REPORT OF THE NEW YORK STATE SENATE STANDING COMMITTEE ON HEALTH

234TH-235TH LEGISLATIVE SESSION (2011-2012)

Senator Kemp Hannon
Chairman

Dear New York State Resident,

As Chairman of the New York State Senate Health Committee, I am pleased to provide the legislative session report for 2011 and 2012 detailing the Committee's accomplishments. During this very active session, the Committee held regular meetings to consider a host of important legislative proposals as well as the Governor's appointment nominees, including the confirmation of Nirav Ramesh Shah, M.D., M.P.H., as the new Commissioner of Health. Additionally, the Committee held two public hearings and seven roundtable discussions on a variety of significant public health issues including prescription drug abuse, the establishment of a Health Benefit Exchange in New York State, and Telemedicine and Telehealth. The Committee issued reports as a result of the roundtables including, "The Prescription Drug Crisis in New York State: A Comprehensive Approach" and "State and Local Response to Eastern Equine Encephalitis."

Among the many bills which came before the Committee was the Concussion Management and Awareness Act of 2011 (Ch. 496) which took effect in July 2012. This new law requires coaches to remove from play for at least 24 hours, any student athlete who is suspected of having sustained a concussion. Additionally, the student is required to have a physician's authorization in order to return to play. For far too long student athletes who sustain a concussion have been allowed to return to play only to find out later the injury was more substantial than first believed.

In August 2012, following the Committee's two roundtable discussions and report, the historic I-STOP (Internet System for Tacking Over-Prescribing) Act (Ch. 447) was enacted. This new law will curb prescription drug abuse by requiring "real time" tracking and monitoring of controlled substance prescribing, preventing doctor shopping, requiring electronic prescribing, increasing the scheduling of Hydrocodone, and providing for the safe disposal of excess drugs. I am very proud of New York for taking this aggressive stance in response to the prescription drug abuse crisis.

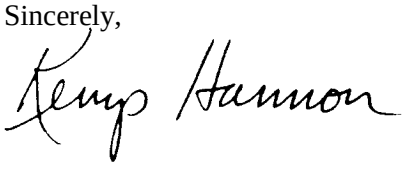
New York State faced an unprecedented financial crisis with a $10 billion budget gap in 2011 and, as a result, significant programmatic changes were adopted as part of the SFY 2011-12 health budget. The on-time budget reduced state health care spending by $2.8 billion. Many of the budget actions such as the two year global cap on Medicaid spending and the move to managed care for nearly all Medicaid recipients were attributable to the Medicaid Redesign Team (MRT) established by Governor Cuomo in January 2011 (Executive Order #5). As an appointed member of the MRT, I worked with other stakeholder-members to review and consider a myriad of public policy proposals. The SFY 2012-13 budget saw a continuation of the global cap for another two years and the state takeover of Medicaid growth and administration from localities. The Senate was also successful in procuring $30.6 million in funding to restore EPIC for seniors beginning in January 2013.

To date, as a result of the last two years of reforms, New York has been successful in keeping Medicaid spending under the newly established cap. In August 2012, the Department of Health submitted a 1115 Medicaid waiver amendment requesting that the federal government allow New York to reinvest over a five year period up to $10 billion of the $17.1 billion in federal savings generated by the MRT reforms. This waiver would allow the state to fully implement the MRT reforms and successfully transform our health care system, thus generating further savings.

In December 2012, New York was one of 12 states that received conditional approval from the federal government to operate a state-based health benefit exchange. Under the federal Affordable Care Act, an exchange must be operating in every state starting in 2014. New York's Exchange will allow individuals, families and small business to compare health insurance coverage options and purchase health insurance beginning in October 2013. The Exchange will also provide information on financial assistance for purchasing insurance and/or applying for publicly funded health care programs like Medicaid.

The attached report includes summaries of the health bills from this past session, descriptions of the various public hearings, roundtables, confirmations conducted by the Committee, a brief synopsis of the SFY 2011-12 and SFY 2012-13 health budgets, and the progress of the MRT and Health Benefit Exchange in New York State. The Health Committee's web page http://www.nysenate.gov/committee/health provides video footage of many of the events described and additional information that may interest you.

Sincerely,



Kemp Hannon

6th Senatorial District

REPORT OF THE NEW YORK STATE SENATE
STANDING COMMITTEE ON HEALTH
234TH – 235TH LEGISLATIVE SESSION
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HEALTH CHAPTERS

Patient Safety & Rights

Chapter 167 of 2011: In accordance with the intent of the Family Health Care Decisions Act (FHCDA), this chapter authorizes family members to make surrogate hospice care decisions for patients lacking decision-making capacity. On November 30, 2010—after hearing various views and engaging in a deliberative process—the New York State Task Force on Life and Law issued an initial recommendation to extend and amend the FHCDA. This law incorporates those recommendations, which relate to hospice care. This legislation was signed by Governor Cuomo on July 20, 2011 and took effect 60 days thereafter. (S.5259-A/A.7343-A)

Chapter 307 of 2011: This measure clarifies that in the absence of an authorization by a patient, a trial subpoena duces tecum (i.e. a subpoena for the production of evidence) for the patient's medical records may only be issued by a court. This measure addresses the concern of medical providers by making it clear, if a patient has not authorized the release of medical records, then a subpoena duces tecum for medical records may be issued only by a court order, and not by an attorney. This legislation was signed by Governor Cuomo on August 3, 2011 and became effective immediately. (S.4586-A/A.7465-A)

Chapter 354 of 2011: This chapter extends the study to establish safe patient handling programs throughout the state for an additional two years. This study will build upon existing evidence-based data and, ultimately, design a "best practice" for safe patient handling in New York State health care facilities. After being signed by Governor Cuomo on August 3, 2011, this law became effective immediately. (S.5569/A.7772)

Chapter 441 of 2011: This chapter extends the scope of hospice care to people with a life expectancy of less than 12 months, and permits a hospice to employ or contract with licensed health care professionals to provide authorized health care services. Further, the chapter defines "terminally ill" as a patient with a medical prognosis encompassing the individual's life expectancy to be approximately less than one year. Current state law does not define "terminally ill," but Medicare uses a six-month standard. This statutory definition would not alter what Medicare pays for, but it would enable hospice to serve patients for up to a year for payment other than Medicare. This bill was signed by Governor Cuomo on August 17, 2011 and became effective immediately. (S.5554/A.7650-A)

Chapter 509 of 2011: This legislation directs the Department of Health (DOH) to designate and establish standards for health-related legal service programs. The programs shall be designed with the purpose of serving low-income individuals and families facing legal issues relating to health care, or otherwise having an impact on patient health. The law will help promote collaborations between health care service providers and legal aid programs to resolve the practical needs of patients. This legislation was signed by Governor Cuomo on September 23, 2011 and became effective immediately. (S.5556/A.3304-A)

Chapter 512 of 2011: This chapter requires that individuals applying for medical assistance be provided with a model health care proxy form. A valid health care proxy enables patients to pre-select someone to make treatment decisions on their behalf in the event of incapacity. This legislation will increase the awareness of the importance of a health care proxy, with the hope of encouraging more New Yorkers to complete them. Ultimately, this will ensure that decisions regarding one's health care are more frequently honored. This legislation was signed by Governor Cuomo on September 23, 2011 and became effective 60 days thereafter. (S.4830-A/A.4899-A)

Chapter 256 of 2012: This bill amends the Public Health Law (PHL) to improve patient care by requiring patients diagnosed with a "terminal illness condition" be given information regarding other appropriate treatment options should the patient wish to initiate or continue treatment in addition to or in place of palliative end-of-life care. This legislation was signed by Governor Cuomo on July 18, 2012 and became effective 180 days thereafter. (S.7596/A.10373)

Chapter 280 of 2012: This bill requires the DOH to include a notification that physician information provided on their website may not be all-inclusive and up-to-date and to encourage consumers to consult additional information when selecting a physician. Additionally, under this bill, the DOH must provide an active link to the website maintained by the uniform court system containing information on active and disposed cases in the local and state courts in the state. This legislation was signed by Governor Cuomo on August 1, 2012 and became effective 60 days thereafter. (S.6069-B/A.8414-B)

Chapter 501 of 2012: This act strengthens and standardizes the safeguards for vulnerable children and adults who receive care from New York's human services agencies and programs. It creates a Justice Center for the Protection of People with Special Needs, a new entity that will cut across bureaucratic lines and have as its primary purpose and responsibility the protection of the health, safety and welfare of vulnerable persons. The Justice Center will also improve the state's response to allegations of abuse and neglect for individuals served in both residential and non-residential facilities. The bill also creates other protections for people with special needs by strengthening criminal statutes that make abuse of vulnerable or disabled persons a crime. It promotes transparency by requiring non-state operated and provider agencies to disclose the same information relating to abuse and neglect as state agencies are required to do under the Freedom of Information Law. This legislation was signed by Governor Cuomo on December 17, 2012 and took effect immediately. (S.7749/A.10721)

Public Health & Safety

Chapter 127 of 2011: This chapter regulates the availability of, and access to, ipecac syrup. Ipecac syrup, used to induce vomiting, serves an important function in poisoning cases. However, in recent years, there has been an increase in ipecac abuse among individuals suffering with bulimia, anorexia and binge-eating disorder. This legislation is intended to combat that abuse by requiring ipecac syrup be placed behind the pharmacy counter, and made available upon request. After signed by Governor Cuomo on July 8, 2011, this law took effect immediately, provided that the necessary regulations are in effect within 180 days from said date. (S.3102/A.372)

Chapter 130 of 2011: This amends the Public Health Law (PHL) to add two substances commonly known as MDPV or "bath salts" to the Schedule I controlled substance list. These dangerous substances— being marketed under brand names such as Cloud Nine, Scarface, White Dove, White Lightning, Ivory Wave, and Hurricane Charlie— are snorted to produce a high. Users have reported disturbing side effects lasting days after ingestion that include paranoia, hallucinations, agitations, and suicidal thoughts. Signed by Governor Cuomo on July 15, 2011, the law took effect 30 days thereafter. (S.3322-B/A.4769)

Chapter 131 of 2011: This chapter prohibits the sale of certain tobacco-smoking paraphernalia to minors under the age of 18. These products include hookahs, water pipes, and rolling papers. The legislation also bans the sale of shisha—a product made primarily of tobacco or other leaf, which is intended to be smoked through a hookah or water pipe—and herbal cigarettes to minors. Any person operating a place of business wherein these products are sold, or offered for sale, may only sell these products to individuals with proper age identification. This legislation was signed by Governor Cuomo on July 15, 2011 and became effective immediately. (S.4269-A/A.6037-A)

Chapter 151 of 2011: As requested by the Hampton Lifeguard Association, this chapter allows bathing establishments to keep and maintain a personal watercraft vessel to assist in rescuing persons in danger of drowning. This bill was signed by Governor Cuomo on July 20, 2011 and became effective immediately. (S.1457-A/A.1410-A)

Chapter 154 of 2011: Encourages a witness or victim of a drug or alcohol related overdose to call 911 or seek other emergency assistance in order to save the life of an overdose victim by establishing a state policy of protecting the witnesses or victim from arrest, charge, and prosecution for drug possession, drug paraphernalia possession, and certain alcohol related offenses. This legislation was signed by Governor Cuomo on July 20, 2011 and became effective sixty days thereafter. (S.4454-B/A.2063-C)

Chapter 193 of 2011: Aligns the maximum civil penalties that may be assessed for violations of the State Sanitary Code by the state and local boards of health (LBOH). Under this chapter, a LBOH may impose a penalty not to exceed $2,000 for the violation or failure to comply with any of its orders, regulations, or any provisions of the State Sanitary Code. Prior to this legislation, the maximum penalty a LBOH could impose was $1,000 per violation or failure; however, the state was authorized to impose a maximum penalty of $2,000. This legislation was signed by Governor Cuomo on July 20, 2011 and became effective 30-days thereafter. (S.3470/A.346)

Chapter 198 of 2011: This chapter authorizes the DOH to share information with local health departments (LHDs), including identifying information, about environmentally related diseases. More specifically, the DOH may share said information when it deems such to be necessary to protect the public health against hazards associated with exposure to these illnesses. The LHD cannot further disclose any of the information provided. Governor Cuomo signed this into law on July 20, 2011 and it became effective immediately. (S.4201/A.7858)

Chapter 220 of 2011: The 2011-12 enacted budget limited Medicaid coverage of speech therapy, physical therapy and occupational therapy to 20 times or less per year. While the law provided exceptions for persons with developmental disabilities, it did not provide such exceptions to persons suffering from traumatic brain injuries (TBIs). Therapeutic interventions such as speech, physical and occupational therapy are critical to an individual suffering from TBI to assist them in recovering and/or maintaining as many life skills as possible. In addition, the provisions of these therapies can be critical to maintaining an individual at home versus more costly and restricting settings such as nursing homes or other institutional settings. Therefore, the elimination of this 20 visit cap for TBI is critical to achieving savings in Medicaid. This legislation was signed July 20, 2011 and took effect along with the budget provisions. (S.5851/A.8515)

Chapter 389 of 2011: Prohibits smoking outdoors on ticketing, boarding and platform areas of railroad stations operated by the Metropolitan Transportation Authority (MTA) and its subsidiaries. Expanding the smoking ban to outdoor areas of MTA-operated railroad stations will help protect mass transit riders from exposure to second hand smoke, a known carcinogen. This legislation was signed by Governor Cuomo on August 15, 2011 and became effective 90 days thereafter. (S.3461-C/A.5516-C)

Chapter 471 of 2011: This bill clarifies that a municipality may provide emergency medical services within its own physical boundary, as well as the physical boundaries of the municipalities it has jointly contracted with to perform such services. This measure was signed by Governor Cuomo on August 17, 2011 and became effective immediately. (S.4206/A.7196)

Chapter 510 of 2011: This chapter permits, upon approval of the county health authority, at-home confinement of animals suspected of having rabies. The owner of such animal is required to notify the public health authority if the animal becomes ill during confinement. This measure was signed by Governor Cuomo on September 23, 2011 and took effect ninety days thereafter. (S.4566/A.3388)

