budget extends the Global Cap through this fiscal year and extends the commitment to transparency through monthly updates on Global Cap adjustments. One year after its enactment, minor adjustments were made to the Medicaid Drug Cap to increase transparency as well. The Legislature fought to restore cuts to Medicaid transportation, Primary Care Medical Homes (PCMH), and rejected the removal of prescriber prevails, and again extended the deadline to move individuals with traumatic brain injuries into managed care until at least January 1, 2022.

The budget also included several programmatic changes to the Medicaid program including an expansion of the Assisted Living Program (ALP) and a moratorium on the establishment of Licensed Home Care Associations (LHCSAs) until March 30, 2020, as well as provisions requiring registration of LHCSAs and limitations on the number of LHCSAs a Medicaid managed care plan can contract with as follows:

- In NYC, Nassau, Suffolk and Westchester:
 - beginning October 1, 2018 - 1 contract for every 75 members; and
 - beginning October 1, 2019 - 1 contract for every 100 members.
- Rest of State :
 - beginning October 1, 2018 - 1 contract for every 45 members; and
 - beginning October 1, 2019 - 1 contract for every 60 members.

The budget reduced spending on adult health homes, a Medicaid construct designed to coordinate care for the most expensive Medicaid patients, by \$53 million in all funds spending over two years. The Executive administration also committed to pursuing reforms including: focusing resources on individuals with the highest risk and highest utilization of services; eliminating payments for cold calls from lists; ensuring quality by evaluating quality metrics, comparing performance and requiring public reporting; and allowing managed care plans to contract with health homes based on their performance and outcomes, among other reforms. With the start of children's health homes, the Legislature supported criminal background checks of existing and future health home employees. The Legislature also included \$15 million to support the transition of children's behavioral health services into managed care despite delays by the administration.

The Legislature fought to restore protections to the long-term care population, restoring funding and rejecting, for the 28th time, spousal refusal. The Legislature also rejected the Executive's proposal to limit managed long-term care (MLTC) enrollment to individuals scoring a nine or above on the UAS tool, an increase from the current standard of five or above on the UAS. The budget provided individuals enrolled in MLTC 90 days from the notification of enrollment, or the effective date of enrollment, whichever is later. After this 90-day period, the Department may prohibit a recipient from changing plans more frequently than once every 12 months, except for instances of good cause. The budget also carved individuals designated as permanently placed from being enrolled in MLTC, under the theory that paying for care management for individuals permanently placed in a nursing home is unnecessary and duplicative.

Hospitals, Nursing Homes and Other Providers

The budget made another historic investment in health care facilities with new capital funding of \$525 million in the health care facility transformation fund (statewide III), to support providers engaging in projects that replace inefficient and outdated facilities as part of a merger, consolidation or acquisition, and projects to ensure sustainability such as debt reduction. At least \$60 million must be used for community based health care providers, \$45 million is earmarked for nursing homes, and up to \$20 million is set aside to support the previously outlined ALP initiative. The 2018 investment brought the total investment for the three rounds to over \$1.2 billion. An RFP for Round III is expected in the fall of 2018. The Senate also successfully fought to include sole community hospitals and critical access hospitals in the definition of safety net hospitals and provided an additional \$30 million to support these essential hospitals.

In an effort to establish a level playing field between pharmacists and pharmacy benefit managers, the enacted budget: limits the ability of pharmacy benefit managers to use audit procedures or payment denials; prohibits pharmacy benefit managers from imposing claw backs, a practice which may result in consumers with insurance paying more than the cost of the drug; and prohibits the imposition of gag clauses, which ban pharmacists from disclosing to individuals the cost of the prescription, alternative medications, or that the medication may cost less if they pay cash. The budget also extends for two years the authority for pharmacists to administer influenza vaccines to adults and children ages two to 18, and extends the Collaborative Drug Therapy Management demonstration program through July 1, 2021.

To better protect the public, the budget authorized the Commissioner of Health to order a physician to stop practicing if charged with a felony that the Commissioner believes constitutes an imminent danger to patients.

Enacting several initiatives that were discussed and advanced by the Commissioner's Regulatory Modernization Initiative, the budget expanded telehealth by adding to the list of eligible telehealth providers and allowing patients to be in their homes to receive care through telehealth services. It also requires the Department of Health (DOH) to issue a single guidance document setting forth any differences between the rules and regulations of the DOH, the Office of Alcoholism and Substance Abuse Services (OASAS), the Office of Mental Health (OMH) and the Office of People with Developmental Disabilities (OPWDD). Additionally, the budget allowed providers licensed or certified by the DOH, OMH and OASAS to provide integrated primary care, mental health and/or substance abuse disorders services without needing additional licenses or certifications from one of the other agencies.

