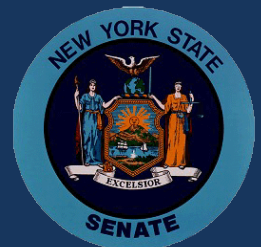


2015 REPORT OF THE NEW YORK STATE SENATE STANDING COMMITTEE ON HEALTH



238TH LEGISLATIVE SESSION
SENATOR KEMP HANNON
CHAIRMAN



**REPORT OF THE NEW YORK STATE SENATE
STANDING COMMITTEE ON HEALTH
238TH LEGISLATIVE SESSION
2015**



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Senator Catherine M. Young	Senator Toby Ann Stavisky

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Executive Summary

During the 2015 session, the Standing Committee on Health voted on 92 bills, of which 34 were enacted into law. Of these laws, a number focused on promoting women's health and ensuring equality, such as new laws requiring employers provide reasonable accommodations for women with pregnancy-related conditions, ensuring employers adhere to and employees are aware of their breast feeding rights, and enabling women to purchase health insurance when they become pregnant.

Another legislative highlight of the past year was the CARE Act (Caregiver, Advise, Record and Enable Act), which requires hospitals provide patients an opportunity to designate a caregiver and notify and discuss discharge care with the designated caregiver prior to a transfer or discharge. This new law will ensure that caregivers are heavily involved and advised regarding patients' needs and how to best meet them in their homes, thereby reducing hospitalizations and enhancing quality of life. The law advances the triple aim of healthcare better health for the population; better care for individuals; and lower costs per capita.

The Committee also focused on efforts to increase organ donation this year. Lauren's Law was enacted in 2012, with the intent to require driver license applicants to actively choose whether they would like to become a registered organ, eye and tissue donor. However, because the statute did not invalidate an application that left the organ and tissue donation section blank, it has been less effective than hoped. To remedy this, the Committee advanced legislation, which has since been signed into law to require driver license applicants to complete the organ and tissue donation section. In the first month after this law became effective, the New York State Donate Life Registry had more registrants than any month in its history.

In April, 2015 the Committee hosted a roundtable discussion, with the Standing Committee on Insurance, to take a closer look at Value Based Payments (VBP), an emerging payment approach in health care. VBPs are designed to replace fee-for-service payments and lead to payments based on positive health outcomes. Thirteen experts participated in the discussion, examining the hurdles and long term vision for health care payments in New York.

The year ended with the sudden collapse of New York's federally established health insurance co-op, Health Republic Insurance of New York. As one of the largest insurers on the State's Insurance Exchange, consumers, health care providers, and businesses across the State were adversely affected. The Committee has been active in addressing the concerns of individuals and providers, and in early 2016 the Committee will hold a roundtable discussion with the Senate Committee on Insurance to examine what went wrong, how we can smooth the transition, and how to ensure appropriate monitoring, oversight and protections are in place to avoid future failures.

Video footage of Committee meetings, hearings, and roundtables, as well as copies of committee reports and presentations can be found at www.nysenate.gov/committees/health.

TABLE OF CONTENTS

Executive Summary	2
Health Chapters.....	5
<i>Public Health and Safety</i>	5
<i>Women, Children and Family Health</i>	6
<i>Patient Safety & Rights</i>	7
<i>Health Care Facilities</i>	7
<i>Health Care Professionals</i>	8
Health Bills Vetoed.....	10
Significant Legislation Passed by Senate.....	12
2015-16 Health Budget Highlights	13
<i>Medicaid</i>	13
<i>Health Care Facility Financing</i>	13
<i>Hospitals, Nursing Homes and Other Providers</i>	14
<i>Pharmacy</i>	15
<i>Health Insurance</i>	15
<i>Public Health</i>	16
Roundtables Discussions	17
<i>Value Based Payment Roundtable</i>	17
Committee Presentations	18
Confirmations	19

2015 Health Chapters

Public Health and Safety

Smoking Near After-school Programs

Chapter 100: This legislation prohibits individuals from smoking outside the entrances and exits of educational institutions in order to protect students wishing to enter and exit educational institutions from unwanted exposure to secondhand smoke. This bill was signed into law on August 13, 2015 and became effective September 12, 2015. (S.993-A/A.5917-A)