Chapter 567 of 2011: Increases the number of members on the state emergency medical advisory committee from 29 to 31 members. The commissioner is to appoint 23 members, including one nominated by each regional emergency medical services council, an additional physician from New York City, one pediatrician, one trauma surgeon, one psychiatrist and a chairperson. This bill was signed by Governor Cuomo on September 23, 2011 and became effective 120 days thereafter, with certain provisions. (S.4621-A/A.7311-A)

Chapter 29 of 2012: This legislation makes possession and sale of embalming fluid, outside the general scope of the activities as a funeral director or embalming professional, a misdemeanor. The ingestion or inhalation of embalming fluid in combination with other illegal drugs produces a hallucinogenic reaction. This legislation was signed by Governor Cuomo on May 18, 2012 and became effective 180 days thereafter. (S.657-A/A.3964-A)

Chapter 158 of 2012: This bill revises the New York State Donate Life Registry for organ and tissue donation to provide the notice confirming registration through the Registry's website can be provided in electronic form and clarifies that individuals may also amend or revoke their registration by electronic signature. By making the Registry more accessible, this legislation is anticipated to substantially increase the number of donors within the state, a desperately needed improvement as New York State currently has one of the lowest registration rates in the nation. This legislation, signed by Governor Cuomo on July 18, 2012, took effect immediately. (S.6972/A.9901)

Chapter 447 of 2012: This bill enacts the Internet System for Tracking Over-Prescribing (I-STOP) Act to address the diversion and abuse of controlled substances, promote safe and effective use of prescription drugs, and create an enhanced prescription monitoring program registry. I-STOP requires "real time" tracking of controlled substance prescriptions and requires the DOH to establish a safe disposal program to facilitate consumer disposal of unused medications. The act also updates the state's controlled substance schedules and expands the duties of the workgroup established under the Prescription Pain Medication Awareness Program. This legislation was signed by Governor Cuomo on August 27, 2012 and took effect immediately. (S.7637/A.10623)

Chapter 464 of 2012: This bill authorizes the city of Utica and the city of Glens Falls, or fire districts acting on behalf of such cities, to apply for permanent certification to provide ambulance services without being required to apply to its regional emergency medical services council or the state emergency medical services council for a determination of need. Instead, the city's application shall be submitted to the Commissioner of Health. This legislation was signed by Governor Cuomo on October 3, 2012 and took effect immediately. (S.7013-C/A9943-C)

Chapter 465 of 2012: This act establishes Lauren's Law, amending the PHL and the Vehicle and Traffic Law to require individuals who apply for a New York State Drivers License to complete the section of the application pertaining to organ donor registry. The applicant must check the box for either "yes" or "skip this question." According to the New York State Organ Donor Network, New York State currently has the lowest Donor Designation Rate (DDR) in the U.S., with only 11% of eligible donors currently enrolled in the NYS Organ and Tissue Registry (compared to the 43% national average). This bill aims to increase the New York DDR percentage while taking into consideration an individual's right to decline enrollment into the program. This legislation was signed by Governor Cuomo on October 3, 2012 and takes effect one year from such date. (S.7103-A/A.10039-B)

Chapter 469 of 2012: This bill amends the PHL to provide, subject to appropriation, full reimbursement to counties for emergency aerial spraying for mosquitoes on state land. This legislation was signed by Governor Cuomo on October 3, 2012 and took immediate effect. (S.7340/A.10372)

Women, Children, & Family Health

Chapter 265 of 2011: This bill requires the Office of Alcoholism and Substance Abuse Services (OASAS), in consultation with the DOH, to provide and publish educational materials for health care providers concerning screening, assessment, and diagnosis of women for alcoholism and chemical dependency. Giving providers access to these materials will increase the number of women screened for substance abuse and, consequently, an increase the number of women receiving adequate treatment. This bill was signed into law by Governor Cuomo on August 3, 2011 and became effective immediately. (S.3279/A.1078)

Chapter 269 of 2011: This chapter allows minors in a correctional facility to consent to the Hepatitis B immunization without the added consent of a guardian. The minor must otherwise have the capacity to consent, meaning that, without regard to the individual's age, he or she is able to understand and appreciate the nature and consequences of the decision. In order to control the spread of Hepatitis B in correctional facilities, the Centers for Disease Control strongly recommends that all juveniles receiving a medical evaluation in a correctional facility be administered the vaccine. Hepatitis B often transmits through high risk sexual activity and intravenous drug use. Often minors do not want their parents or guardians to be informed of such activities, and as a result they do not receive the vaccination. By eliminating the consent of a guardian, this legislation aims to increase the number of minors that choose to be immunized. This bill was signed by Governor Cuomo on August 3, 2011 and became effective immediately. (S.1408/A.2812)

Chapter 496 of 2011: Known as The Concussion Management and Awareness Act, this legislation requires the Education Department, in consultation with the DOH, promulgate rules and regulations establishing a course of instruction relating to recognizing symptoms of mild TBIs in pupils, on methods of monitoring such injuries, and seeking proper medical treatment for TBIs. Both departments are required to post information regarding mild TBIs on their respective websites. Such information is also to be provided by the local school district and to be included on parental consent forms. Additionally, the bill requires coaches to remove any student athlete from play who is suspected of having sustained a concussion. A student must be symptom free for at least 24 hours and obtain a physician's authorization prior to resuming athletic activities. This Act aims to protect New York's children by ensuring that proper steps are taken to recognize these injuries and manage them in a consistent way across the state. This Act was signed into law by Governor Cuomo on September 19, 2011 and took effect July 1, 2012. (S.3953-B/A.8194)

Chapter 552 of 2011: This chapter requires the DOH to establish a certificate of stillbirth. This new certificate does not serve as proof of a live birth, but is an official government document issued to families as evidence they experienced a birth resulting in stillbirth. Currently, the PHL considers a fetal death to be a birth and a death. While the law requires recording of the death, it does not require issuance of both a birth and death certificate. By providing a certificate of stillbirth upon request of the family, this legislation acknowledges the difficult process grieving families have been through, and aims to provide some solace to them in their healing process. This legislation was signed by Governor Cuomo on September 23, 2011 and took effect 180 days later. (S.3111-B/A.8178-A)

Chapter 39 of 2012: This act amends the PHL to require a hospital, when treating a victim of sexual offense, make available appropriate HIV Post-Exposure Prophylaxis (PEP), including a seven day starter pack of PEP. The hospital emergency room department is also required to provide or arrange an appointment for medical follow-up treatment pertaining to PEP. Additionally, this act amends the Executive Law to require the Office of Victim Services, which is required to cover forensic exam services, to cover necessary pharmaceuticals, including but not limited to HIV PEP provided at the time of the forensic rape exam. This legislation was signed by Governor Cuomo on May 31, 2012 and became effective 180 days thereafter. (S.3200-B/A.669-C)

Chapter 105 of 2012: This act amends the PHL to prohibit minors 16 years of age and under from using ultraviolet radiation devices. Skin cancer is the most common form of cancer in the United States. Because the harmful effects of UV exposure accumulate over time, indoor tanning devices pose a greater risk to children and teens by boosting overall lifetime exposure. This amendment aims to better protect youth from the potentially deadly health risks associated with indoor tanning. This legislation was signed by Governor Cuomo on July 16, 2012 and took effect 30 days thereafter. (S.2917-A/A.1074-B)

Chapter 130 of 2012: This act amends the PHL to add siblings to the list of authorized family members of the deceased to whom the Commissioner of Health may issue a death certificate to upon request. This legislation was signed by Governor Cuomo on July 18, 2012 and took effect immediately. (S.6314/A.9107)

Chapter 215 of 2012: This act requires general hospitals with a newborn nursery or that provide obstetric services to offer the vaccination against Bortella Pertussis (whooping cough) to parents and anticipated caregivers of hospitalized newborns. Newborns face a very high risk of disability or death if they contract whooping cough; this legislation reduces the likelihood that newborns will be exposed to whooping cough after birth. Signed by Governor Cuomo on July 18, 2012, this bill took effect 180 days thereafter. (S.6500/A.9381)

Chapter 265 of 2012: This bill creates a duty in providers of mammography services to notify and inform patients if a mammogram demonstrates dense breast tissue. Mammography providers must explain to patients with dense breast tissue that dense tissue is not abnormal but it can make it more difficult to detect cancer on a mammogram and may also be associated with an increased risk of breast cancer. Further, this bill requires the mammography provider to recommend the patient consult with their physician regarding these results and additional screenings. This legislation was signed by Governor Cuomo on July 23, 2012 and became effective 180 days thereafter. (S.6769-B/A.9586-D)

Chapter 270 of 2012: This bill prohibits the owner, operator or employee of a body piercing studio from performing a body piercing on any person under 18 years of age without the written consent of a parent or guardian, signed in the presence of the owner or specialist of such studio. Body piercings often are documented to have adverse health effects. This legislation works to mitigate the dangerous effects of body piercing by requiring that parents/guardians play a role in the decisions for persons younger than 18 to receive a piercing. This legislation was signed by Governor Cuomo on July 30, 2012 and became effective 90 days thereafter. (S.7446/A.10095)

Chapter 302 of 2012: This bill amends the Insurance Law to require insurance coverage for breast reconstruction surgery after a partial mastectomy. Women who undergo partial loss of a breast will now have the same option of reconstruction surgery that women who have full mastectomies are entitled to by law. This legislation was signed by Governor Cuomo on August 1, 2012 and became effective immediately. (S.3801-A/A.7193-A)

Chapter 448 of 2012: This bill bans the sale and distribution of electronic cigarettes to persons under the age of 18. By prohibiting the sale to minors, regulation of electronic cigarettes now conforms to laws regulating tobacco products, herbal cigarettes, and shisha. Despite their widespread use, little is known about the safety of electronic cigarettes. This legislation protects minors from the health risks of this product. This legislation was signed by Governor Cuomo on September 5, 2012 and becomes effective January 1, 2013. (S.2926-B/A.9044-B)

Chapter 449 of 2012: This bill amends the PHL and the Education Law to prohibit smoking within 100 feet of any public or private educational institution. By removing smokers from doorways of schools, the bill protects students from the harmful exposure of secondhand smoke. This legislation was signed by Governor Cuomo on September 5, 2012 and took immediate effect. (S.6854-B/A.10141-B)

Chapter 480 of 2012: This bill amends the PHL in relation to the adoption registry. Persons not born in New York State whose adoptions were finalized in New York State may now participate in the New York State adoption registry. This legislation was signed by Governor Cuomo on October 3, 2012 and took immediate effect. (S.5145/A.8307)

Health Insurance

Chapter 219 of 2011: This act makes numerous conforming changes required by the federal Affordable Care Act (ACA). The "six month reforms" required under the ACA and subsequent regulations include the following protections: requirements for coverage of preventive services for children and adults with no cost-sharing; coverage of children to age 26 regardless of financial dependency, residency, student status or employment; prohibitions on pre-existing condition exclusions for children up to age 19; direct access to obstetric and gynecologic services; choice of primary care physician; coverage of out-of-network emergency services without pre-authorization; internal and external appeals; prohibitions on the dollar amount of lifetime and annual limits with respect to essential health benefits; and permitting rescissions only for fraud or intentional misrepresentation of material fact. While state law currently provides protections similar to many of those required by the ACA, this bill ensures that existing protections in state law are maintained, makes a number of technical conforming changes, and brings necessary provisions into compliance with the ACA. This legislation was signed by Governor Cuomo on July 20, 2011 and took effect immediately with various conditions and exceptions. (S.5800/A.8457)

Chapter 272 of 2011: This chapter extends the portable x-ray demonstration program until January 1, 2014. The demonstration program, which was set to expire on January 1, 2010, studies the cost effectiveness of Medicaid coverage for portable x-ray services. Portable x-ray services are important to the aged, infirmed and chronically ill citizens of the state, particularly those who are residents of long term care facilities or home bound. If an individual cannot access portable x-ray services—when ordered by an authorized health care practitioner—then the person must be transported by ambulance to a stationary radiological site, which is costly and often traumatic for the patient. The legislation also requires the DOH to report on the program by September 1, 2013. This extender was signed by Governor Cuomo on August 3, 2011 and became effective immediately. (S.5551/A.4471)

Chapter 319 of 2011: Makes permanent the DOH's authority to enter into multi-year settlement agreements with third-party payors and Article 28 facilities related to Health Care Reform Act (HCRA) surcharge assessments. Currently, the DOH is authorized to enter into multi-year settlements for years through 2009. The multi-year settlement authority allows the DOH and third-party payers to take the audit findings from a defined audit period and apply such findings to future unaudited periods. These settlements have proven beneficial to the state, third-party payors and Article 28 entities by allowing payors or entities to pay HCRA assessments without having to expend the time and resources necessary to conduct full audits. Both the original legislation (Chapter 317 of 2011) and this chapter amendment were signed by Governor Cuomo on August 3, 2011 and took effect immediately. (S.5705/A.8336)

Chapter 386 of 2011: Subject to the availability of federal financial participation, this legislation gives local social services districts and their public hospitals the option to select certified public expenditures (CPEs) as a funding mechanism for certain already authorized Medicaid payments to public general hospitals. The use of CPEs can resolve cash flow problems experienced by social services districts and public general hospitals. Both the original legislation (Chapter 379 of 2011) and this chapter amendment were signed by Governor Cuomo on August 3, 2011 and became effective immediately. (S.5644/A.8516)

Chapter 406 of 2011: Amends Insurance Law to ensure recoupments from commercial insurers for the costs of the Early Intervention services. Specifically, this legislation requires commercial insurers to provide, upon proof of subrogation, information on the extent of benefits available. Further, parents are required to provide the municipality with applicable insurance information and a letter from the primary care physician demonstrating the medical necessity of the services. The legislation also requires municipalities to submit written claims within 150 days of the date of service. This chapter was signed by Governor Cuomo on August 17, 2011 and became effective immediately. (S.4013-C/A.384)