Public Health

Expanding on legislation enacted in 2016 to make sure all rape kits are inventoried and tested, the Senate successfully fought for further reforms to:

- Require the storage of sexual offense evidence for 20 years from date of collection at a centralized storage location(s) to be determined by 2020. Evidence will continue to be stored in hospitals, pending the establishment of the storage location(s);
- Ensure hospitals do not bill survivors for sexual assault forensic exams and prohibits cost sharing when a survivor agrees to allow their insurance to be used to cover the costs associated with collecting sexual assault forensic evidence;

- Provide \$300,000 to establish a Sexual Assault Forensic Examination (SAFE) telehealth program to ensure all victims receive care with the support of SAFE certified health care providers; and
- Provide over \$600,000 for training health care providers to be SAFE certified.

Continuing the fight against the opioid epidemic and its devastating effects, the budget included a record-high funding of \$247 million to address addiction. The budget also established an Opioid Stewardship Fund to provide for the future costs of fighting this epidemic, through which manufacturers and distributors of opioids contribute a total of \$100 million, with contributions based on the amount of morphine milligram equivalents (with the exception of certain drug treatment and hospice medications) sold by the manufacturer in the State. Funds collected will only be used for substance use disorder prevention, treatment, recovery and other related expenses of the state as a result of the growing response to the opioid crisis. The fund ceases to exist if state expenditures on the epidemic drop below fiscal year 2010 levels.

The budget also included a number of new programs to address opioid addiction such as; the Peer Recovery Advocate Services Program, Jail Based Service Program, the Children and Recovering Mothers Program aimed at connecting expectant mothers to care and treatment, the Infant Recovery Pilot Program to provide appropriate services to babies born with neonatal abstinence syndrome, and the Opioid Alternative Project designed to reduce use of opioids in emergency rooms. The budget also expanded insurance protections by prohibiting health insurers from requiring prior authorization and concurrent review for the first 14 days of outpatient substance use disorder services and establishing a Substance Use Disorder Ombudsman to assist those seeking treatment and recovery services accessing insurance coverage and ensuring there is network adequacy. Additionally, the budget required written opioid treatment plans from providers when prescribing opioids for pain which has lasted more than three months or past the time of normal tissue healing, unless the patient is being treated for cancer not in remission, is receiving hospice, end of life care, or other form of palliative care.

As concerns over lead levels in areas of the state grows, the budget provided for \$250 million in capital funding for NYCHA repairs, \$1 million for a lead risk reduction to children initiative, and \$10 million in additional funding for the Lead Services Line Replacement Program. At the request of communities and schools looking to protect and treat students, the Legislature successfully fought for provisions to provide schools with access to information on children's blood lead levels through the DOH vaccine registry so they can provide necessary educational information to parents.

The Legislature secured a commitment from the Executive to make funds available beginning in 2018 from the Clean Water Infrastructure Act of 2017 through the Environmental Facilities Corporation for grants to public water systems to address emerging contaminants. The grants will be awarded as the DOH completes rulemaking establishing maximum contaminant levels for PFOA, PFOS and 1,4-dioxane.

The enacted budget provides over \$218 million for services to assist seniors and includes such measures as Community Services for the Elderly program, which received an additional \$2.25 million, and funding to expand the hours of the adult protective services hotline, which addresses elder abuse.

Again, the Legislature rejected proposals to combine public health programs and reduce their funding by 20 percent, as well as changes to the early intervention program. The Legislature also successfully advanced several measures including insurance coverage of donor breast milk, \$1.1 million for rural health care access development and \$1.1 million for rural health network development, \$1.4 million to increase organ donation efforts, \$5 million for women’s health issues, and a million for Lyme and Tick-borne Disease Initiatives.

DRAFT

2017- 2018 State Fiscal Year Health Budget Highlights **(S.2007B 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, 2017, thirty 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.