Tattoo and Body Piercing

Chapter 230: This legislation requires a tattooist or body piercing specialist ensure single-use inks and needles are used in all procedures and to obtain written consent from the consumer confirming compliance with this act. This bill was signed into law on August 14, 2015 and became effective December 12, 2015. (S.1421/A.1334)

Powdered Alcohol

Chapter 231: This legislation prohibits the sale, offering for sale or providing for the consumption of any powdered or crystalline alcohol product. This bill was signed into law on August 14, 2015 and became effective September 13, 2015. (S.1757-A/A.1357-A)

Synthetic Drugs

Chapter 370: This legislation adds two new synthetic drugs to schedule I of the list of controlled substances under section 3306 of the Public Health Law, making them illegal. This bill was signed into law on October 26, 2015 and became effective immediately. (S.738-A/ A.627-A)

Controlled Substance Disposal

Chapter 379: This legislation allows pharmacies and other Drug Enforcement Agency's (DEA) authorized collectors to operate as collection sites for unused controlled substances as soon as they are approved by the DEA and in compliance with federal laws and regulations. This bill was signed into law on October 26, 2015 and became effective immediately. (S.3687/A.6062)

Meningococcal Vaccines

Chapter 401: In accordance with the Center for Disease Control (CDC) recommendations, this legislation requires all children entering 7th and 12th grades receive the meningococcal vaccine in order to protect school-aged children and prevent the spread of this often fatal disease. This bill was signed into law on October 26, 2015 and was effective immediately. (S.4324-A/A.791-C)

Dining With Dogs

Chapter 402: This legislation allows restaurants to permit dogs in outdoor dining areas as long as the specified safety requirements are met. This bill was signed into law on October 26, 2015 and became effective immediately. (S.4327-A/A.5956-C)

Organ Donor Registry

Chapter 405: This legislation ensures that New York drivers have the opportunity to register as an organ donor by requiring that a "yes" or "Skip this question" box is checked in the organ donation registration section when filling out DMV forms electronically or in person. This bill was signed into law on October 26, 2015 and became effective immediately. (S.5101-A/A.7431-A)

Spina Bifida Prevention and Awareness

Chapter 465: This legislation is intended to help prevent Spina Bifida by raise awareness and educating the public regarding this preventable birth defect by authorizing the Commissioner of Health to establish a public outreach campaign. This bill was signed into law on November 20, 2015 and became effective immediately. (S.299-A/A.6979-A)

Obesity Prevention

Chapter 469: This bill expands the scope of programs administered by the DOH to reduce the incidence and prevalence of obesity in children and adolescents, especially among populations with high rates of obesity. This bill was signed into law on November 20, 2015 and became effective immediately. (S.1528-A/A.6506-A)

Consumer Directed Personal Care Assistance Program

Chapter 511: This legislation allows parents and certain other relatives to provide personal care to their family members under the Consumer Directed Personal Care Assistance Program. This bill was signed into law on November 20, 2015 and shall be effective on April 1, 2016. (S.5712/A.7532-A)

Women, Children & Family Health

Reasonable Accommodations During Pregnancy

Chapter 369: This legislation requires that employers provide reasonable accommodations (i.e. extra bathroom breaks, transfer from hazardous tasks, seating) for women with pregnancy related conditions. This bill was signed into law on October 21, 2015 and becomes effective January 19, 2016. (S.8/A.4272)

Female Genital Mutilation

Chapter 419: This legislation includes female genital mutilation on the list of topics the Department of Health conducts education and outreach programs on. These programs will include information on the physical, sexual and psychological consequences of undergoing female genital mutilation. This bill was signed into law on November 20, 2015 and became effective immediately. (S.3483/A.134)

Women's Cancers Education and Prevention Fund

Chapter 420: This legislation creates the Women's Cancers Education and Prevention Fund, financed by optional contributions derived from a taxpayer check-off placed on all corporate and personal income tax forms. This bill was signed into law on November 20, 2015 and became effective immediately. (S.5902/A.382-A)