Chapter 446 of 2011: This chapter amends the Long Term Care Integration and Finance Act of 1997 by extending the expiration of current demonstrations operating a managed long term care plan for an additional two years. This extension is important given the demographics of the elderly population and the high amount of current spending by the Medicaid program on long term care services. This bill was signed by Governor Cuomo on August 17, 2011 and became effective immediately. (S.5552/A.8098)

Chapter 559 of 2011: Subsequently amended by Chapter 12 of 2012, this legislation requires every insurance policy that provides coverage for prescription drugs and cancer chemotherapy treatment to provide coverage for prescribed, orally administered anticancer medications used to kill or slow the growth of cancerous cells. Such insurance coverage may be subject to co-payments, coinsurance or deductibles; provided that such coverage is at least as favorable to the same for intravenous or injected anticancer medications. The original legislation was signed by Governor Cuomo on September 23, 2011, having an effective date of January 1, 2012. The subsequent chapter amendment was signed on February 17, 2012, and took effect on the same date as the original chapter. (S.4574/A.6552)

Chapter 589 of 2011: Allows for the limited refilling of prescription eye drops when the refill is requested prior to the last day of the approved dosage period, without regard to any coverage restrictions on early refills or renewals. A pharmacist may contact the physician or health care provider to verify the prescription. The effectiveness of prescription eye drops relies heavily upon continuity of treatment, and requires consistent daily usage by the patient. This legislation assists many patients who run out of their prescription eye drops well before the expiration of the intended period of use. This bill was signed by Governor Cuomo on October 14, 2011 and became effective immediately. (S.1430/A.1219)

Chapter 595 of 2011: This chapter, as amended by Chapter 596 of 2011, requires all insurance policies providing comprehensive-type coverage to provide coverage for the screening, diagnosis and treatment of autism spectrum disorders. Annual benefits for applied behavior analysis are capped at $45,000 per year, per covered person. Further, coverage may be subject to annual deductibles, co-payments and coinsurance consistent with those imposed on other benefits under the contract. Existing law merely requires insurance coverage for autism "not exclude" the diagnosis and treatment of autism spectrum disorders. Due to the lack of coverage, parents are often faced with significant out-of-pocket costs, forcing families into dire financial situations. This legislation will expedite diagnosis and treatment by providing insurance parity for autism sufferers. Both the original legislation, and the chapter amendment were signed into law on November 1, 2011, taking effect a year later and applying to all policies issued, renewed, modified, altered or amended after this date. (S.4005-A/A.6305-A)

Chapter 597 of 2011: This chapter, which was subsequently amended by Chapter 11 of 2012, requires any insurance policy providing prescription coverage, to permit an insured to fill a covered prescription at either a network participating mail order pharmacy or a network participating non-mail order retail pharmacy, provided that the non-mail order retail pharmacy agrees in advance through a contractual network agreement to the same reimbursement, terms and conditions as the mail order pharmacy. The original legislation was signed by the Governor on December 12, 2011, and the subsequent chapter amendment was signed by Governor Cuomo on February 17, 2012, and took effect immediately. (S.3510-B/A.5502-B)

Chapter 598 of 2011: This bill requires all policies that provide coverage for fertility drugs through a mail order pharmacy benefit, to cover prescription fertility drugs purchased at a non-mail order pharmacy without any additional cost sharing to the covered individual. In an effort to streamline the delivery of prescription drugs while maintaining the affordability of coverage, many health insurance policies require or incentivize the use of a mail order pharmacy. However, to be most effective, many fertility are drugs administered on a strict treatment regimen that is often difficult or impossible to maintain when using a mail order pharmacy. This bill would ensure that individuals with prescription drug coverage have an equal opportunity to purchase fertility drugs from either a mail order or non-mail order pharmacy. This bill was signed by the Governor on December 12, 2011 and took effect 30 days later. (S.5799/A.7779)

Chapter 135 of 2012: This act amends the PHL to add the Superintendent of Financial Services to the Early Intervention Coordinating Council. This act places New York in compliance with the federal Individuals with Disabilities Education Act which requires that at least one member represent the agency responsible for the state regulation of private health insurance. This legislation was signed by Governor Cuomo on July 18, 2012 and took effect immediately. (S.7035/A.9347)

Chapter 273 of 2012: This bill amends the Insurance Law, providing that insurance policies covering annual physical and well care visits must allow one visit per calendar year. By allowing coverage for one visit every calendar year rather than every 365 day period, this legislation alleviates a deterrent to and logistical problem for access to preventative care. This legislation was signed by Governor Cuomo on August 1, 2012 and took effect 90 days thereafter. (S.5850-A /A.397-A)

Chapter 297 of 2012: This legislation amends the Insurance Law and the PHL, in relation to denial of claims to address certain health plan practices and the changing marketplace. Under the bill, insurers and health plans are prevented from denying payment to a general hospital for a claim for medically necessary inpatient services resulting from an emergency admission on the basis that the hospital did not timely notify the insurer or plan that the services had been provided. Additionally, the insurer, organization or corporation processing claims is now prevented from making unilateral coding adjustments. This legislation was signed by Governor Cuomo on August 1, 2012 and shall take effect July 1, 3013. (S.7071-B/A.9946-B)

Health Care Professionals

Chapter 12 of 2011: This act allows health care professionals licensed in other jurisdictions to perform services at the Ironman Triathlon to be held on July 24, 2011 in Lake Placid, New York. This legislation ensures that a sufficient number of health care providers will be available to the athletes competing in this physically demanding event. After signed by Governor Cuomo on April 13, 2011, this legislation took effect on July 20, 2011, and was deemed repealed July 25, 2011. (S.1689/A.1635)

Chapter 21 of 2011: This legislation aims to improve health care quality and patient safety by permitting pharmacists who practice in certain settings to engage in collaborative management of drug therapy pursuant to voluntary agreements with physicians. This bill was signed by Governor Cuomo on May 17, 2011; it became effective 120 days thereafter, but, with provisions, will expire three years after its effective date. (S.2985/A.4579)

Chapter 153 of 2011: This chapter authorizes nurse practitioners to sign death certificates and imposes upon nurse practitioners the same duties physicians have in this regard. Nurse practitioners are frequently the caregivers in attendance when a patient dies. With their extensive training and expertise, under their existing scope of practice, nurse practitioners are fully capable of performing this function. This measure was signed by Governor Cuomo on July 20, 2011 and took effect 180 days thereafter. (S.325/A.1747)

Chapter 204 of 2011: This chapter authorizes health care practitioners who are in good standing and licensed to practice in another state or territory, and have been appointed by the 2011 Police and Fire Games, to provide professional services to competitors at these events. The World Police and Fire Games are eleven days of sports competition and specially planned events in New York City, which will respectively coincide with the ten year remembrance of September 11, 2001. This legislation ensures a sufficient number of health care providers will be available to the athletes competing in these physically demanding games. This act was signed by Governor Cuomo on July 20, 2011 and became effective immediately; the act was deemed repealed on September 26, 2011. (S.5380-B/A.7936-B)

Chapter 262 of 2011: This act requires licensure and registration of the profession of polysomnographic technology. Polysomnography is a multi-parametric test used as a diagnostic tool in sleep medicine. This legislation will ensure that persons suffering from sleep disorders are diagnosed and treated only by competent and qualified polysomnographic technology professionals. This legislation was signed by Governor Cuomo on August 3, 2011 and took effect one year thereafter. (S.1831-B/A.354-B)

Chapter 460 of 2011: Since the time of initial licensure and regulations, occupational therapy has become a large rehabilitation profession providing services to all ages and in a wide variety of settings, including private practice. This bill updates the law in two ways. First, the State Education Department has established that an occupational therapist may perform an evaluation without a prescription or referral, but treatment may not begin until a prescription is obtained. This bill will allow for treatment of non-medical conditions—as defined by the commissioner of education—without the need for a prescription or referral. Second, the bill allows for the licensing and practice of occupational therapy assistants. This act was signed by the Governor on August 17, 2011 and became effective 180 days thereafter. (S.2911-A/A.4296-A)

Chapter 520 of 2011: This chapter gives the Office of the Chief Medical Examiner the option to maintain electronic mortuary logs. Previously, all Chief Medical Examiner's offices were required to keep a bound printed mortuary log containing identifying information relating to the deceased. As technology has advanced since the enactment of this requirement, all of this information can be more efficiently maintained electronically. The requirement to maintain a printed log is outdated and duplicitous. This bill was signed by Governor Cuomo on August 23, 2011 and became effective immediately. (S.4622-A/A.6902-A)

Chapter 536 of 2011: Clarifies that specialist's assistants, registered for the specialty of radiology, may not render diagnostic interpretation of any image produced by an x-ray, make any diagnosis, prescribe or order any drug or product by which a prescription is required, or order a treatment plan, care management program or any other therapy to or for a patient unless such has been ordered by the supervising physician. New York is the only state that provides for specialist assistants. Unlike physician assistants, whose education and training is a general medicine model, the specialist assistant training is akin to an apprenticeship specifically limited to the specialty area of the supervising physician. Current law does not specify the detail the role of the specialist assistant, such clarification is now needed due to advances in imaging technology. This bill was signed by Governor Cuomo on August 23, 2011 and became effective immediately. (S.5395/A.8179)

Chapter 590 of 2011: This chapter defines an electronic prescription and allows for the use of electronic prescriptions. The chapter also clarifies how a prescriber's electronic signature is used to validate a prescription and whether the prescription is to be "dispensed as written." This bill seeks to remove any barriers to expanded use of electronic prescribing by adapting existing prescribing policies to the electronic prescribing context. Signed by Governor Cuomo on October 14, 2011, this act took effect immediately. (S.4245/A.3334)

Chapter 33 of 2012: This bill authorizes any health care practitioner who is licensed and in good standing to practice in another state or territory, and who has been appointed by the New York Road Runners to provide professional services at an event in this state by providing such professional services to athletes and team personnel registered to compete in said event. This legislation is intended to ensure a sufficient number of health care providers are on hand to assist athletes at these physically demanding events. Signed by Governor Cuomo on May 18, 2012, this act took effect immediately. The law expires and is deemed repealed on January 31, 2013. (S.6153/A.9216)

Chapter 48 of 2012: This legislation amends the PHL and the Education Law to clarify the distinctions between New York's statutes governing the practice of physician assistants and specialist assistants. The licensing requirements and scope of practice of physician assistants and specialist assistants differ significantly. By separating the professions in statute, this measure recognizes the differences in professions and scope of practice. This legislation was signed by Governor Cuomo on May 31, 2012 and takes effect on January 1, 2013. (S.4376-B/A.7355-B)

Chapter 77 of 2012: This act authorizes any person licensed as a physician, physicians assistant, massage therapist, physical therapist, chiropractor, dentist, optometrist, nurse, nurse practitioner or podiatrist in another state or territory and appointed by the World Triathlon Corporation to practice his or her profession in this state in connection with an athletic event sanctioned by such corporation. This act was signed by Governor Cuomo on June 29, 2012, took effect July 18, 2012 and expired on July 23, 2012. (S.6192/A.8982)

Chapter 116 of 2012: This legislation expands the list of vaccines that pharmacists are permitted to administer and certified nurse practitioners are permitted to prescribe to include the shingles (also known as acute herpes zoster) vaccine. Studies have shown that pharmacist-provided immunizations increase overall immunization rates. As there has been an increased incidence of this painful disease, this measure seeks to prevent unnecessary suffering and long term impacts of this virus on New Yorkers. This legislation was signed by Governor Cuomo on July 19, 2012 and took effect 90 days thereafter. (S.3808-B/A.6301-D)

Chapter 438 of 2012: This bill amends the PHL, the Education Law, and the Civil Practice Law and Rules to expand the scope of the practice of podiatry in New York State. The bill expands the scope of practice to include treatment of the ankle and soft tissue areas associated with the ankle, in addition to structures of the foot; allows podiatrists to prescribe narcotics related to the treatment of their patients; and allows a physician to be called as an expert witness in a podiatric medical malpractice action. This legislation brings the podiatric practice in New York more in line with other states in the country, enabling the New York College of Podiatric Medicine to continue attracting quality students who will choose to practice in New York. This legislation was signed by Governor Cuomo on August 17, 2012 and takes effect 18 months from that date. Governor Cuomo's approval of this bill was contingent upon an agreement that additional legislation be enacted clarifying the roles of DOH and the State Education Department relating to information on podiatrists being available to the public. (S.7800/A.9293-A)

Chapter 461 of 2012: This bill regulates and promotes the formation of accountable care organizations (ACOs) in the state. An ACO is an integrated network of providers that organize to improve quality of care through care coordination. By removing the demonstration designation and the cap in the number of certificates authorized, this legislation will stimulate the presence of ACOs. The bill requires that the structure and governance of ACOs be consistent with federal law. Additionally, the bill provides ACOs with safe harbor provisions from state anti-trust, restraint of free trade, fee-splitting and practitioner referral provisions. For ACOs seeking to participate in Medicare only, the bill provides for an expedited certification process. This legislation was signed by Governor Cuomo on October 3, 2012 and took immediate effect. Governor Cuomo's approval of this bill was contingent upon an agreement that additional legislation be enacted to make technical changes to the workgroup. (S.6228-B/A.8869-B)

Chapter 466 of 2012: This bill amends the Social Services Law, directing the Commissioner of Health to develop a standard prior prescription drug authorization request form for Medicaid managed care providers to determine coverage of prescription drug benefits. This amendment alleviates an administrative burden for health care providers that resulted from the shift of a majority of prescription drug coverage from the Medicaid fee-for-service program into Medicaid Managed Care. This legislation was signed by Governor Cuomo on October 3, 2012 and took immediate effect. (S.7384-A/A.10248-B)

Health Care Facilities

Chapter 65 of 2011: This chapter requires all facilities where dentistry is practiced to possess an automatic external defibrillator (AED), or other defibrillator at the facility. Dentists are required to be certified in cardiopulmonary resuscitation (CPR). CPR training includes mandatory training on implementation and use of an AED. This legislation would allow certain dentists who provide anesthesia services and that already have regular defibrillators at their offices, to maintain such. This measure was signed by Governor Cuomo on June 8, 2011 and became effective January 1, 2012. (S.2923/A.3778)