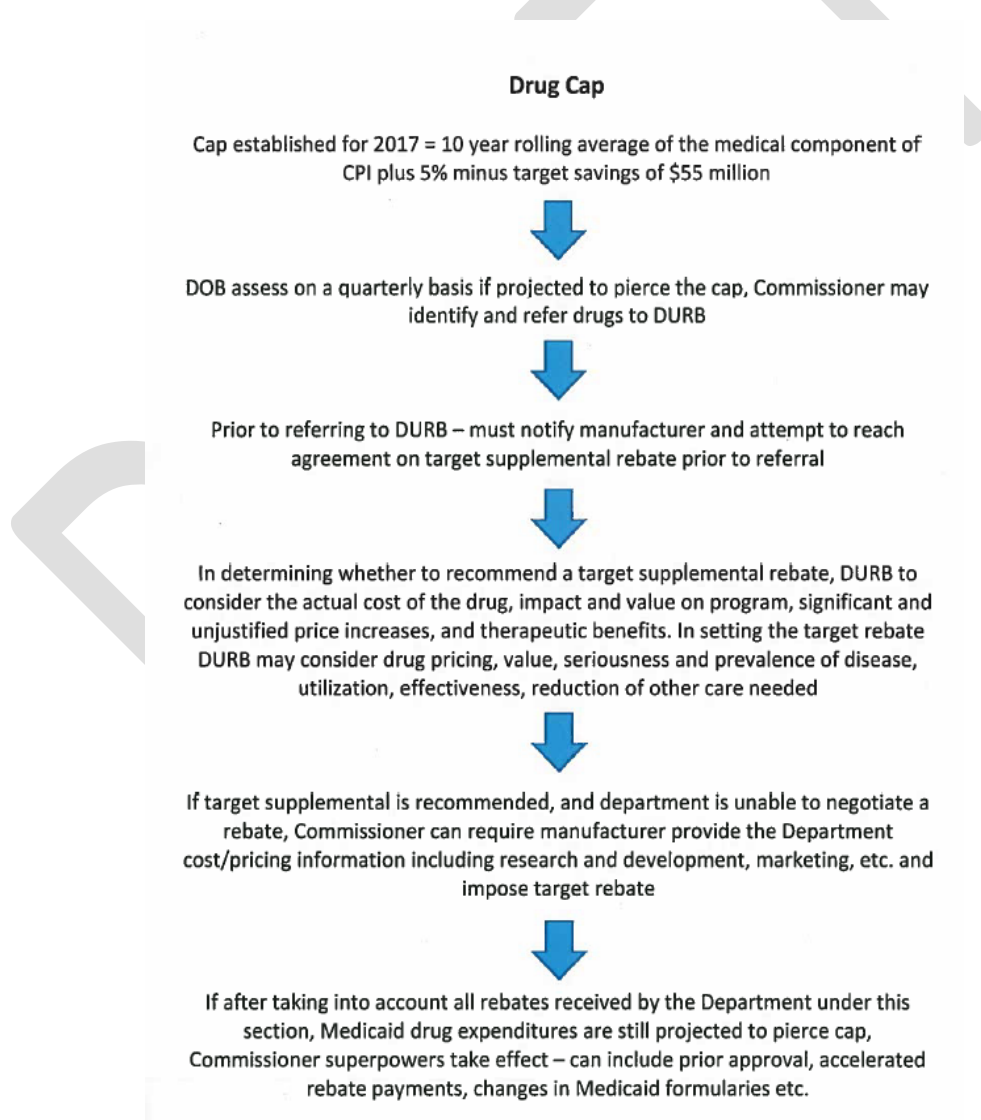
The Legislature rejected the elimination of prescriber prevails for another year, and also rejected the reduction in coverage of over-the-counter medications as well as the increase in over-the-counter co-payments. An Executive proposal on comprehensive Medication Management was also rejected by the 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 were 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 \$9.3 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 Early

Intervention 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 in early 2017, the final budget created 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 causes 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.

Roundtable Discussions

Guardianship under Article 81 of the MHL

January 8, 2018

Albany, NY

The Senate Standing Committees on Health and Judiciary held a Roundtable discussion to examine issues relating to court ordered adult guardianship. Often times, with age and disability comes an increased reliance on the assistance of others; such assistance may encompass aid with paying one's bills, arranging for their medical care, their meals, and so on. While in some cases, one's family members or friends are able to assume this guardianship role and cater to such needs, many find themselves with no family or friends to turn to. For individuals lacking the mental capacity and financial means to pay for the assistance of a guardian, many of whom rely exclusively on social security, the state and county become the safety net. While each county in New York has an Adult Protective Services Office, there are often various issues regarding the appointment of guardianship, particularly for those individuals who lack resources to pay for a guardian. Having a guardian can help an incapacitated individual remain in the community and even delay the need for Medicaid. Thus, this Roundtable brought together state and county agencies, judges, advocates and experts in the field in an effort to explore the ways in which we can ensure that New York State's guardianship system is comprehensive and effective. The Senate secured \$500,000 in the 2018-19 SFY budget to establish court order guardianship demonstration programs in Nassau and Suffolk Counties.