Breastfeeding Bill of Rights

Chapter 446: This legislation updates the Breastfeeding Mothers' Bill of Rights to ensure women are aware of their right to take reasonable, unpaid breaks in order to pump breast milk upon returning to work. This bill was signed into law on November 20, 2015 and becomes effective January 1, 2016. (S.5183/A.7202-A)

Patient Safety and Rights

CARE Act

Chapter 391: The CARE Act, or Caregiver, Advise, Record and Enable Act, provides patients with an opportunity to appoint a caregiver upon hospital admission and directs hospitals to notify and offer training to the designated caregiver, resulting in better at-home care and fewer hospital readmissions. This bill was signed into law on October 26, 2015 and becomes effective April 23, 2016. (S.676-B/A.1323-B)

Medical Marihuana Certification

Chapters 416 & 417: These chapters allow for the expedited availability of medical marihuana for individuals whose condition is progressive and degenerative, or will face a serious detriment to their health or life if access to medical marihuana is prohibited prior to full implementation of the 2014 medical marihuana law. These bills were signed into law on November 11, 2015 became effective immediately. (S.5086/A.7060) (S.5989/A.8258)

Victim's Services

Chapter 418: This bill allows the Department of Health (DOH) to promote the availability of individual, family, and group counseling programs, education programs and advocacy services provided at no cost for victims of sexual offenses and child pornography promotion or possession. This bill was signed into law on November 20, 2015 and became effective immediately. (S.3486/A.86)

Health Care Facilities

Continuing Care Retirement Communities

Chapter 7: This legislation clarifies provisions in Chapter 549 of 2014 to provide for an application and oversight process related to allowing continuing care communities to offer life care and life care at home programs to seniors. This bill was signed into law on March 13, 2015 and became effective immediately. (A.4490/S.3547)

Residential Care Off-Site Facility Demonstration Project

Chapter 32: 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 2018. This bill was signed into law on June 30, 2015 and became effective immediately. (S5731/A.7620)

Hospital Sepsis Data

Chapter 315: This legislation provides the DOH and all hospitals the time necessary to assure that certain hospital quality measures relating to sepsis are accurate, valid and reliable, and appropriately reflect care provided by individual hospitals before public release of hospital specific data. This bill was signed into law on September 25, 2015 and became effective immediately. (A.7465/S.4874)

Erie County Medical Center (ECMC)

Chapter 560: This legislation allows ECMC to enter into agreements for the creation and operation of a health care delivery system network. Clarifies that in carrying out its health care purposes, ECMC may engage in arrangements, contracts, information sharing, and activities with public or private entities and individuals, including joint ventures and joint negotiations with physicians, hospitals and payers. This bill was signed into law on December 18, 2016 and took effect immediately. (S.2647/A.5254)

Health Care Professionals

Telehealth

Chapter 6: This bill provides clarification to telehealth related definitions and insurance provisions related to requiring insurers and Medicaid to provide coverage for the provision of telehealth and telemedicine services. This bill was signed into law on March 13, 2015 and became effective on January 1, 2016. It was later amended by Chapter 167, which provides that dentist's offices shall be originating sites for the purposes of telehealth delivery of services. (A.2552-A/S.2405)

OPMC Reviews

Chapter 11: This legislation clarifies that investigations by the Office of Professional Medical Conduct of complaints based solely upon the recommendation or provision of a treatment modality to a particular patient that is not universally accepted shall be limited to a preliminary review. This bill was signed into law on March 13, 2015 and became effective immediately. (S.1693/A.2554)

E-Prescribing

Chapter 13: This legislation delays the requirement that prescribers use only electronic prescriptions for one year, until March 27, 2016, in order to allow the health care community the appropriate time to undergo the federal certification process. This bill was signed into law on March 13, 2015. (A.4274/S.2486)

Pharmacists as Immunizers

Chapter 46: This legislation extends provisions allowing pharmacists to administer certain vaccines until July 1, 2019 and expands the list of vaccinations that they may administer to include immunizations to prevent acute herpes, zoster, tetanus, diphtheria, and pertussis. This bill was signed into law on June 30, 2015 and became effective immediately. (S.4739-A/A.123-B)