Chapter 174 of 2011: This chapter specifies certain types of projects that would not require certificate of need (CON) approval. These projects include: routine repair or maintenance, including routine purchases and acquisitions of minor equipment; one for one equipment replacements regardless of costs; and, non-clinical infrastructure proposals regardless of cost including, but not limited to, the replacement of an HVAC system. While these projects would not require approval, notice of a project would have to be provided to the commissioner and, where appropriate, written certification statements that the project complies with applicable statutes, codes and regulations may be required. Additionally, this measure allows a provider to submit a statement of compliance rather than submitting a pre-opening certification or survey before approved CON projects can be operational. The DOH would assess compliance during the DOH's next survey of the hospital. While the CON process can be an effective health planning tool to ensure fair and cost-effective distribution of quality health care resources across New York, the process can sometimes be unnecessarily burdensome. By eliminating the need for CON approval for routine projects not involving new services, or the addition of capacity, providers can adjust services and respond to market changes efficiently. This bill was signed by Governor Cuomo on July 20, 2011 and became effective 180 days thereafter. (S.4992-A/A.7665-B)

Chapter 444 of 2011: With this legislation, Certified Home Health Agencies, Long Term Home Health Care Programs and Licensed Home Care Services Agencies are among those eligible for the new HEAL-NY grants facilitating agency collaboration, affiliation or sustainability of service in a community. This measure will assist in sustaining core portions of the home care system by enabling them to be among those eligible for grants. Signed by Governor Cuomo on August 17, 2011, the act became effective immediately, with certain provisions. (S.5447/A.7893)

Chapter 476 of 2011: This legislation affirms that the Fellowship Community can continue to operate as an adult care facility (ACF) and care for people with advanced needs, without having to become an enhanced assisted living residence. Recognizing the unique nature of the Fellowship Community, laws were passed in 1986 and 1996 that exempted the community from certain aspects of the Social Services Law. This legislation extends the logic of prior provisions by also making the Fellowship Community exempt from the Assisted Living Reform Act, which requires facilities that care for people who have exceeded the retention standards of ACFs to apply for enhanced assisted living residence licensure. This act was signed by Governor Cuomo on August 17, 2011 and became effective immediately. (S.4875-B/A.7713-A)

Chapter 492 of 2011: This chapter permits limited liability companies (LLCs) to operate dialysis related treatment centers. In keeping with the intent of the 2008 law, permitting the operation of diagnostic and treatment centers offering dialysis-related services by publicly-traded corporations, this legislation permits LLCs to operate renal disease diagnostic or treatment centers. The provisions of this section applicable to a corporation, would apply to an LLC and its members. This legislation was signed by Governor Cuomo on August 17, 2011 and became effective immediately. (S.5555/A.7810)

Chapter 516 of 2011: Increases the authorization of the New York State Dormitory Authority (Authority) as successor to the New York State Medical Care Facilities Finance Agency (MCFFA) pursuant to the Health Care Financing Consolidation Act of 1995, to issue hospital and nursing home project bonds and notes from $15 billion to $15.8 billion dollars. The Authority sought additional bond authorization to ensure that it would be able to meet the needs of all its private not-for-profit health care clients on a timely basis. This chapter was signed by Governor Cuomo on September 23, 2011 and became effective immediately. (S.4200/A.6446)

Chapter 523 of 2011: This chapter allows continuing care retirement communities ("CCRCs") to offer either a life care contract or a fee-for-service contract on a per diem or agreed upon rate. Allowing life care CCRCs to enter into fee-for-service contracts will give them flexibility to respond to the needs of the seniors applying to reside in their community. This chapter was signed by Governor Cuomo on September 23, 2011 and became effective immediately. (S.4738-A/A.7368-A)

Chapter 537 of 2011: This chapter authorizes the Authority to provide financing to the Primary Care Development Corporation for the construction, reconstruction, renovation, development, improvement, expansion, and equipping of primary care, and other related facilities. By enabling the Primary Care Development Corporation to apply for funding through the Authority, this legislation aims to meet the primary care expansion goals of federal and state health care reform initiatives in underserved communities throughout New York. This act was signed by Governor Cuomo on September 23, 2011 and became effective immediately. (S.5645/A.8188)

Chapter 159 of 2012: This bill 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 2015. Signed by Governor Cuomo on July 18, 2012, this bill took immediate effect. (S.7062/A.9948)

Chapter 390 of 2012: This act permits a hospital where a patient is receiving telemedicine services (originating site) to enter into an agreement with a distant site hospital for credentialing, privileging, and peer review of a distant site health care practitioner. This legislation allows for the expansion of telemedicine by allowing the originating site hospital to rely upon the hospital where the physician who provides the telemedicine consult resides to be able to fulfill the peer review responsibility of the hospital where the consultation is received by virtue of the peer review already being conducted at the site providing the consultation. This legislation was signed by Governor Cuomo on August 17, 2012 and took effect immediately. (S.6970/A.9834)

Chapter 397 of 2012: This bill amends the Social Service Law to make permanent the provisions, first adopted in 2003 and due to expire in 2012, which created an Assisted Living Program in Chautauqua county. Since the Assisted Living Program has successfully increased the availability of beds and consistently saved Medicaid dollars, making the law permanent ensures continued savings. This legislation was signed by Governor Cuomo on August 17, 2012 and became effective immediately. (S.6948/A.10304)

Chapter 400 of 2012: This bill makes technical corrections to provisions adopted in the SFY 2012-13 budget relating to the review of eligible federally qualified health center capital projects. This bill clarifies the special requirements and exceptions to the certificate of need requirements for certain entities utilizing federal funds for capital projects. This legislation was signed by Governor Cuomo on August 17, 2012 and became effective retroactively beginning on April 1, 2012. (S.7602/A.10606)

Chapter 471 of 2012: This bill amends the PHL in relation to hospital observation services. Federal rules require that hospitals make a distinction between admitting a patient and observing a patient to further evaluate the patient's condition and need for admission. This bill ensures that hospitals have necessary flexibility to implement observational levels of care. Observation services may be provided for a period of up to 48 hours and the DOH is required to establish outpatient Medicaid rates of reimbursement for such services. This legislation was signed by Governor Cuomo on October 3, 2012 and took immediate effect. Governor Cuomo's approval of this bill was contingent upon an agreement that additional legislation be enacted leaving the duration of observation services to be regulated by the DOH. (S.7031-A/A.10518-A)

HEALTH BILLS VETOED

Veto #30 of 2011: Pursuant to Public Health Law (PHL) §2164 all children in New York must be immunized against measles, mumps and rubella, unless exempt for health or religious reasons. Evidence of immunization must be present as a prerequisite to attending kindergarten, elementary, intermediate or secondary school. That is, prior to attending college or university, every New York child who has graduated from a secondary school located in New York must have been immunized. Therefore, the current requirement that a New York student present immunization certification as a condition to attend a New York college or university imposes an unnecessary burden on students, parents, health care practitioners and university administrators. This bill does away with this duplicative mandate by removing graduates of New York public, private and parochial secondary schools from the definition of college students required to provide proof of immunization prior to attending college. This bill was vetoed by Governor Cuomo on August 3, 2011. (S.4803/A.7485)

Veto #37 of 2011: This bill would require a campground to provide a written list of at least three dumping stations within a 30 mile radius if the campground has 15 or fewer campsites, but no dumping station. In addition, the legislation would provide that said campgrounds inspect each campsite upon the arrival and exit of an occupant, and at least once a week while the campsite is occupied. The expense of installing a dump station for these small businesses is cost prohibitive and could put these campgrounds out of business. This law acknowledges the fact that there are likely several dump stations within a reasonable distance; thus, there is no compelling need for additional capacity and building duplicative infrastructures. This bill was vetoed by Governor Cuomo on August 17, 2011. (S.5591/A.7667-A)

Veto #67 of 2011: This bill would amend the PHL to allow Medicaid reimbursement of real property capital construction costs for Assisted Living Programs (ALPs) when the Department of Health (DOH) determines that the construction would result in net fiscal savings to the state. Many ALPs are housed in aging buildings that require significant capital improvements to meet the needs of more frail residents that may otherwise need nursing home care. This initiative would save Medicaid dollars by enabling low-income seniors to reside in ALPs at half the cost of the nursing home rate. This bill was vetoed by Governor Cuomo on September 23, 2011. (S.4918-A/A.8248)

Veto #72 of 2011: This legislation provided due process protections for providers and recipients of Medicaid who come under the scrutiny of the Office of the Medicaid Inspector General (OMIG). This bill was vetoed by Governor Cuomo on September 23, 2011. (S.3184-A/A. 5686-A)

Veto #75 of 2011: This bill sets forth certain requirements for surgical technologists working in health care facilities. There is no existing law regulating the training or skills required of surgical technologists in health care facilities. This law requires hospitals to hire only certified personnel or individuals falling within certain exceptions. Under this legislation, hospitals which contract for and hire surgical technologists to practice in their operating rooms are required to ensure that these professionals are competent and adequately skilled to perform the job. This bill was vetoed by Governor Cuomo on September 23, 2011. (S.4563/A.6539-B)

Veto #78 of 2011: This proposal would establish the Clinical Information Resource Access Program to provide information to medical institutions and facilities. Under the program, electing institutions and universities will participate with the DOH and contract for electronic and print resources on medical information related to clinical practice. The information will be provided to the participating parties, as well as designated health care practitioners and facilities. The proposal would also create an advisory board to designate eligible medical libraries and make recommendations on the selection and procurement of resources. This bill was vetoed by Governor Cuomo on September 23, 2011. (S.4991-B/A.8202)

Veto #80 of 2011: Under this legislation, beginning April 1, 2012, a rural hospital designated as a critical access hospital shall have Medicaid payments for emergency services, and all outpatient services equal to 101% of the reasonable costs of such facility in providing these services. Critical access hospitals serve medically underserved geographically isolated communities. New York State Medicaid reimbursement rates are presently capped at lower than operational costs. The problem is exacerbated for critical access hospitals because of the need to spread substantial fixed costs over a small number of visits and admissions. Cost based Medicaid reimbursement would help ensure the long range financial viability of primary care hospitals. This bill was vetoed by Governor Cuomo on September 23, 2011. (S.5431-A/A.5366-B)

Veto # 133 of 2012: This bill amends the PHL to allow temporary approval of certain programs operated pursuant to the federal special supplemental nutrition program for women, infants, and children (WIC) if the applicant currently operates another approved program. The WIC program provides significant nourishment to women, infants and children who may not be able to afford the food products offered in this program for their families. Owners often have valid WIC vendor licenses for other stores. When a store opens there is a lengthy waiting period to obtain a vendor license for the new store. This bill, by allowing existing WIC vendors who are in good standing to obtain a temporary license when a new establishment opens, greatly enhances the local food choices and availability for WIC families. This bill was vetoed by Governor Cuomo on August 1, 2012. (S.6305-B/A.9874-A)

Veto # 135 of 2012: This bill provides an amnesty period during the 2012 calendar year to relieve providers of interest and penalty charges arising from the Health Care Reform Act (HCRA) surcharge calculated based on audits of prior years. Providing some relief from interest and penalty charges will likely provide the state with payments sooner, thus producing a financial benefit to the state. Insurance payors elect numerous different methods to make payments and an enormous accounting and reconciliation process ensues to determine the correct amount that a particular provider needs to pay into the HCRA surcharge pool. Misunderstandings and the complicated nature of how to implement the surcharge have existed for many years and, as a result, an amnesty period has been provided in prior years. This bill was vetoed by Governor Cuomo on August 1, 2012. (S.7083/A.10103)

Veto # 153 of 2012: This bill amends the PHL to conform New York's Health Care Practitioner Referral statute to the federal Stark Law. The Stark Law establishes rules on provider referrals and the financial relationships between providers to avoid kickback arrangements and conflicts of interest. New York State's law is similar but not the same, making some arrangements permissible under the federal statute, impermissible under state law. The inconsistency in federal and state statutes has long been a concern amongst health care professionals and attorneys, as compliance with both statutes is nearly impossible. This legislation becomes more pertinent as we move to more integrated health care delivery methods and promote the creation of federal and state ACOs. This bill was vetoed by Governor Cuomo on October 3, 2012. (S.4660/A.3551-A)

Veto # 156 of 2012: This bill removes the prerequisite that an attending physician identify a principal's decisional incapacity when the principal is outside a hospital, mental hygiene facility, or residential health care facility. Further, the bill authorizes the agent to make decisions for transport to a particular medical setting when the principal is unconscious or unresponsive and there is no major medical trauma. Although many senior citizens and legal practitioners believe that a properly prepared and executed health care proxy can be used immediately when the need arises, a recent federal court decision outlined the limitations the PHL places on the authority of a health care agent to make decisions, including the decision to transport the principal to a particular facility when that decision is made outside of a hospital setting. This bill was vetoed by Governor Cuomo on October 3, 2012. (S.5014-A/A.8389)

Veto # 157 of 2012: This bill amends the PHL, requiring individuals employed as central service technicians in hospitals to be certified and undergo continuing education. Central service technicians prepare, distribute and control the sterile and non-sterile equipment used in all clinical areas of a hospital. This legislation provides regulation that furthers the goal of the central service to maintain quality control procedures in an effort to prevent and control the spread of infection. This bill was vetoed by Governor Cuomo on October 3, 2012. (S.5155-D/A.8620-C)

Veto # 158 of 2012: This bill requires surgical technologists functioning in health care facilities to be certified or complete an appropriate training program for surgical technology and creates an annual continuing education requirement. Surgical technologists have a vital role in creating and maintaining a sterile surgical room, ensuring that surgical equipment is functioning properly and safely, and assisting surgeons during surgical procedures. While surgical technology is an established field with accredited programs, health care facilities are not required to employ or contract with credentialed individuals. This legislation requires hospitals to hire only certified personnel, or individuals falling within the exceptions of the bill. This bill was vetoed by Governor Cuomo on October 3, 2012. (S.6511-A/A.9303-A)