Webcast of Guardianship Roundtable:

<https://www.nysenate.gov/calendar/events/health/kemp-hannon/january-08-2018/explore-how-improve-new-york-states-article-81>

Participants:

- **Hon. Arthur M. Diamond**, Supreme Court Justice, Nassau County
- **Hon. David H. Guy**, Surrogate Court Judge, Broome County
- **Michele Gartner, Esq.**, Special Counsel for Surrogate & Fiduciary Matters, Office of Court Administration
- **Alan J. Lawitz**, Adult Protective Services Director, Office of Children and Family Services
- **Sheila Harrigan**, Executive Director, New York Public Welfare Association
- **Tara Anne Pleat, Esq.**, Vice Chair Elder Law and Special Needs Section, NYS Bar Association
- **Jean Callahan, Esq.**, Attorney-in-Charge of Brooklyn Neighborhood Office, The Legal Aid Society
- **Karen L. Nicolson, Esq.**, Chief Executive Officer, Center for Elder Law and Justice
- **John Holt, Esq.**, Deputy Director of Legal Services, Vera Institute of Justice Inc., Guardianship Project

Roundtable Discussions

Ensuring Access to Naloxone

May 22, 2018

Albany, NY

The Senate Standing Committees on Health and Insurance, and Senators George A. Amedore, Jr., Fred Akshar, and Chris Jacobs, Co-chairs of the Senate Task Force on Heroin and Opioid Addiction, held a Roundtable discussion on access to opioid antagonists, such as Naloxone. The discussion primarily explored access and coverage issues in New York State since the continued rise in overdose deaths. It also examined the impact of the measures New York has already adopted in an effort to expand access to this life saving medication. Such measures include: providing free access through the Opioid Overdose Prevention Program, providing additional funding to equip first responders, creating the N-CAP program to cover the cost of co-payments for those receiving Naloxone through a commercial insurance, changing laws to allow for standing orders for community organizations and pharmacies needing to distribute to individuals without a patient specific prescription, and providing Good Samaritan protections to individuals who save another's life. Despite these efforts, issues with access and coverage are still widespread; thus, this Roundtable aimed to foster a much-needed dialogue between various stakeholders working on the matter, and revealed various opportunities to provide better access to Naloxone and get people the follow-up care they need after an overdose reversal.

Webcast of Ensuring Access to Naloxone Roundtable:

<https://www.nysenate.gov/calendar/events/health/kemp-hannon/may-22-2018/explore-access-and-coverage-opioid-antagonists-such>

Participants:

- **Valerie White**, Deputy Director NYS Department of Health, AIDS Institute
- **Robert A. Kent, Esq.**, Chief Counsel NYS Office of Alcoholism and Substance Abuse Services
- **Thomas Fusco, Esq.**, Senior Attorney NYS Department of Financial Services, Behavioral Health Bureau
- **Robert Delagi**, Director Suffolk County EMS/SEMSCO member
- **Peter Volkmann**, MSW, Chief Chatham Police Department
- **Michael Dailey**, M.D. Albany Medical Center/ Regional EMS Medical Director
- **Frank Dowling**, M.D. Psychiatrist/ Member, AMA Task Force on Opioid Abuse
- **Silas Smith**, M.D., Clinical Associate Professor Department of Emergency Medicine, NYU Langone
- **Jeffrey Reynolds**, Ph.D., CEO Family and Children's Assoc.
- **Mike Duteau**, R.Ph., President Chain Pharmacy Association of NYS
- **Kasey Lynn Gaeta, Esq.** CVS Caremark Corp.
- **Michael Vitali**, Senior Director, Gov't. Affairs (Via Skype) ADAPT Pharma
- **Eric Linzer**, CEO New York Health Plan Association
- **Sean Doolan**, Esq., Hinman Straub NYS Conference of BC/BS Plans

Roundtable Discussions

Low Nitrogen Fertilizer on Long Island

May 29, 2018
Farmingdale, NY

The Senate Standing Committees on Health and Environmental Conservation held a Roundtable Discussion on state legislation, S.8170/A.10276, limiting the sale and use of certain non-agricultural nitrogen fertilizer on Long Island.

Excess nitrogen has been proven to contribute to Harmful Algal Blooms (HABs) in marine and freshwater environments. Recognizing Long Island's sandy soil and uniquely fragile ecosystem, the Senate appropriated \$5 million in 2016 to study and create the Long Island Nitrogen Action Plan, and in the 2017-18 budget, funding from the \$2.5 billion Clean Water Bond Act of 2017 was made available for septic system replacement to address high nitrogen loads. Several scientific studies have identified lawn fertilizer as another significant contributor to excess nitrogen. In addition to nitrogen contributing to HABs, high nitrogen levels threaten Long Island's aquifer, the area's sole source of drinking water. Since nitrogen is a soluble substance, it deeply immerses into the soil after a rainstorm or after irrigation; when this happens, the nitrogen is able to reach ground water ways and wells in the surrounding area. Nearly 3 million people live on Long Island and depend on the aquifer for their drinking water. Thus, this Roundtable aimed to discuss how nitrogen fertilizers can be managed and/or reformulated to help reduce nitrogen contamination of water bodies on Long Island.