Family Health Care Decisions Act

Chapter 107: This bill authorizes an attending physician to make decisions regarding hospice for hospice-eligible incapable adult patients without a surrogate. This bill was signed into law on August 13, 2015 and became effective immediately. (A.2150/S.1153)

The Elderly Demonstration Project

Chapter 124: This legislation extends the demonstration program that allows nursing homes that also provide a variety of community based care to provide home based physician, nurse practitioner and physician assistant services to elderly patients. This bill was signed into law on August 13, 2015 and became effective immediately, extending the project to January 1, 2021. (S.5509/A.7619)

Telehealth Dentistry

Chapter 167: This legislation makes a technical amendment to Chapter 6 of the Laws to include dental offices in the definition of "originating site" for purposes of telehealth delivery of services. This bill was signed into law on August 13, 2015 and became effective on the same date and in the same manner as section 2 of chapter 6 of the laws took effect. (A.7369/S.4182-A)

Nurse Practitioners

Chapter 376: This legislation amends the Nurse Practice Act to eliminate statutory references to written practice agreements. The amendments were necessary to conform to changes done last year eliminating the written practice agreements for NPs with over 3600 hours of practice experience. This bill was signed into law on October 26, 2015 and became effective immediately. (A.4140/S.2300)

Telehealth Therapies

Chapter 454: This legislation adds physical therapists and occupational therapists to the list of health care professionals who may deliver health care services using electronic information and communication technologies. This bill was signed into law on November 20, 2015 and became effective on the same date and the same manner as Chapter 550 of the Laws of 2014. (A.7488/S.5733)

Oversight of services for the developmentally disabled

Chapter 474: This legislation ensures that New York State's public policy of providing supports and services for individuals with developmental disabilities, such as residential, day and employment services, will continue to be provided by nonprofit entities with experience providing services to those with developmental disabilities. This bill was signed into law on November 20, 2015 and became effective immediately. (A.7200/S.3638-A)

Pharmacists Appeal Process

Chapter 540: This legislation creates a process for pharmacies and their agents, who contract with pharmacy benefit managers (PBM) to appeal, investigate, and resolve disputes regarding multi-source generic drug pricing, resulting in a more balanced relationship between pharmacies and PBMs. This bill was signed into law on December 11, 2015 and becomes effective March 10, 2016. (S.3346-B/A.676-C)

Health Bills Vetoed

Grants for Local Blood Drives

Veto 188: This legislation would have created a program of grants to help community organizations, not-for-profit organizations and schools pay for the costs of conducting a local blood donation drive. The Governor vetoed this bill on August 13, 2015. (S.3804/A.375)

Prescriber Prevails for Medicaid Managed Care

Veto 191: This legislation would have applied “prescriber prevails” protections to Medicaid managed care plans so that a prescriber’s determination regarding a patient’s medications prevails over what is covered in Medicaid managed care plans to ensure that patients in these plans are provided the same protections as patients in Medicaid fee-for-service plans. The Governor vetoed this bill on August 13, 2015. (S.4893/A.7208)

Physical Fitness and Activity Education Campaign

Veto 194: This bill would have established to a physical fitness and activity education campaign under the Department of Health, at a cost of \$250,000. The Governor vetoed this bill on August 13, 2015. (S.2336/A.7022)

EQUAL Funds

Veto 211: This legislation would have authorized the use of EQUAL funds for expenses incurred at any time during the fiscal year for which the funds were appropriated, provided the Resident Council’s approval is obtained for the expenditure. The Governor vetoed this bill on October 26, 2015. (S.5346/A.7502)

Pediatric Ventilator Services

Veto 269: This bill would have authorized the Commissioner of Health to make adjustments to Medicaid rates for the purpose of reimbursing hospital pediatric ventilator services. The Governor vetoed this bill on November 20, 2015. (S.5345/A.7777)

Early Intervention Program Reporting

Veto 270: This bill would ensure that information is publically available for the purposes of improving the efficiency, cost effectiveness, and quality and access to services under the Early Intervention (EI) program. The Governor vetoed this bill on November 20, 2015. (S.5497/A.7554)