Veto # 161 of 2012: This bill amends the PHL in relation to medical assistance recoupments and reductions for home care services and to provide for the repeal of such provisions on March 31, 2014. The aim of this legislation is to alleviate the burdensome fiscal impacts of the recent Medicaid recoupment rate policy of the DOH on home care agencies and consumer directed personal assistance programs by providing that beginning April 1, 2009, such recoupments shall not be subject to interest. This bill was vetoed by Governor Cuomo on October 3, 2012. (S.6493-B/A.9664-B)

Veto # 164 of 2012: This bill allows program agencies such as public agencies that provide emergency medical services (EMS) the opportunity to raise and accept funding through sources other than state agency reimbursement without jeopardizing their full state agency funding. Public agencies such as EMS have not seen a reimbursement rate increase under current law in approximately 15 years. EMS units are also not currently able to raise funds without being penalized. If an EMS unit does fundraising and generates revenue to be used in that individual division, the amount of state funding will be deducted equal to the amount that was generated. The current policy discourages fundraising and community outreach. This bill was vetoed by Governor Cuomo on October 3, 2012. (S.4255/A.5242)

Veto # 165 of 2012: This bill amends the Education Law, in relation to certification of registered nurse anesthetists (CRNAs). The legislation establishes criteria for certification and prohibits individuals other than certified persons from using the title "certified registered nurse anesthetists." Protecting the title of CRNA is necessary to maintain safe patient care and to ensure that only those who are properly educated and qualified are performing CRNA services. This bill was vetoed by Governor Cuomo on October 3, 2012. (S.5356-D/A.8392-C)

SIGNIFICANT LEGISLATION PASSED BY SENATE
2011 - 2012 SESSION

S.960: This bill requires every state agency which applies for a federal Medical Assistance waiver to post the waiver application, the status of the waiver, and whether it has been approved/disapproved on their website. It is of vital importance that the public is informed with accurate and up-to-date information. Posting the applications allows participants in New York's healthcare system to appropriately gauge potential changes and prepare accordingly. While this legislation did not pass both houses, the measure was adopted as part of the 2011-2012 budget. The Senate passed this legislation on February 14, 2011.

S.961: Directs the DOH to post, on its internet website, the state's medical assistance plan and all amendments thereto. Each year, New York State submits amendments to the federal government when it needs to request changes in how the Medicaid program will be implemented. With New York State's Medicaid reaching beyond $50 billion dollars annually, nearly one third of the State's budget, this measure enhances transparency in government and provides accountability by making the document available for informational purposes to New York citizens. Similar provisions were adopted as part of the 2011-2012 budget. The Senate passed this legislation on February 14, 2011.

S.3199: The New York State Partnership for Long-Term Care helps New Yorkers financially prepare for nursing home care, home care or assisted living services. The program allows New Yorkers to protect some or all of their assets depending on the partnership insurance plan purchased, if their long-term care needs extend beyond the period covered by their private insurance policy. Under state statute, individuals remain eligible for Medicaid Extended Coverage only if they still live in New York. Currently, forty other states participate in reciprocity as offered in The Federal Deficit Reduction Act of 2005. Under this bill, New York will join these states in permitting policyholders of the New York State Partnership for Long-Term Care to be eligible for Medicaid asset protection regardless of their state of residence when they apply for long term care Medicaid assistance. While this legislation was not enacted, the Department of Financial Services promulgated regulations providing for this reciprocity (*see* 11 NYCRR §39.8). The Senate passed this legislation on June 20, 2011.

S.4597-B: This bill requires accredited office-based surgery facilities to register and obtain a certificate of registration from a nationally recognized accrediting agency as designated by the Department of Health and to permit such facilities to seek reimbursement from health plans for a facility fee. The Senate passed this legislation on June 22, 2011.

S.5260-C: This legislation addresses the growing black market in non-controlled substance prescription drugs by: 1) restructuring the existing crime of criminal diversion of prescription medications; 2) adding a new Penal Law Article 179 entitled Fraudulent Prescription, Dispensing and Procurement of Non-controlled Substance Prescription Medications and Devices; and 3) adding a new Article 219 entitled Unlawful Possession of Non-Controlled Substance Prescription Medications and Devices. Current law does not provide adequate penalties for the prosecution of dealers who buy medications and enter them into the market, the individuals running stash houses to store these prescription drugs, the individuals that fraudulently write the prescription for these medications or the pharmacists who purchase and resell the black market medications. The Senate passed this legislation on June 14, 2011.

S.5646-A: This bill requires Medicaid managed care providers to provide coverage for medically necessary prescription drugs and medical supplies. This legislation is designed to carry critical fee-for-service patient protections into Medicaid Managed Care to ensure Medicaid beneficiaries, among New York's most vulnerable population, have appropriate access to medically necessary medications regardless of which aspect of the program is managing their drug benefit. The Senate passed this legislation on June 21, 2011.

S.5880-A: This bill places greater controls on Hydrocodone, a highly addictive prescription pain medication, by moving it from a schedule III to a schedule II controlled substance. It also includes Tramadol, another opioid based prescription pain medication, to the list of schedule III controlled substances. Provisions similar to those set forth in this bill were enacted as part of the I-STOP Act (Ch. 447 of 2012). The Senate passed this legislation on February 13, 2012.

S.6743: This legislation criminalizes the theft and unlawful possession of a blank official New York State prescription form. Specifically, the bill creates criminal penalties for three specific situations. First, grand larceny, a class E felony, will apply to individuals who steal a blank prescription form. Second, criminal possession of stolen property, also a class E felony, will apply to individuals possessing a blank prescription form knowing it is stolen and intending to benefit from it. Finally, criminal possession of a prescription form, a class A misdemeanor, punishes individuals who knowingly and unlawfully possesses a blank official New York State prescription form. Current law forces authorities to wait until someone sells a prescription form before law enforcement can act. The Senate passed this legislation on June 18, 2012.

S.6694: This bill adds nine classes of synthetic cannabinoids, defined based on foundational chemical structure, and substituted cathinones or "bath salts" to the list of controlled substances. This measure would prevent the current practice of making minor alterations to chemicals to subvert statutes that prohibit distinct substances based on their chemical structure. Substances prohibited under this bill could be surrendered to the appropriate authorities during the 90 days after enactment. Acknowledging the public health threat posed by the substances, Commissioner Shah issued emergency regulations making possession, manufacture, distribution, sale or offering for sale of synthetic cannabinoids or "bath salts" a violation of the State Sanitary Code. The instant legislation would provide a greater deterrent by making the possession, manufacture, distribution and sale of these substances violations of criminal law statutes, punishable similar to that of comparable controlled substances. The Senate passed this legislation on April 30, 2012.

S.7326: This bill requires the Commissioner of Health to establish the Opioid Treatment and Hospital Diversion Demonstration Program. Withdrawal from opioid drugs is generally not life threatening and can be readily managed in less intensive and costly environments. However, despite the support of more efficient, cost saving alternatives, there is a shortage of community options for individuals seeking assistance with opioid addiction. This bill provides a new model of detoxification and transitional services for individuals seeking to recover from opioid addiction and reduces reliance on emergency room services. At a minimum, demonstrations shall be established in Western New York, Central New York, State Island, Brooklyn, and Long Island. The Senate passed this legislation on June 13, 2012.

S.7735-A: This bill enacts the Safe Patient Handling Act which establishes a statewide policy on safe patient handling. The act creates an eleven member New York State Safe Patient Handling Task Force within the DOH which must issue a report identifying Safe Patient Handling Program elements and recommendations to the Commissioner of Health by July 1, 2015. The Commissioner of Health, in consultation with the task force, shall promulgate regulations for a statewide safe patient handling policy to be made available to all health care facilities by January 1, 2015. Facilities must file a plan for compliance with the DOH by July 1, 2017. The Senate passed this legislation on June 21, 2012.

S.7745: This bill establishes consumer protections from surprise medical bills by: requiring certain disclosures from insurers, health care providers and hospitals; requiring adequate access to care; establishing a minimum reimbursement for out-of-network services; and, prohibiting excessive emergency room charges. There has been an influx of reporting on the receipt of patients' surprise medical bills. The New York Times details cases where patients are stuck with anesthesiologist bills of $2,800 during routine procedures provided by participating providers. The Department of Financial Services recently released a report detailing the challenges consumers face with unexpected medical billings, and the increase of such billings. The Senate passed this legislation on June 20, 2012.

S.7773: This legislation requires the DOH to be vigilant in monitoring the transition to managed long term care. Under the bill, the DOH must ensure access to quality care, transparency and accountability from providers, low staff turnover in nursing homes, and provide periodic assessments. This will ensure a smooth transition to managed care, providing for continuity of care to the greatest extent possible. The Senate passed this legislation on June 21, 2012.

S.7778: This legislation establishes The 21st Century Workgroup for Disease Elimination and Reduction within the DOH to increase management of infectious diseases that pose a public health risk. The workgroup will utilize the expertise of the DOH's Bureau of Immunization, working in conjunction with the medical experts on the Immunization Advisory Council, to review existing vaccines, the status of international research and development for vaccines likely to be candidates for the pharmaceutical marketplace and the status of health threats which could be addressed by the development of vaccines to thwart such threats. The Senate passed this legislation on June 21, 2012.

HEALTH BUDGET HIGHLIGHTS
FISCAL YEAR 2011 - 2012

This year, even with the backdrop of an unprecedented financial and economic crisis, the legislature and executive came together to pass an on-time balanced budget. Faced with a budget gap of more than $10 billion, the state was forced to make sacrifices and implement new cost-saving measures. Many of the cost-saving measures implemented were proposed by the MRT, which cumulatively are estimated to save $2.85 billion within the first year (SFY 2011-12). Major relevant cost-saving measures and program changes are discussed below.

Medicaid Cap

One of the primary components of the enacted SFY 2011-12 Health and Mental Hygiene budget (Chapter 59 of 2011) is a two-year cap on the Medicaid rate of growth. The cap is based on the 10-year rolling average of the health component of the Consumer Price Index (CPI). Under the statute, the Executive has the authority to reduce spending to ensure Medicaid costs do not exceed the cap. In order to reduce Medicaid costs to the cap level, a 2% across-the-board reduction, or other option, will be implemented after consultation with various health care sectors. The practical effect of this cap is to limit Medicaid spending for the SFY 2011-12 to $15.1 billion, and $15.7 billion in SFY 2012-13. If spending rises above that amount, the state is allowed to recoup the excess from the health care sector(s) or region(s) responsible. The cap has an estimated cost savings of $640 million for SFY 2011-12 and $1.53 billion savings in SFY 2012-13. The DOH and Division of Budget (DOB) are required to closely monitor and issue monthly reports on program spending to determine if the spending growth is expected to exceed the global cap. These reports may be viewed online.

Medical Indemnity Fund

The Medical Indemnity Fund (MIF) is intended to provide for the future health care costs of infants who suffer birth-related, neurological injuries. The MIF will cover the medical costs of individuals (qualified plaintiffs) that have either: (a) been found by a jury or court to have sustained birth-related neurological injury as a result of medical malpractice, or (b) sustained a birth-related neurological injury allegedly as a result of medical malpractice, and have settled a lawsuit or claim. While health insurers (other than Medicaid and Medicare) will remain as the primary payers of medical expenses, the MIF will pay for otherwise uncovered qualifying health care costs. Hospitals will contribute an amount equal to 1.6% of revenue from inpatient obstetrical services; however, the commissioner of health, in consultation with the director of budget, has the authority to increase or reduce the rate to ensure that annual contributions total $30 million, adjusted for the 10-year rolling average of the medical component of the CPI. Health care providers must accept MIF payments for medical care, and therefore, are not allowed to pursue payment from the enrollee.

Medicaid Care Coordination & Managed Care Pharmacy

As part of the enacted budget, the state can contract with a behavioral health organization (BHO) to coordinate care for Medicaid recipients with behavioral health diagnoses. The intent is to better manage and coordinate both the physical and behavioral health care of this subset of Medicaid recipients with multiple chronic conditions. Drugs had been a fee-for-service benefit under Medicaid, while all other benefits were covered under managed care. This will require managed care plans to cover and manage prescription benefits for Medicaid. According to a 2010 Lewin Group study, the state could save hundreds of millions of dollars by maximizing the use of generic drugs and implementing more aggressive Medicaid pharmacy management techniques. Budget provisions also permit the Department of Health (DOH) to transition certain individuals into managed long term care, meanwhile maintaining a community care model.

Nursing Home Reimbursement

As part of the SFY 2011-12 budget, the Senate passed several measures that extend the reimbursement cap, authorize certain Medicaid payments and extend authorization to collect nursing home assessment revenue. One measure extends rebasing payments to October 1, 2011 with the option, if it fits within the State financial plan, to extend further to January 1, 2012. It further provides for supplemental payments, funded by the nursing home industry, to nursing homes that are adversely impacted by the cost saving measures that will go into effect along with rebasing. A framework is established for a statewide pricing methodology (Medicaid reimbursement) for nursing homes to begin either on October 1, 2011 or January 1, 2012.

Another measure authorizes supplemental Medicaid payments for professional services provided by physicians, nurse practitioners, and physician assistants participating in practice plans affiliated with SUNY hospitals. These amounts will increase fees for these professional services to an amount equal to the average commercial rate they would otherwise receive. SUNY is responsible for payment of 100% of the non-federal share of these supplemental non-Medicaid payments.

A third measure allows prior-year Medicaid payments to be made to adult day health care providers treating AIDS patients. Rates of payment to residential healthcare facilities and diagnostic treatment centers for adult day health care services provided to AIDS/HIV patients will be increased by an aggregate amount of $1.867 million. This part also provides for the adjustment of payments in the aggregate amount of $236,000 based on each eligible providers' reported Medicaid visits.