Webcast of Low Nitrogen Fertilizer on Long Island Roundtable:

<https://www.nysenate.gov/calendar/events/health/kemp-hannon/may-29-2018/consider-state-legislation-which-would-limit-sale-and>

Participants:

- **Anthony Leung**, P.E., M.B.A., Department of Environmental Conservation, Regional Water Engineer
- **David Berg**, Long Island Regional Planning Council, Program Manager
- **Doug Wood**, Grassroots Environmental Education, Associate Director
- **Nick Menchyk**, PhD, Farmingdale State College, Assistant Professor of Urban Horticulture and Design
- **Jeff Fedorchak**, Trugreen, Vice President Corporate Affairs
- **George Starkie**, Nassau Suffolk Landscape Gardeners Association
- **Mark Slavens**, Scotts Miracle Gro, Vice President of R&D
- **Thomas Kaplun**, Long Island Golf Course Superintendents Association, Director
- **Robert Carpenter**, Long Island Farm Bureau, Administrative Director
- **Adrienne Esposito**, Citizens Campaign for the Environment, Executive Director
- **Tyrand Fuller**, Suffolk County Water District, Lead Hydrogeologist
- **Christopher Gobler**, Ph.D., Stony Brook University, Professor of Marine and Atmospheric Sciences
- **Carol Isles**, Long Island Nursery and Landscape Association, President
- **Alison Branco**, Ph.D., The Nature Conservancy, Coastal Director

Passed Both Houses & 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.5171B/A.6371B)

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.4557B/A.6120B)

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.3762B/A.2859B)

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)

Elder Abuse Hotline

Veto 184 of 2017: This legislation would have created a hotline for the reporting of various forms of abuse that could jeopardize the health or welfare of vulnerable adults. The Governor vetoed this bill on November 29, 2017. (S.2154A/A.8160)

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.2542A/A.4377A)

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 kids, 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.3459A/A.2187A)

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.7727A)

Traumatic Brain 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 created 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.5661B/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.5662A/A.6408A)

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.7922A)

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.6715B)

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.387B)

DRAFT

Significant Legislation Passed by Senate

Lowering Standard for Elevated Blood Lead Levels - S.9078, sponsored by Senator Hannon, seeks to protect the health of New York's children by lowering the statutory standard for elevated blood lead levels from 10 pg/dL to 5 pg/Dl and setting for the CDC guidance or case management that must be provided at various blood lead levels. The legislation provides that should the Department of Health attempt to establish a different blood lead level by regulation, they would only be allowed to establish a level that is lower than 5 pg/dL. This legislation passed on June 19, 2018.

Anaphylactic Policy for Child Care Services - S.8785, sponsored by Senator Hannon, directs the Commissioner of Health to establish an anaphylactic policy for child care services, which include day care centers, nursery schools and preschool programs. The policy must include a procedure and treatment plan, training, and other elements to be followed by child care service personnel responding to anaphylaxis. This legislation passed on June 13, 2018.

Maternal Mortality Review Board - S.8907, sponsored by Senator Hannon, creates the Maternal Mortality Review Board in an effort to study and make recommendations to reduce maternal mortality and morbidity. The review board would assess the causes of death, factors leading to death, preventability for each maternal death, and develop strategies for reducing the risk of maternal mortality. This legislation passed on June 19, 2018.

Minimum Wage Pass Through for MLTC Providers - S.8473A, sponsored by Senator Hannon, ensures that all monies appropriated by the State to support the direct care cost of minimum wage increases for home care workers are distributed by plans in a timely manner, and in their entirety, in order to allow home care workers to receive their deserved increase in wages while protecting the economic viability of the home care industry. This legislation passed on June 19, 2018.

Exceptions to the LHCSAs - S.8942, sponsored by Senator Hannon, gives the Commissioner of Health the authority to provide exceptions to the Licensed Home Care Services Agencies (LHCSAs) moratorium if he or she deems the application consistent with the state's goals of consolidation and improving care delivery. In the 2018-19 adopted budget, a two-year moratorium was placed on the licensing of LHCSAs. The Department of Health released guidance on May 10th and sent letters to hundreds of providers with pending applications before the Department, many for a year or more; almost all of the applicants were advised that they did not meet the existing statutory exceptions and that their applications were no longer active. This legislation clarifies the original intent and provides a vehicle by which the Commissioner may provide exceptions to the moratorium when necessary. This legislation passed on June 20, 2018.

Opioid Epidemic & Substance Use Disorders:

- ❖ **Notifying Prescribers of Patients' Past Overdose** - S.2639, sponsored by Senator Lanza, requires hospitals and emergency room physicians to consult the prescription-monitoring registry and notify the patient's prescriber of the patient's treatment for an overdose, as such notification provides information that is vital for the proper medical treatment of the patient. This legislation passed on April 30, 2018.
- ❖ **Substance Use Disorder & Gambling Programs** - S.898A, sponsored by Senator Amedore, authorizes the Office of Alcoholism and Substance Abuse Services (OASAS) to provide grant

funding to substance use disorder and gambling programs operated by business entities, in addition to local governments and voluntary agencies; this would allow a greater number of providers to participate in state programs and enhance treatment and recovery options for New Yorkers. This legislation passed on April 30, 2018.