Caps CHHA rebasing savings

Veto 271: This legislation would have capped the statewide negative impact of rebasing the Medicaid episodic payment rate for certified home health agencies (CHHAs) at \$30 million for the 2015-2016 state fiscal year, as was set forth in the fiscal plan. The Governor vetoed this bill on November 20, 2015. (S.5878/A.8171)

Access To Abuse-Deterrent Formularies

Veto 284: This legislation aimed to reduce the abuse of opioid analgesics by ensuring that abuse-deterrent drugs, when prescribed, are not substituted with non-abuse deterrent opioids and similarly covered under insurance. The Governor vetoed this bill on December 11, 2015. (S.5170-A/A.7427-A)

Unexpected Deaths in Epilepsy

Veto 291: This legislation would have required that when performing an autopsy on an individual who has a history of epilepsy or seizures, a determination of whether the deceased suffered a sudden, unexpected death in epilepsy shall be recorded in order to increase awareness and understanding of epilepsy-related mortality. The Governor vetoed this bill on December 11, 2015. (S.1789/A.2359)

Licensing Of Fiscal Intermediaries

Veto 302: This legislation would have established a regulating and licensing mechanism for fiscal intermediaries through the Department of Health so that there is proper oversight for fiscal intermediaries who are responsible for the administrative operation of the Consumer Directed Personal Assistance Program (CDPAP). The Governor vetoed this bill on December 11, 2015. (S.5565-B/A.7535-B)

Significant Legislation Passed by the Senate

Allowing 16 and 17 year olds to register as organ donors

S.5313: This legislation allows 16 and 17 year olds to consent as an organ donor in the New York State Donate Life Registry while leaving final authorization up to the individual's parent or guardian should a tragedy occur. This legislation passed on June 24, 2015.

Lyme Disease Awareness and Prevention Program

S.5803: This legislation authorizes DOH to create a Lyme disease and tick-borne infection awareness and prevention program. This legislation passed on June 16, 2015.

Incorporating federally designated designer drugs into New York State statute

S.1640: This legislation provides State drug and law enforcement agencies with another way to combat designer drugs in New York State by adding the Federal Analog Act, which allows enforcement against drugs that are substantially similar to drugs in schedule I or II, to the NYS Public Health Law. This legislation passed on June 9, 2015.

Banning powdered pure caffeine

S.1641: This legislation defines powdered pure caffeine and prohibits the sale, offering, or distribution of powdered pure caffeine. While caffeine is thought of as a safe stimulant, the pure powdered caffeine being sold is highly toxic in relatively small doses and can easily lead to overdose. This legislation passed on June 15, 2015.

Banning synthetic cannabinoids and establishes a surrender program

S.2836-B: This legislation adds nine classes of synthetic cannabinoids to the Controlled Substances Act (CSA) and directs the Department of Health to create a statewide synthetic cannabinoid and substituted cathinone surrender program in which individuals may anonymously surrender synthetic cannabinoids to the appropriate authorities. This legislation passed on June 17, 2015.

Adding synthetic hallucinogenic compounds to the controlled substance list

S.5888: This legislation adds a section to the Penal Law to criminalize the sale, use, and possession of synthetic drugs as well as adding synthetic hallucinogenic compounds and chemical derivatives to the controlled substance list. This legislation passed on June 17, 2015.

Establishing continuing medical education for pain management

S.4348: This legislation intends to curb the opioid abuse crisis in New York State by requiring that health care providers authorized to prescribe controlled substances complete three hours of continuing medical education on pain management and addiction every two years. This legislation passed on June 9, 2015.

Requiring use of electronic health records

S.5094: This legislation directs hospitals, office based surgery practices, urgent care, or similar providers to utilize electronic health records systems (EHRs) that connect to the local regional health information organization (RHIO). This will ensure that the patients' primary care provider and other health care facilities will have access to all health records attached to the patient, giving them the ability to provide the best care. This legislation passed on June 18, 2015.