Modifying Current Public Health Programs

The budget also achieves savings by modifying Elderly Pharmaceutical Insurance Coverage (EPIC), Early Intervention (EI) and General Public Health Work. The Senate was successful in restoring $22.3 million to the Executive's proposed $34.3 million cut to EPIC in order to continue premium assistance. It also restored half of the $5.5 million reduction proposed by the Executive's 10% across-the-board cut to EI providers. Enacted language also requires agreement of Individual Family Service Plan (IFSP) teams and parents of children receiving EI under an IFSP, prior to being approved for the service.

HEALTH BUDGET HIGHLIGHTS
FISCAL YEAR 2012 - 2013

For the second consecutive year the state passed an on time budget. The $132.6 billion spending plan limited all-funds spending growth to 1.9%, and eliminated a $2 billion deficit without raising taxes and fees. The budget reduced the SFY 2013-14 projected budget deficit to $950 million. For the first time in decades, the budget gap was projected at less than a billion dollars. The SFY 2012-13 Health and Mental Hygiene budget (Ch. 56 of 2012) continued to implement cost saving measures and limit the growth of health care spending.

EPIC Restored

The Senate was successful in procuring $30.6 million in funding to restore the cuts made to the EPIC program in the SFY 2011-12 budget. Beginning January 1, 2013, the EPIC program will once again help more than 280,000 income-eligible seniors aged 65 and older to reduce their out-of-pocket drug costs. EPIC will provide members with secondary coverage for Medicare Part D covered drugs once the Part D deductible is met. After members pay a fee or meet their EPIC deductible, they will only be responsible for a co-payment which will range from $3-$20. EPIC will continue to pay Medicare Part D plan premiums for members with an annual income below $23,000 if single or $29,000 if married.

Medicaid Redesign Phase II Recommendations

A number of the MRT Phase II recommendations were adopted in the budget, including: allocation of supportive housing funds based on efficiency and effectiveness; expansion of enteral formula therapy for individuals with any relevant disease or condition; authorizing Assisted Living Programs (ALPs) to contract with more than one long-term home health care program, certified home health agency or other qualified provider; and, the repeal of provisions requiring establishment of ALP beds following decertification of nursing home beds. Enacting another MRT recommendation, the SFY 2012-13 budget required the State Education Department and the DOH to issue regulations requiring chain pharmacy stores to provide oral interpretation services and written translation services to customers with limited English proficiency who are filling prescriptions.

The legislature successfully fought to provide a number of patient protections in the Medicaid program. For example, the DOH is required to develop transition and continuity of care policies for home and community based long term care as they transition to managed care. Additionally, the budget required managed care providers to cover medically necessary prescription drugs in the atypical antipsychotic therapeutic class. The SFY 2011-12 budget expanded the definition of estate for purposes of Medicaid recoveries to include non probate assets such as jointly held property, jointly held bank accounts, life estate interests and interests in certain trusts regardless of any named beneficiary or right of survivorship. As this expanded definition created legal conflicts and competing claims to property, the Senate successfully fought to repeal this expansion in the SFY 2012-13 budget.

Medicaid Cap and State Takeover

The enacted budget extended the Medicaid Global Spending Cap until 2014 and allows the Director of Budget to recognize reductions in local district Medicaid savings due to the state takeover. Under the Global Cap, Medicaid spending will increase by 4% from $15.3 billion to $15.9 billion in SFY 2012-13.

In order to provide county governments with immediate fiscal and administrative relief, the budget phases in the state takeover of Medicaid. This two-pronged initiative involves the takeover of the county share of Medicaid growth costs, which is phased in at 1% per year. The second measure entails the multi-year state takeover of the responsibility for administering the Medicaid program, including enrollment and application processing. The budget authorizes the Commissioner of Health to take actions necessary for the transfer of Medicaid administration from the local social services districts to the DOH by March 31, 2018.

Prescription Pain Awareness Program

The Prescription Pain Awareness Program was established in the budget to raise public awareness and to educate the public and health care practitioners about the risks associated with prescribing and taking controlled substance pain medication, with the ultimate goal of curbing prescription drug abuse in the state. The program includes a public health education media campaign designed to alert youth, parents and the general population about the risks associated with prescription pain medications and the need to properly dispose of any unused medication. The program will also establish a work group composed of experts in the field to develop a set of recommendations to be compiled in a report to the Commissioner of Health.

Primary Care Service Corps (PCSC)

In light of the shortage of primary care practitioners in many areas of the state, the budget created a new Primary Care Service Corps (PCSC) Practitioner Loan Repayment Program. Primary care service corps practitioners include: physician assistants, nurse practitioners, nurse midwives, general or pedodontic dentists, dental hygienists, clinical psychologists, licensed clinical social workers, psychiatric nurse practitioners, licensed marriage and family therapists, or licensed mental health counselor. The Commissioner of Health may make awards of up to $32,000 per year to eligible primary care services corps practitioners practicing full-time in underserved areas of the state. The Commissioner is to apply for available matching federal funds for the purpose of assisting the state in operating this program. To further address this shortage, the budget also provided for a streamlined application process to ensure funds from the Doctors Across New York program are efficiently utilized as intended.

Excess Medical Malpractice Pool

The Hospital Excess Liability Pool, created by Chapter 266 of 1986, was established to address the unaffordable cost of medical malpractice insurance, encourage doctors to begin or continue to practice in the state, and to control the growth in related consumer costs. Under the law, the Superintendent of Insurance and Commissioner of Health purchase medical malpractice coverage for physicians and dentists to cover liabilities in excess of their required minimum coverage of $1.3 million for each incident and $3.9 million for all incidents in a year. Primarily due to growth in participation, the DOH maintains that the Excess Pool has been diluted to the point that it may not be able to cover all of the Medical Malpractice claims decided against physicians in the pool. The budget limited access to the pool to those with full or partial policies for coverage periods ending June 30, 2010, June 30, 2011, and June 30, 2012. Further, hospitals were authorized to certify physicians and dentists on a proportional basis if the number eligible under the methodology is less than the number who had coverage on June 30, 2010. The budget also required the Superintendent and Commissioner to review affiliations, analyze the adequacy of premiums and make recommendations for the sustainability of the pool in a report to the Governor, Senate and Assembly by November, 2012.

Early Intervention Reform

The budget established a fiscal agent to relieve EI providers from having to seek payment from third party venders. The EI provider submits bills for payment to the fiscal agent, and the fiscal agent is responsible for obtaining reimbursement from the third party payer on behalf of the provider. By creating one entity responsible for third party reimbursement, the process is intended to be more efficient and effective than having each county seek payment. The Legislature rejected further proposals regarding insurance network requirements and "arms-length" relationship provisions.

Roswell Park Cancer Institute (RPCI)

The SFY 2012-13 budget also required Roswell Park Cancer Institute to develop a plan by January 1, 2014 specifying how the Institute will secure financial viability, achieve operational and fiscal independence, and continue to promote the health of patients and conduct innovative research.

MEDICAID REDESIGN TEAM

On January 5, 2011, by Executive Order #5, the Medicaid Redesign Team (MRT) was established and charged with the task of finding innovative ways to improve quality and control costs in the state's Medicaid program. The MRT sought recommendations from the public and private sectors as it worked to develop recommendations that were approved in 2010 and formed the basis of much of the Governor's proposed budget. Seventy-eight recommendations passed through the budget and implementation began as early as April 2011. The first phase of the MRT enacts a series of measures to control costs in the short-term and to reform spending in the long-term. This phase caps Medicaid spending growth in state law, and begins a three-year phase-in to care management for all recipients.

The second phase of the MRTs work has been carried out through a series of ten workgroups:

1. Affordable Housing Workgroup created to "develop a statewide plan for increasing access to affordable housing, so that New York State Medicaid beneficiaries are not forced into institutional settings because they cannot access affordable housing."
2. Basic Benefit Review Workgroup charged with developing a series of recommendations to modify the Medicaid benefit package and cost-sharing policies, which should both improve health care quality and lower costs in the program. This extended to examining current co-pay, coinsurance, and premium levels.
3. Behavioral Health Reform Workgroup tasked with improving the standards of and access to care. Due to the marked difference in care requirements, this group has a subcommittee devoted to children with mental health issues.
4. Health Disparities Workgroup designated to exploring disparities in Medicaid delivery systems through reimbursement rates, disabilities, race, ethnicity, gender, age, sexual orientation, and gender expression.
5. Health Systems Redesign: Brooklyn Workgroup established to specifically evaluate the hospital system in Brooklyn. Its recommendations should lead to a high quality, financially secure and sustainable health system in Brooklyn.
6. Managed Long Term Care Implementation and Waiver Redesign Workgroup created to "advise DOH on the development of care coordination models (which may include Long Term Home Care Programs) to be used in mandatory enrollment of person in need of community-based long term care services." They were also charged with creating principles to govern care coordination models and proposed various quality assurance measures.
7. Medical Malpractice Reform Workgroup will continue to evaluation mechanisms to reduce the cost of medical malpractice insurance to providers, to improve health care quality and patient safety, and to control the costs of health care for the state's Medicaid program.
8. Payment Reform and Quality Measurement Workgroup established to proffer recommendations for Medicare/Medicaid dual eligible populations, performance measures for Health Homes, and general principles for the New York State DSH/Indigent Care program. This workgroup also urges the creation of financing mechanisms, which advance recommendations from the Health Systems Redesign Workgroup and strengthen financial viability of the New York State safety-net provider network.

9. Program Streamlining and State/Local Responsibilities Workgroup focused on consolidating programs, streamlining Medicaid enrollment processes, and identifying administrative impediments that prevent New Yorkers from accessing necessary health care services.
10. Workforce Flexibility and Change of Scope of Practice Workgroup formed to develop a "multi-year strategy to redefine and develop the workforce," which includes redefining the roles of certain providers, revising educational and certification requirements, and identifying areas of statute, regulation, and policy needing change.

The Executive Order establishing the MRT expired on March 31, 2012. While, the team itself is no longer active, the implementation of its recommendations continues to be carried out and some of the workgroups are still meeting. Overall, the implementation of the MRT action plan is expected to take three to five years.


Deputy Commissioner Helgerson

On January 18, 2012, Jason Helgerson, Deputy Commissioner and Medicaid Director at the Department of Health, addressed the Health Committee to provide an overview of the MRT's work. To view this meeting please visit the Committee's website.

The initiatives proposed by the MRT and adopted by the Legislature in 2011 led to substantial savings for state taxpayers and the federal government. As a result of the MRT, New York Medicaid spending finished the 2011-2012 fiscal year $14 million under the Medicaid Global Spending Cap without reducing benefits, while providing health insurance coverage to an additional 140,000 low income New Yorkers. Absent these initiatives, state spending would have grown by an estimated $2.3 billion in the 2011-2012 fiscal year alone.

In an effort to continue achieving state savings and capitalize on reduced federal spending, Governor Cuomo announced the submission of an application for a waiver from the federal government on August 6, 2012. The waiver application submitted by the state requests that the federal government allow the state to reinvest over a five-year period up to $10 billion of the $17.1 billion in federal savings generated by MRT reforms. According to the state's application, the proposed waiver amendment would enable New York to fully implement the MRT action plan, facilitate innovation, and lower health care costs over the long term.

HEALTH BENEFIT EXCHANGE

Pursuant to the federal Patient Protection and Affordable Care Act (Pub. L. 111-148) and The Health Care and Education Reconciliation Act (Pub. L. 111-152), collectively referred to as the Affordable Care Act (ACA), a Health Benefit Exchange (Exchange) will be operating in every state by 2014. States have the option to set up their own Exchange, allow the federal government to establish and operate an Exchange in their state, or establish and operate their Exchange though a state-federal partnership. New York has elected to develop its own Exchange - the New York Health Benefit Exchange - through Governor Cuomo's Executive Order #42, which established the Exchange within the NYS Department of Health (April 12, 2012). Because the constitutionality of the ACA's individual mandate was upheld by the Supreme Court of the United States (*National Federation of Independent Business v. Sebelius*), one million New Yorkers will be entering the insurance marketplace in search of affordable coverage. The individual mandate requires that all individuals not covered by an employer sponsored health plan or public insurance program, purchase coverage or pay a penalty, unless exempted by the Internal Revenue Service as a member of a recognized religious sect, or waived due to financial hardship.

The Exchange is intended to act as an organized marketplace where individuals and businesses may compare commercial insurance options, calculate costs, and select coverage online, in person, over the phone or by mail. The Exchange will also assist individuals in determining eligibility for public health care programs like Medicaid and also help identify available financial assistance for applicants wishing to purchase health insurance through the Exchange. Insurance coverage will be available through the Exchange beginning in October 2013 (but not effective until January 1, 2014).

On July 9, 2012, New York Governor Cuomo submitted a declaration letter to the Centers for Medicare & Medicaid Services (CMS) confirming the state's intent to establish a state-based Health Benefit Exchange consistent with the ACA. Governor Cuomo named Donna Frescatore, as the Executive Director of the New York Health Benefit Exchange, as the primary point of contact for creating the State's "Exchange Blueprint" application. Pursuant to Governor Cuomo's Executive Order, the New York Health Benefit Exchange established five Regional Advisory Committees to provide advice and make recommendations on the establishment and operation of the Exchange, including recommendations about relevant regional factors. The five Committees represent: Western NY, Central NY/Finger Lakes, Capital District/Mid-Hudson/Northern NY, New York City/Metro, and Long Island. Each committee was made up of representatives of consumers, small business, health care providers, insurance agents and brokers, labor organizations and other stakeholders. Each Regional Advisory Committee met this September.

Following the Regional Advisory Committee meetings, on October 1, 2012, NYS submitted its selection of an Essential Health Benefits benchmark plan to Health and Human Services (HHS). New York selected the benefits of the State's largest small group plan, Oxford EPO, as the benchmark plan. Additionally, the state indicated the coverage areas in which benefits will be supplemented in order to meet ACA requirements. On October 26, 2012, New York submitted its Blueprint application to HHS for approval to operate a state-based health benefit Exchange. On December 14, 2012, HHS announced conditional approval of several state-based Exchanges, including New York State's Exchange.

To date, New York has received over $183 million in federal grants to plan and establish the Exchange. On November 20, 2012, New York submitted a Level 2 Exchange Establishment Grant application for additional federal financing to support the on-going development of New York's Exchange through December 31, 2014.