- ❖ **Scheduling of Fentanyl Derivatives** - S.5884A, sponsored by Senator Jacobs, designates certain fentanyl derivatives as Schedule I and Schedule II substances, as fentanyl and fentanyl-combined drugs are a major driver of the many recent overdoses in NYS. This legislation passed on June 4, 2018.
- ❖ **Prescribing Opioids to Minors** - S.5949, sponsored by Senator Akshar, addresses the growing epidemic of opioid addiction by prohibiting practitioners from prescribing opioids to minors for more than seven days, and requiring practitioners to address key topics with minors and their parent or guardian before they are issued a prescription containing an opioid. This legislation passed on April 30, 2018.
- ❖ **Kratom** - S.6924, sponsored by Senator Helming, prohibits individuals under the age of eighteen from purchasing or possessing any products containing kratom. This legislation passed on June 12, 2018.

Water Contamination & Lead:

- ❖ **Disposal of Toxic Pollutants** - S.2602, sponsored by Senator Lanza, prohibits the disposal of any dredged spoils containing toxic pollutants into the waters of the marine district, which are defined as the waters of the Atlantic Ocean within 3 nautical miles from the coast line and all other tidal waters within the state, except the Hudson River northerly of the south end of Manhattan Island. This legislation passed on June 13, 2017 and April 18, 2018.
- ❖ **Harmful Algal Blooms** - S.7752, sponsored by Senator Murphy, creates a mechanism by which the state can study, respond to, and mitigate harmful algal blooms. This legislation passed on May 7, 2018.
- ❖ **Perfluorooctanoic Acid in Municipal Water in Petersburg** - S.8408, sponsored by Senator Hannon, requires the Department of Health to conduct an assessment of alternatives to eliminate or reduce perfluorooctanoic acid in the municipal water supply in Petersburg, New York. This legislation passed on May 7, 2018.

Smoking-related Legislation:

- ❖ **Smokeless Tobacco on School Grounds** - S.4677, sponsored by Senator Sanders, prohibits the use of smokeless tobacco on school grounds in the same way that tobacco is currently prohibited in such a space. This legislation passed on June 6, 2018.
- ❖ **Electronic-cigarettes and Liquid Nicotine** - S.8609A, sponsored by Senator Hannon, expands current school-based programs and marketing initiatives aimed at reducing tobacco use, to include electronic cigarettes and liquid nicotine use, and directs the Tobacco Use Prevention and Control Advisory Board to advise the Commissioner on prevention and control of electronic cigarette and liquid nicotine use amongst minors. The bill would also require any person selling or offering electronic cigarettes or liquid nicotine, to register with the Department of Taxation and Finance in order to sell such products. This legislation passed on June 19, 2018.

Lyme & Other Tick-borne Diseases:

- ❖ **Graduate Education on Lyme & Other Tick-borne Diseases** - S.2621A, sponsored by Senator Serino, authorizes the Commissioner of Health to award grants for graduate medical education in Lyme and tick-borne diseases, and to designate organizations as centers of excellence for Lyme and other tick-borne diseases. This legislation passed on May 15, 2017 and June 4, 2018.
- ❖ **Diagnosis & Treatment of Lyme & Other Tick-borne Diseases** - S.6926, sponsored by Senator Hannon, requires the Commissioner of Health to work with health care providers and experts to develop a standard protocol and patient notification system for the diagnosis and treatment of Lyme and other tick-borne diseases. This legislation passed on May 16, 2018.
- ❖ **Examination of Deceased People with Lyme or Other Tick-borne Diseases** - S.7168, sponsored by Senator Serino, requires coroners, pathologists, medical examiners, and others qualified to conduct examinations of deceased people to report cases to the Department of Health when the deceased person was afflicted with Lyme or other tick-borne diseases. This legislation passed on May 16, 2018.
- ❖ **Testing Children for Lyme and Other Tick-borne Diseases** - S.7169, sponsored by Senator Serino, creates a pilot program, to be established by the Commissioner of Health, centered on testing children for Lyme and other tick-borne diseases. This legislation passed on May 16, 2018.
- ❖ **Blood Donation by Patients with Lyme or Other Tick-borne Diseases** - S.7208, sponsored by Senator Serino, requires the Council on Human Blood and Transfusion Services in the Department of Health to review current medical research and guidance related to the donation of blood by patients with a history of Lyme and tick-borne diseases, and provide recommendations to the Commissioner of Health on the collection and distribution of such blood. This legislation passed on May 16, 2018.
- ❖ **Parent Notification Protocol when Student has Tick Removed** - S.8534, sponsored by Senator Serino, directs the Commissioners of Education and Health to promulgate and review rules and regulations related to the parent notification process when a pupil has a tick removed from them during school or a school sponsored activity. This legislation passed on May 16, 2018.
- ❖ **Access to Care, Treatment of Lyme & Health Insurance Coverage** - S.8539, sponsored by Senator Serino, directs the Superintendent of Financial Services and Commissioner of Health to study the relationship between patient access to care, and the treatment of Lyme disease and health insurance coverage. This legislation passed on May 16, 2018.
- ❖ **Insurance Coverage** - S.2168, sponsored by Senator Serino, 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 and March 26, 2018.