2015-16 State Fiscal Year Health Budget Highlights

(S.2007-B – adopted March 30, 2015)

Medicaid

The enacted budget includes a number of Medicaid reforms to increase transparency. To improve rate transparency, an independent actuary is required to submit rates to managed care providers 30 days prior to submission to CMS. In establishing Managed Care rates, DOH must ensure actuarially sound and adequate rates of payment to ensure quality of care. The budget requires Medicaid claims for home and community based long term care services, nursing home services and other residential health care providers utilize standard billing codes. Further, the establishment of the Medicaid Evidence Based Benefit Review Advisory Committee provides for a transparent process prior to any material change in the coverage status of an item, health technology or service. Additionally, the budget identified areas within the State's Olmstead Plan where savings from the Federal Community First Choice Option Program should be directed, and required the DOH to submit a plan for investment of the savings to the legislature for approval.

The Medicaid budget delayed the requirement that Medicaid managed care enrollees be subject to cost sharing in the same manner as Medicaid fee-for-service enrollees until October 1, 2015, and authorizes the Commissioner to submit a waiver for a state exemption from this requirement. The final budget also restores and rejected the Executive's proposal to prohibit Medicaid reimbursement of costs associated with Medicare Part C claims when the total payment to the provider would be greater than the Medicaid rate of payment.

The budget adopts the Executive's proposal to clarify that neither the state nor local social services districts are required to fund temporary, pre-investigation emergency medical care, home care or related services, unless it is during a period of presumptive eligibility specifically authorized. The budget provided for \$5 million in spending for health home infrastructure grants to establish coordination between health homes and the criminal justice system, and authorizes \$1 million for enrollment assistors to increase Medicaid enrollment of high risk discharges. Under the finalized budget Medicaid Delivery System Reform Incentive Payment (DSRIP) program lead entities must establish a Project Advisory Committee composed of community representatives to consider and advise the entity on service delivery issues, elimination of health disparities, measurement of project outcomes and the development of any plans or programs.

Provisions were enacted to prevent administrative action to carve transportation services out of managed long term care and funding for Medical transportation was provided - \$1 million to rural transportation run by counties that serve Medicaid recipients, \$3 million to provide an enhanced Medicaid rate for certain ambulance services, and \$1 million for air ambulance rate increases.

Health Care Facility Financing

The budget provides \$700 million for health care facility transformation within Kings County, \$300 million to support health care facility transformation in Oneida County and \$400 million to facilitate health care transformation among essential health care providers who offer services in isolated geographic region where such services would otherwise be unavailable.

Of this \$400 million: \$15.5 million is designated for Roswell Park Cancer Institute, \$19.5 million is designated to support a community health care revolving capital fund, and \$10 million is designated to assist behavioral health providers transitioning to managed care.

The \$1.2 billion within the Capital Restructuring Financing Program is reallocated, requiring funds to be distributed, to the extent practicable, regionally in proportion to the applications received from the request for application issued by or before May 1, 2015. It also ensures projects awarded funding under the Health Care Facility Transformation Program shall not be eligible for awards under this program.

The Vital Access Provider (VAP) program was amended to increase the carve out for Critical Access Hospitals to \$7.5 million. Ten million was allocated in VAP funding for rural providers in isolated geographic regions and \$285 million was allocated to fund distressed hospitals which received federal IAAF and remain in need of funding to sustain the facility until federal DSRIP monies begin to flow.

The budget authorized the Commissioner to establish a general hospital quality pool and provides \$85 million for the purpose incentivizing and facilitating quality improvement in hospitals. Subject to federal financial participation, the Commissioner is also authorized to provide enhanced reimbursements of up to \$12 million for inpatient and outpatient services at sole community hospitals. Additionally, a task force was established to evaluate and make recommendations regarding the efficacy and transparency of HCRA resources and provisions of law related to HCRA.

Hospitals, Nursing Homes and Other Providers

Two demonstration programs were established through the budget. One authorizes DOH to establish up to three programs designed to provide cost effective, quality services for young adults, aged 21-35, with severe, chronic health problems, or multiple disabling conditions which may be combined with developmental disabilities, who are aging out of pediatric acute care settings. The second program authorizes DOH to establish an energy efficiency and/or disaster preparedness demonstration program to allow nursing homes to retain savings achieved through the implementation of approved energy savings or emergency preparedness measures. Similarly, the budget authorized establishment of a Hospital-Home Care-Physician Collaboration Program to facilitate innovation and provide a framework to support collaborative initiatives for improving patient care, access and management, patient health outcomes, cost-effectiveness in the use of health care services and community population health. The Department is also authorized, subject to CMS approval, to provide incentives to encourage refinancing of high interest rate facility debt, the savings to be shared by the state and facilities.