PUBLIC HEARINGS

Throughout the 2011-2012 legislative session, the Health Committee hosted many roundtables and public hearings to foster open, candid discussions on a variety of topics. These platforms provided an opportunity for varied experts to discuss issues facing the state's health care system. Due to the number of pressing issues, the Committee held seven roundtables and two public hearings. As detailed below, the topics varied from the confirmation of Nirav R. Shah as Commissioner of Health, to drug prescribing practices. For more information, including videos, presentations, and testimony, please visit the Committee's website.

Nomination Hearing of Nirav Ramesh Shah, M.D., M.P.H.
January 24, 2011
Albany, NY


Commissioner Shah

The first Committee meeting of the 2011 session was convened to consider Governor Andrew Cuomo's nomination of Nirav Ramesh Shah, M.D., M.P.H. as the new Commissioner of Health. Dr. Shah succeeds the late Richard F. Daines, M.D., who left office in December 2010. A native of Buffalo, Dr. Shah is a graduate of Harvard University. He received both his Medical Degree and a Masters of Public Health from Yale University. Immediately preceding his nomination, Dr. Shah served as an attending physician at Bellevue Hospital Center in Manhattan. Following testimony concerning his background, character, and qualifications, the Health Committee confirmed Dr. Shah on January 24, 2011. He is the 15th New York State Commissioner of Health; he is also the first Indian-American and the youngest person to hold this post. A video recording of the nomination hearing is available on online.

Participants:

Marc Gourevitch, M.D., M.P.H., *Chief of Division of General Internal Medicine*, N.Y.U. School of Medicine
Carl Henningson, M.D., M.Phil., *Attending Physician*, Jersey Shore Univ. Medical Center
Mack Lipkin, M.D., *Professor of Medicine & Director of Primary Care Residency Education Program*, N.Y.U. School of Medicine
Nirav R. Shah, M.D., M.P.H.

PUBLIC HEARINGS

Criminal Diversion of Prescription Medications Public Hearing
June 7, 2011
Albany, NY

The Standing Committees on Health and Codes jointly convened a public hearing to consider the improper transfer and possession of prescription medications and the subsequent effects on Medicaid expenditures and public health. There is a growing black market within New York for non-controlled substances of high value that doctors frequently prescribe to treat conditions such as HIV/AIDS, asthma, and diabetes. This black market directly affects Medicaid and its vulnerable recipients. This public hearing examined proposals to amend current law by altering penalties for diversion of prescription medications, unlawful possession of prescription medications and the fraudulent prescribing, dispensing, and procuring of non-controlled substances.

On May 3, 2011, Senator Hannon introduced legislation (S.5260-B), which provides for enhanced sanctions for criminal diversion acts that are committed on multiple occasions within a given period of time and involve the transfer of a prescription form, when such acts are committed by a physician, pharmacist or other person authorized to issue a prescription or to dispense prescription medications and devices. The bill establishes two new crimes: (a) felony crime of fraudulent prescribing, dispensing and procuring non-controlled substance prescription medications and devices; and (b) unlawful possession of non-controlled substance prescription medications and devices. A video recording of the hearing is available online.

Flow of Prescription Medication in the Criminal System

Participants:

Bridget G. Brennan, Esq., *Special Narcotics Prosecutor*, City of New York
Craig Burridge, M.S., C.A.E., *Executive Director*, Pharmacists Society of State of N.Y.
Peter Jenik, *Executive Deputy Commissioner of IREA Bureau of Fraud Investigation*, Human Resources Administration
Philip Schaffroth, Jr., *Assistant Director of IREA Bureau of Fraud Investigation*, Prescription Drug Division, Human Resources Administration
James G. Sheehan, Esq., N.Y.S. Medicaid Inspector General

CONFIRMATIONS

The Health Committee considered nominations from the Governor to several positions during the 2011-12 legislative session. Nominees approved by the Health Committee are referred to the Senate Finance Committee and if approved, to the Senate for a vote. Below is a listing of those nominations advanced by the Senate Standing Committee on Health during 2011 and 2012 and ultimately confirmed by the full Senate. For more information, including videos of the Committee Meetings, please visit the Committee's website.

Commissioner of Health Nirav Ramesh Shah, M.D., M.P.H.

The nomination of Dr. Shah as the 15th New York State Commissioner of Health was considered by the Health Committee on January 24, 2011. Given the importance of this position, the Health Committee held a public hearing as part of its deliberation. Additional details about Commissioner Shah and his confirmation can be found under public hearings.

Office of Medicaid Inspector General James C. Cox

Medicaid Inspector General Cox

A Health Committee Meeting was convened on February 29, 2012, to consider Governor Andrew Cuomo's nomination of James C. Cox as the State's new Medicaid Inspector General. Mr. Cox, who was ultimately confirmed by the full Senate as Medicaid Inspector General on March 6, 2012, succeeds James Sheehan, who served as the State's first Medicaid Inspector General from 2007 through 2011. The Office of Medicaid Inspector General was established by Chapter 447 of 2006 to enhance the integrity of the New York State Medicaid program by preventing and detecting fraudulent, abusive, and wasteful practices within the Medicaid program and recovering improperly expended Medicaid funds while promoting a high quality of patient care.

A graduate of Russell Sage College in Troy, New York, Mr. Cox has a wealth of experience. He served a distinguished career that lasted more than two decades with the US Department of Health and Human Services' Inspector General's Audit Bureau. Immediately preceding his nomination, Mr. Cox was Regional Inspector General for Region V, which spans six Midwest states. He also served as a supervisory auditor for Region II which includes New York, and helped create a joint Department of Justice Health and Human Services task force to combat fraud, waste, and abuse in government programs. A video recording of the Committee Meeting in which his nomination was considered is available on online.

CONFIRMATIONS

Public Health and Health Planning Council

The Public Health and Health Planning Council (PHHPC) was established in 2010 (PHL §225) to consolidate the responsibilities and functions of the former Public Health Council (PHC) and the State Hospital Review and Planning Council (SHRPC) into this newly established council. The PHHPC consists of the Commissioner of Health and 24 members and has a broad array of advisory and decision-making responsibilities with respect to New York State's public health and health care delivery system. It is charged with adopting and amending the Sanitary Code and health care facility, home care agency, and hospice operating regulations. The PHHPC also makes decisions concerning the establishment and transfer of ownership of health care facilities, home care agencies and hospice programs. It makes recommendations to the Commissioner of Health concerning major construction projects, service changes, and equipment acquisitions in health care facilities and home care agencies. It also advises the Commissioner on issues related to the preservation and improvement of public health. The Committee considered and recommended the nominees to the Senate Finance Committee on May 24 and June 13, 2011.

Nominees confirmed to the PHHPC in 2011 include:

Howard S. Berliner, SC.D., *Director of Health Policy*,
Service Employees International Union
Christopher C. Booth, *President*, Excellus BlueCross BlueShield;
CEO, Lifetime Healthcare Companies/Excellus BlueCross BlueShield
Angel A. Gutierrez, M.D., *OPMC Medical Coordinator*,
Western Regional Office, NYSDOH
Ellen E. Grant, Ph.D., *Senior Services Commissioner*, Erie County Department of Senior Services; *Managing Partner*, First Advantage Consulting
Victoria Godwin Hines, *President and CEO*,
Visiting Nurse Service of Rochester and Monroe County, Inc.
Jeffrey A. Kraut, *Senior Vice President*,
North Shore Long Island Jewish Health System
Arthur Aaron Levin, M.P.H., *Director*,
Center for Medical Consumers
Glenn A. Martin, M.D., *Associate Dean of Research and Clinical Assistant Professor of Psychiatry*, Mount Sinai School of Medicine
John M. Palmer, Ph.D., *Executive Director*,
Harlem Hospital Center and the Renaissance Health Care Network
Ann Marie Theresa Sullivan, M.D., *Senior Vice President*,
Elmhurst Hospital Center
Theodore J. Strange, M.D., *Associate Chairman of Medical Operations*, Staten Island University Hospital; *Vice President and Physician*, University Physicians Group
Anderson Torres, Ph.D., LCSW-R, *Vice President*,
Puerto Rican Family Institute, Inc.
John Rugge, M.D., MPP, *CEO*,
Hudson Headwaters Health Network

CONFIRMATIONS

State Camp Safety Advisory Council

The State Camp Safety Advisory Council was established by statute (PHL §1390) in 1973 to advise and consult the Commissioner of Health on policy matters relating to youth camp safety. The Council consists of nine members to be appointed by the Governor with the advice and consent of the Senate. The Committee considered and recommended the nominees to the Senate Finance Committee on June 5, 2012.

Nominees confirmed to the State Camp Safety Advisory Council in 2012 include:

Jordan Dale, Esq., *Executive Director,* Surprise Lake Camp
Dawn Ewing, *Executive Director,* Project Morry
Milton Frischman, *Director of Camping,* Agudath Israel of America

Minority Health Council

The Minority Health Council was created by statute (PHL §243) in 1992. The purpose of this Council is to consider any matter relating to the preservation and improvement of minority health in the state and to advise the Commissioner of Health on these issues. The Committee considered and recommended the nominees to the Senate Finance Committee on June 11, 2012.

Nominees confirmed to the Minority Health Council in 2012 include:

Ruth C. Browne, ScD, *Founding Chief Executive Officer,*
Arthur Ashe Institute for Urban Health
Guillermo Chacon, *President,*
Latino Commission on AIDS
Ngozi Moses,M.Sc., *Executive Director,*
Brooklyn Perinatal Network Inc.
Christopher A. Phang, M.D., *Assistant Professor of Pediatrics,* Jacobi Medical Center; *Executive Director,* Harlem Pediatric Associates, P.C.
Lori V. Quigley, Ph.D., *Dean and Professor,*
School of Education, The Sage Colleges
Lenora Reid-Rose, M.B.A., *Director,* Cultural Competency Initiatives, Coordinated Care Services Inc.; *Co-Director,* NYS Office of Mental Health, Center of Excellence in Culturally Competent Mental Health
Raul Vazquez, M.D., *President and founder,* Urban Family Practice, P.C.; *President and founder,* West Side Urgent Care P.L.L.C.; *Assistant Clinical Professor,* S.U.N.Y. Buffalo

ROUNDTABLE DISCUSSIONS

Medicaid Reform Roundtable
January 18, 2011
Albany, NY

Senator Hannon, as Chair of the Standing Committee on Health, convened a roundtable to hear from organizations who had recently published white papers discussing potential ways to reform New York's Medicaid Program. The goal of the roundtable was to assess the most effective and efficient solutions for reforming Medicaid. The presenters and their respective white papers are listed below. A video recording of the roundtable's testimony is available online.

Participants:

Stephen J. Acquario, Esq., *Executive Director*, N.Y. Association of Counties
Administering Medicaid in New York State: The County Perspective

James R. Knickman, Ph.D., *President & CEO*, N.Y.S. Health Foundation
Bending the Health Care Cost Curve in New York State: Options for Saving Money and Improving Care

David C. Rich, *Executive Vice President*, Greater N.Y. Hospital Association
Reforming New York's Medicaid Program

Dan Sisto, M.B.A., *President*, Healthcare Association of N.Y.S.
Recommendations of HANYS' Task Force on Improving New York State's Medicaid Program

Jeff Smith, *Senior Vice President*, Lewin Group
Analysis of the New York State Medicaid Program and Identification of Potential Cost-Containment Opportunities
Potential Federal and State-by-State Savings if Medicaid Pharmacy Programs Were Optimally Managed

Rick Surpin, *President*, Independent Care Systems (ICS)
A Home and Community-Based Service System Reform Blueprint

ROUNDTABLE DISCUSSIONS

New York State Health Insurance Exchange Roundtable
April 27, 2011
Albany, NY

The Patient Protection and Affordable Care Act (Pub. L. 111-148) and The Health Care and Education Reconciliation Act (Pub. L. 111-152), collectively referred to as the Affordable Care Act (ACA), require the establishment of state-based Health Benefit Exchanges. The Exchanges are to function as the marketplace for individuals and employers to purchase insurance in compliance with the individual mandate under the ACA. As previously discussed herein, states have the option of establishing their own Exchange or allowing the federal government to establish a state-based Exchange. In order to examine the available options, the Standing Committees on Health and Insurance convened a roundtable. The roundtable brought together groups from various sides of the issue. The participants examined the benefits of a state-sponsored Exchange, and the structure, regulation, and operation of such an entity. As a result of this discussion, and further negotiation, Senator Hannon and Senator Seward as chairs of the Standing Committees on Health and Insurance, respectively, co-sponsored S.5849, Governor's Program bill #12, outlining the potential structure of the Exchange. A video recording of the nomination hearing is available online.

Participants:

Elisabeth Benjamin, Esq., M.S.P.H., *Vice President of Health Initiatives*, Community Service Society of New York
Dan Colacino, New York State Association of Health Underwriters (NAHU)
Caron O'Brien Crummey, Empire BlueCross and BlueShield
Sean Doolan, Esq., Empire BlueCross and BlueShield
Paul Howard, Ph.D., *Senior Fellow* & *Director* of the Center for Medical Progress, Manhattan Institute for Policy Research
Harold Iselin, Esq., NY Health Plan Association
James R. Knickman, Ph.D., *President & CEO*, N.Y.S. Health Foundation
Paul Macielak, Esq., NY Health Plan Association
Peter Newell, M.P.A., *Health Insurance Project Director*, United Hospital Fund
Ken Pokalsky, *Senior Director of Government Affairs*, The Business Council of New York State, Inc.
Jack Smith, CPCU, ARM, CIC, *Director*, Independent Insurance Agents & Brokers of N.Y., Inc.
James R. Tallon, Jr., M.A., *President*, United Hospital Fund
Chris Whatley, M.S., *Deputy Executive Director*, The Council of State Governments

ROUNDTABLE DISCUSSIONS

Physicians & Health Insurance Reimbursement Roundtable
May 18, 2011
Albany, NY

The Senate Standing Committee on Health and the Standing Committee on Insurance again joined forces, this time to hold a roundtable discussion on the health insurance reimbursement of out-of-network medical services and office-based surgery. The roundtable brought together stakeholders for a constructive and informative discussion on the structure of reimbursement, administrative processes, and proposed reforms concerning these issues. During this discussion, several legislative proposals introduced by Senator Hannon were discussed, including, S.5068 which would require disclosure of out-of-network costs, and significant coverage of such costs. Further, S.4597-A, which subsequently passed the Senate, was discussed. This legislation requires office-based surgical facilities to obtain a certificate of registration. Upon completion of the certification of registration, an office-based surgical facility is eligible to seek payment from a health plan for the use of the facility. In 2012, the Senate passed S.7745, an updated out-of-network bill.