Organ Donation:

- ❖ **Transportation of Human Organs** - S.2162A, sponsored by Senator Serino, designates any vehicles operated by an organ procurement organization, for the purpose of transporting human organs, as authorized emergency vehicles in order to expand available options for transporting organs in such situations. This legislation passed on May 2, 2017 and January 30, 2018.

❖ **Donate Life Registration -**

- S.6963, sponsored by Senator Larkin, creates another path to increase enrollment in the NY Donate Life Registry by allowing people to register when applying for or renewing a hunting, fishing or trapping license. This legislation passed on February 28, 2018.
- S.474C, sponsored by Senator Peralta, 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.2497, sponsored by Senator Hannon, 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.5283C, sponsored by Senator Jacobs, allows SUNY, CUNY, and library card applicants to register as an organ, eye and tissue donor to increase the convenience for younger populations to enroll in the Donate Life Registry. This legislation passed on May 15, 2017 and February 13, 2018.
- S.5781A, sponsored by Senator Hannon, 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, sponsored by Senator Peralta, 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 and March 12, 2018.

Mental Health:

- ❖ **Extending Kendra's Law - S.516B**, sponsored by Senator Young, aims to improve care for people with serious mental illness and to protect the safety of patients and the public. This bill would streamline and improve New York's Assisted Outpatient Treatment Program by extending the existing law. Kendra's law, originally enacted in 1999 (Chap. 408), established a statutory framework for court ordered assisted outpatient treatment (AOT), which is intended to ensure that individuals with mental illness and a history of hospitalizations 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 meet specific criteria to receive and engage in outpatient treatment. This legislation passed on May 1, 2017 and March 26, 2018.
- ❖ **Services in Schools - S.7805**, sponsored by Senator Croci, creates a Mental Health Services Coordinator Program, sets specific qualifications for a mental health services program coordinator, and establishes a grant program to reimburse school districts outside of New York City for the hiring of a mental health services professional. This legislation passed on March 5, 2018.
- ❖ **Rural Suicide Prevention Council - S.7920B**, sponsored by Senator Valesky, creates a rural suicide prevention council to reduce the growing rate of suicide in rural New York. This legislation passed on June 7, 2018.

Health Insurance:

- ❖ **In Vitro Fertilization (IVF) - S.8441B**, sponsored by Senator Phillips, requires insurance coverage in every policy issued in New York State for hospital, surgical, or medical care for the treatment of infertility by means of in-vitro fertilization or standard fertility preservation. Medical insurance policies would have to provide a maximum lifetime limit of \$50,000 coverage for the treatment of infertility, and provisions exempting in-vitro fertilization coverage requirements for group or blanket accident and health insurance plans would be repealed from the Insurance Law. Additionally, the Superintendent of the Department of Financial Services (DFS) and Commissioner of Health would be required to report on the impact that IVF and fertility preservation would have on insurance premiums, as well as the overall cost to the state. This legislation passed on June 20, 2018.
- ❖ **Health Insurance Revenues from Tax Cuts - S.7587A**, sponsored by Senator Hannon, requires that any revenue gained by for-profit health insurance plans as a direct result of the federal Tax Cuts and Jobs Act of 2017 is returned to consumers and taxpayers. This legislation passed on February 5, 2018.

Health Care Professions:

- ❖ **Supervision of Physician Assistants - S.2246**, sponsored by Senator Hannon, removes the limitation on the number of physician assistants (PAs) that may be supervised by a particular physician at any one time in an effort to increase efficiency and access to primary care. This legislation passed on June 8, 2017 and May 14, 2018.
- ❖ **Including Dentists in DANY Program - S.3939A**, sponsored by Senator Young, allows dentists to be included in the distribution of funds for the Doctors Across New York program, in an effort to provide more dental services to underserved areas of the state. This legislation passed on May 23, 2017 and February 28, 2018.
- ❖ **Registered Professional Nurses Providing In-home Care to their Relatives - S.6054A**, sponsored by Senator Hannon, allows Medicaid recipients who have been approved for in-home private duty nursing to apply to the Commissioner of Health to allow a relative who is a registered professional nurse, licensed in New York State, to provide nursing care to the recipient at the nursing rate of pay. This legislation passed on June 19, 2017 and March 5, 2018.
- ❖ **Removing Requirement of Collaborative Agreements for Purchase of AEDs - S.6358**, sponsored by Senator Hannon, removes the requirement of collaborative agreements between emergency health care providers and entities looking to purchase automated external defibrillators (AEDs), as such devices have become more user friendly over the years and have made such collaborative agreements unnecessary. This legislation passed on June 19, 2017 and March 19, 2018.
- ❖ **Labor Market Study of Home Care & Hospice Workforce - S.8559**, sponsored by Senator Serino, directs the Commissioner of Labor, with the assistance of collaborating state agencies, to conduct a competitive labor market study to assess and make recommendations for home care and hospice capability to compete in the labor market. This study would be aimed at understanding the recruitment and retention of direct care staff needed to meet patient and health system needs, and to establish a taskforce to promote entrance, practice, career development and retention in home health and hospice occupations - including home health aide, nursing, physical therapy, occupational therapy, social work and others designated by the Commissioner. This legislation passed on June 18, 2018.

- ❖ **Office-based Surgery Workgroup** - S.8474, sponsored by Senator Hannon, creates an office-based surgery workgroup consisting of nine members to be appointed by the Governor to review the history of the office-based surgery (OBS) industry in the state, the impact the law has had on the number and distribution of OBS entities, patient access, rates of reimbursement, as well as industry trends and comparisons with respect to cost, access and scientific data regarding patient outcomes. The workgroup would also be charged with making recommendations to the Legislature relating to their findings. This legislation passed on June 19, 2018.

Traumatic Brain Injury (TBI) - S.1870, sponsored by Senator Hannon, prevents waived Medicaid services provided to people suffering from traumatic brain injuries or qualifying for nursing home diversion and transition services from being moved into managed care. This legislation passed on March 1, 2017 and March 13, 2018.

Aging in Place Council - S.7949B, sponsored by Senator Serino, creates the Aging in Place Council to study and provide recommendations for improvements that will promote older persons being able to age in place. This legislation passed on June 7, 2018.

Sepsis Prevention, Screening, Intervention & Education - S.8669, sponsored by Senator Hannon, authorizes state Department of Health support for home care sepsis screening, prevention, intervention, mitigation, cross-sector collaboration and public education. This legislation would further assist both home care and continuum partners in mutual work to address Sepsis by providing key support in principal areas of technical need required for the adoption and implementation of this sepsis innovation. Lastly, this bill would further synchronize home care with clinical partners across the continuum of care (hospitals, physicians, EMS, health plans, and others) in a coordinated response to sepsis. This legislation passed on June 19, 2018.

Informational Materials on Menstrual Disorders - S.8543, sponsored by Senator Serino, directs the Commissioner of Health, in conjunction with the Commissioner of Education, to create informational materials to be provided to school districts and health care practitioners, upon request, on menstrual disorders. Such materials would need to include information on symptoms, the importance of menstrual health, statistics on endometriosis and other menstrual disorders, best practices on being one's own healthcare advocate, and basic treatment options and recommendations for follow-up care. This legislation passed on June 13, 2018.

Exemptions from Certain Electronic Prescription Requirements - S.8943, sponsored by Senator Hannon, allows non-electronic prescriptions to continue to be made through the long-established mechanism of oral prescriptions being submitted by nursing homes for their residents. This is very helpful, as physicians are not physically present in nursing homes 24 hours a day, which makes nurses crucial to ensuring proper medication administration in nursing homes. The state has provided a waiver to the e-prescribing statute through an administrative directive each year, and this bill would provide a statutory waiver past the October 2018 date, which it when the state's current waiver expires. This legislation passed on June 19, 2018.

Clean Water:

- ❖ S.3772B, sponsored by Senator Hannon, builds 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.4406A, sponsored by Senator Sanders, requires every water works corporation to post the annual water supply statement on its website or on the website of the municipality, which the water works corporation serves. This legislation passed on June 20, 2017 and May 1, 2018.
- ❖ S.6655, sponsored by Senator Hannon, 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 and May 7, 2018.

Community Paramedicine - S.5588, sponsored by Senator Hannon, 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, 2017.

Traumatic Brain Injury (TBI) Patients:

- ❖ S.517, sponsored by Senator Young, 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, sponsored by Senator Hannon, 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 and March 13, 2018.

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.933A 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 and S.6759 adds various substances to conform to federal schedule
- ❖ S.1246, sponsored by Senator Valesky, 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 and June 12, 2018.

Fraudulent Prescriptions - S.2814, sponsored by Senator Hannon, 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 and April 30, 2018.

Provider Misconduct - S.1380A, sponsored by Senator LaValle, 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 back ground 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, sponsored by Senator Hannon, 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, sponsored by Senator Serino, 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.

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