Participants:

Darrick E. Antell, M.D., *President*, Society of New York Office Based Surgery Facilities
Morris M. Auster, Esq., *Counsel in Div. of Government Affairs*, Medical Society of N.Y.
Caron O'Brien Crummey, Empire BlueCross and BlueShield
Elizabeth Dears, Esq., *Senior Vice President*, Medical Society of N.Y.
Sean Doolan, Esq., Empire Blue Cross and Blue Shield
Diane E. Frazier, Esq., Bogan, Lasky & Kopley, L.L.C.
Robin Gelburd, Esq., *President*, FAIR Health, Inc.
Harold Iselin, Esq., N.Y. Health Plan Association
Deepak A. Kapoor, M.D., *Chairman & CEO*, Integrated Medical Professionals
Andrew Kleinman, M.D.
Michael Levine, M.D., F.A.C.S.
Paul Macielak, Esq., N.Y. Health Plan Association
Lisa H. Reid, Patricia Lynch Associates
Wellington S. Tichenor, M.D., *Chairman*, Society of N.Y. Office Based Surgery Facilities

ROUNDTABLE DISCUSSIONS

Prescription Drug Abuse Roundtable
August 31, 2011
New York, NY

New York State, like the nation, is in the midst of a severe prescription drug abuse crisis. Prescriptions for opioids, particularly oxycodone and hydrocodone, have skyrocketed and are second only to marijuana among abused drugs. As prescriptions for opioids soar, the state has witnessed tragic deaths from overdoses and violent pharmacy robberies committed by addicts. The 2011 robbery of a Medford pharmacy, by an addict stealing hydrocodone, resulted in the untimely death of four people.

Due to the alarming increase in abuse and the resulting fatalities, the Standing Committee on Health, the Standing Committee on Alcoholism and Drug Abuse, and the Standing Committee on Investigations and Government Operations held a joint-roundtable to discuss the prescription drug abuse and diversion in the state, the tragic consequences of this crisis, and possible policy solutions. The roundtable, held in Manhattan, featured a dozen participants, representing experts in the fields of pharmaceuticals, narcotics, mental health, substance abuse, and Medicaid fraud. Committee Chair, Senator Hannon, commented, "our roundtable discussion focused on how state laws, regulations and policies relate to this growing problem and what steps could be taken to combat this problem at the state and the local levels."

One issue raised at the roundtable was the scheduling of hydrocodone. The U.S. Food and Drug Administration and Drug Enforcement Agency have been studying whether to move hydrocodone based drugs into schedule II controlled substances for over ten years. Moving the drug to a schedule II controlled substance will enhance existing penalties for people who possess or sell large quantities of Hydrocodone and will limit prescriptions to a 30-day supply. Further, re-classifying the drug would permit the Special Narcotics Prosecutor of NYC to prosecute cases involving hydrocodone in boroughs outside of Manhattan. There was also discussion about adding Tramadol, which was not previously scheduled, to the schedule because it too is an opioid-based, addictive, pain medication. Accordingly, Senator Hannon subsequently introduced legislation (S.5880) which proposes elevating Hydrocodone to a schedule II drug and adding Tramadol to the list of schedule III drugs. This concept was subsequently adopted in the I-STOP Act (Ch. 447 of 2012) which makes Hydrocodone a schedule II drug and Tramadol a schedule IV drug.

Participants:

Joanne Hoffman Beechko, RPH, *President*, Long Island Pharmacists Society & Pharmacists Society of the State of N.Y.

Bridget G. Brennan, Esq., *Special Narcotics Prosecutor*, New York City Office of the Special Narcotics Prosecutor

Sean Doolan, Esq., Empire BlueCross and BlueShield

Frank G. Downling, M.D., *Commissioner of Public Health & Science*, Medical Society of the State of N.Y.; *Medical Advisor*, Police Organization Providing Peer Assistance; *Clinical Professor* of Psychology, S.U.N.Y. Stony Brook

Janet Zachary-Elkind, *Director of Pharmacy Programs*, Office of Financial Planning & Policy, N.Y.S. Health Department

Thomas Farley, M.D., M.P.H., *Commissioner*, New York City Department of Health & Mental Hygiene

Andrew Fogarty, Esq., *Director of Government Affairs*, N.Y. Health Plan Association

Steve Kipnis, M.D., F.A.C.P., F.A.S.A.M., *Medical Director*, Office of Alcoholism and Substance Abuse Services

Andrew Kolodny, M.D., *Chairman of Department of Psychiatry*, Maimonides Medical Center; Physicians for Responsible Opioid Prescribing; N.Y. Society of Addiction Medicine

Paul Mahoney, *Chief of Civil Enforcement Division*, Medicare Fraud Control Unit, Office of the N.Y.S. Attorney General

David Vizzini, *Clinical Coordinator for Outreach*, N.Y. Association of Alcoholism and Substance Abuse Providers, Inc.

ROUNDTABLE DISCUSSIONS

Eastern Equine Encephalitis ("EEE") Roundtable
October 13, 2011
Oswego, NY

The Health Committee, joined by Senator Patty Ritchie, Chair of the Senate Standing Committee on Agriculture held a roundtable to discuss the incidence of Eastern Equine Encephalitis (EEE), its impact on human and animal health and possible policy changes to minimize infection and spread of the virus in New York State. The Committees held the roundtable in Oswego shortly after an infected mosquito caused the death of a 4 year old girl. The girl's death was the third in as many years in Oswego County, a marked increase over prior years. Important information was gathered and exchanged from a range of knowledgeable stakeholders on the transmission of this deadly disease to humans and animals, and steps that may be taken by both officials and the public to reduce infections. A video recording of the roundtable is available online. A report entitled State and Local Response to Eastern Equine Encephalitis was issued as a result of the Roundtable.

Participants:

Guthrie Birkhead, M.D., *Deputy Commissioner*, Office of Public Health in N.Y.S. Department of Health
John DeHollander, *District Manager*, Oswego County Soil & Water Conservation
Hon. Kevin Gardner, *County Legislator*, Oswego County, 13th District
Hon. Barry Leemann, *Chairman*, Oswego Co. Legislature
Kenneth Lynch, *Regional Director* for Region 6, N.Y.S. Department of Environmental Conservation
Dennis Norfleet, M.D., *Public Health Director*, Oswego County Health Department
David Smith, D.V.M., *State Veterinarian*, N.Y.S. Department of Agriculture & Markets
Belinda S. Thompson, D.V.M., Animal Health Diagnostic Center of Cornell Veterinary College
Evan Walsh, *Associate Public Health Sanitarian*, Oswego County
Nancy Weber, *President*, Oswego County Farm Bureau
Jeff Williams, M.P.S., New York Farm Bureau

ROUNDTABLE DISCUSSIONS

Telemedicine and Telehealth Roundtable
January 9, 2012
Albany, NY

The Senate Health Committee joined the New York State Legislative Commission on Rural Resources, along with the Senate Insurance Committee and Assembly Committees on Health and Insurance to host a roundtable discussion in Albany on Telemedicine and Telehealth. This roundtable brought together industry leaders, providers, policymakers, and other stakeholders to discuss the existing telehealth system and explore further enhancements and/or applications to ensure unserved and underserved rural New Yorkers have access to the care they need. In order to highlight the very technology being discussed, several participants contributed to the roundtable via webcams from remote locations. A video recording of the roundtable is available online. The Commission on Rural Resources issued a report entitled Telemedicine and Telehealth: Putting the Pieces Together in March 2012 summarizing the roundtable discussion and outlining recommendations. Chapter 390 of the laws of 2012, which permits hospitals where a patient is receiving telemedicine services to enter into an agreement with a distant site hospital for credentialing, privileging, and peer review of a distant site health care practitioner, was among the recommendations that have already been adopted.

Senator Kemp Hannon (right) with Senator William J. Larkin, Jr. (left)

Participants:

Rachel Block, *Deputy Commissioner*, Office of Health Information Technology Transformation, in N.Y.S. Department of Health
Gregory Allen, *Director*, Division of Program Development and Management, Office of Health Insurance Programs, in N.Y.S. Department of Health
Stewart Cabel, *Medical Director*, Office of Children and Families, N.Y.S. Office of Mental Health
Kenneth L. Oakley, *Chief Executive Director*, Western New York Area Health Education Center and Lake Plains Community Health Network, Inc.

Frederick Heigel, *Vice President for Regulatory Affairs*, Rural Health and Workforce, Healthcare Association of New York State

Alexis Silver, *Vice President for Clinical Policy*, Home Care Association of New York State

Frank Dubeck, MD, CACP, CPE, *Vice President and Chief Medical Officer,* Excellus BlueCross and BlueShield

Cynthia Gordon, RN, MSN, *Director of Telehealth Services,* Rochester General Health System and InterVol

Victoria G. Hines, MPH, *President and Chief Executive Officer*, Visiting Nurse Service of Rochester and Monroe County, Inc.

Thomas E. Holt, *President and Chief Executive Officer,* Lutheran Social Services

Michelle Mazzacco, MBA, *Vice President and Director*, Eddy Visiting Nurse Association/St. Peter's Health

Laurie Neander, RN, MS, *Chief Executive Officer*, Bassett Healthcare Network: At Home Care, Inc.

Mary Ann Zelazny, BA, *Chief Executive Officer,* Finger Lakes Migrant Health

Denise K. Young, MBA, HCM, CSP, *Executive Director,* Fort Drum Regional Health Planning Organization

Betty Van Huizen, RN, *Vice President and Business Development,* Advantage Home Telehealth, Inc.

ROUNDTABLE DISCUSSIONS

Prescription Drug Abuse Roundtable
February 13, 2012
Albany, NY

A second joint-roundtable was held by the Standing Committee on Health and the Standing Committee on Alcoholism and Drug Abuse to continue and expand upon the August, 2011 discussion on prescription drug abuse and options to combat the crisis while maintaining access for legitimate uses. The roundtable, held in Albany to a packed audience, featured nearly a dozen participants. Parents shared their heart wrenching experiences and spoke of the need for change in order to spare other families a similar fate. Substance abuse treatment providers from both ends of the state described the challenges they face each day to assist the ever increasing number of young addicts. As part of the discussion, a palliative care physician explained the importance of controlled substances in caring for those suffering from painful, chronic conditions and the need to balance any reforms to ensure those patients are not adversely affected. A host of other experts spoke about the existing system which monitors controlled substances through the state's Bureau of Narcotics Enforcement and ways in which it could be enhanced and better utilized to control inappropriate access to controlled substances. A video recording of the roundtable is available online. Additionally, Chairman Hannon issued a report entitled The Prescription Drug Crisis in New York State: A Comprehensive Approach, and legislation was ultimately adopted which, among other things, required the state's prescription monitoring program be updated to provide "real time" tracking of controlled substance prescriptions (Ch. 447 of 2012).

Participants:

Avi & Julie Israel, *Parents of Michael Israel,*
Teri Kroll, *Parent of Tim Kroll*
Terence J. O'Leary, *Director*, Bureau of Narcotics Enforcement, NYS Department of Health
Paul Mahoney, *Assistant Deputy Attorney General,* Medicaid Fraud Control Unit
Tomson George, RPh, *Manager,* Pharmacy Regulatory Systems at Walgreen Co.
John McDonald, RPh, *Owner/Operator,* Marra's Pharmacy, Pharmacists Society of the State of New York
Joseph Sacco, MD, *Founder/Director,* Palliative Medicine Consultation Service at Bronx Lebanon Hospital Center; *Medical Director* of the Hospice Inpatient Unit
Donald Moore, MD, MPH, *Vice-Chair,* MSSNY's Health Information Technology Committee
Jeffrey Reynolds, PhD, CEAP, SAP, *Executive Director,* Long Island Council on Alcoholism and Drug Dependence (LICADD)
Giselle Jackman, MSED, *Director of Program Services,* Prevention Focus, Inc.

REPORTS OF THE COMMITTEE

The Prescription Drug Crisis in New York State: A Comprehensive Approach: In this report, Senator Hannon outlines a collaborative and comprehensive plan to combat the prescription drug abuse crisis. With the alarming growth of prescription drug abuse and related fatalities, New Yorkers must work together and implement a comprehensive plan to combat this crisis. Unlike the traditional war on drugs, we must find a delicate balance. While prescription pain killers have highly addictive and dangerous qualities, they also provide much needed relief to individuals suffering from chronic illnesses. Due to the breadth and complexity of the issue, this report outlines a statewide comprehensive approach. The report takes into account all information presented to the Senate Health Committee through the roundtables held on the subject, independent research and information from stakeholders across the state. The goal in issuing this report is to detail solutions, but it does not represent the final word in fighting this crisis.

State and Local Response to Eastern Equine Encephalitis: This 93-page report includes 13 specific recommendations to improve the state and local response to the Eastern Equine Encephalitis (EEE) virus. The recommendations included in the report are a result of the roundtable held on October 13, 2011. In the summer of 2011, an EEE outbreak took the life of a 4-year-old Oswego County girl, the third fatality in three years caused by the mosquito borne virus. At the roundtable experts came together with the goal of protecting human, as well as animal life, and to find ways to prevent additional losses. The recommendations in this report build on the commitment in the hope that we can prevent another tragedy. One of the recommendations was addressed by Chapter 469 of 2012, which requires the Department of Health to reimburse emergency aerial spraying.