Amending provisions enacted several years ago, the budget authorized DOH to appoint a temporary operator of a health care facility in instances of an improper delegation of authority to a management consultant by the governing authority or operator. The legislature restored Enhancing the Quality of Adult Living (EQUAL) program funding and adopted guidelines on program spending. Provisions of law pertaining to adverse event reporting with Office Based Surgery practices were strengthened but the Executive's proposal expand the scope of such practices to include office-based anesthesia and certain procedures performed by chiropractors and podiatrists, as well as the limitation to procedures lasting no more than 6 hours, were rejected by the legislature.

Furthering transparency efforts, annual reporting to the legislature regarding the State Health Innovation Plan (SHIP) and quarterly updates on the State Health Information Network for New York (SHIN-NY) were required by the budget.

Pharmacy

The legislature restored a number of cuts the Executive proposed to Pharmacy, including the restoration of \$20.6 million (to proposal) to increase the current average wholesale price (AWP) discount for brand name drugs from AWP minus 17% to AWP minus 24%, and \$10.9 million to 340B providers by rejecting the proposed requirement that 340B providers bill managed care plans for the actual cost of the drugs. The legislature also restored \$4.1 million to maintain prescriber prevails for fee-for-service drugs.

Provisions were adopted granting DOH authority to negotiate supplemental rebates for Hepatitis C agents and antiretrovirals approved by the FDA for the treatment of HIV/AIDS and ensuring manufacturers are not required to also pay a rebate to the managed care provider. Rates of reimbursement to the managed care provider must take into account the impact of these negotiated rebates. Lastly, technical changes were adopted to clarify that non-resident pharmacies are subject to provisions of law requiring auto-refill programs to obtain consent prior to filling a prescription not initiated by the consumer and provides that such consent may be obtained in the same manner as required under the Medicare Part D prescription drug program.

Health Insurance

The Senate rejected the Executive's proposal to tax all New York health insurance plans in order to fund the health insurance exchange (New York State of Health). Exchange operations will continue to be financed through existing funds. DOH is required to establish a contingency plan to be implemented in the event federal law or financial support of the Basic Health Program (BHP) is changed and reporting by an independent actuary is required.

Funding for the Excess Medical Malpractice Pool in order to maintain the current eligibility requirements for physicians and dentists in the Excess Medical Malpractice Pool for an additional year is include and the legislature rejected the Executive's proposal to require physician tax clearance prior to eligibility.

The Child Health Plus (CHP) rate cut enacted in 2010 is restored and CHP rates for behavioral health services shall be maintained at the current Ambulatory Patient Group (APG) rate through December 31, 2017.

Public Health

The Legislature rejected a number of the Executive's proposed cuts to public health programs, including the proposal to consolidate 41 public health programs, which the Legislature rejected and restored. The legislature also rejected the Executive's proposal to eliminate the physician profile website, which the legislature restored \$1.2 million to fund the website and required timely updates and a report on the feasibility of including accurate, up-to-date information regarding insurance network participation provided by health plans.

The Senate expanded on previous measures to ensure individuals have access to the life saving opioid overdose antidote, Naloxone, by including funding and making sure the school districts that choose to have Naloxone available in the event of an overdose may do so. Among other initiatives, the Senate added \$2 million to fund the Doctors Across New York Program, \$1.5 million for Spinal Cord Research, \$1 million for Rape Prevention Crisis Centers, \$600,000 to fight Lyme and other tick-borne diseases, \$250,000 to increase organ donation efforts, and \$250,000 to support immunization efforts. The legislature accepted the Executive's proposed funding of \$5 million to support initiatives to end AIDS.



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

Roundtables/Discussions

Value Based Payment Roundtable

April 27, 2015

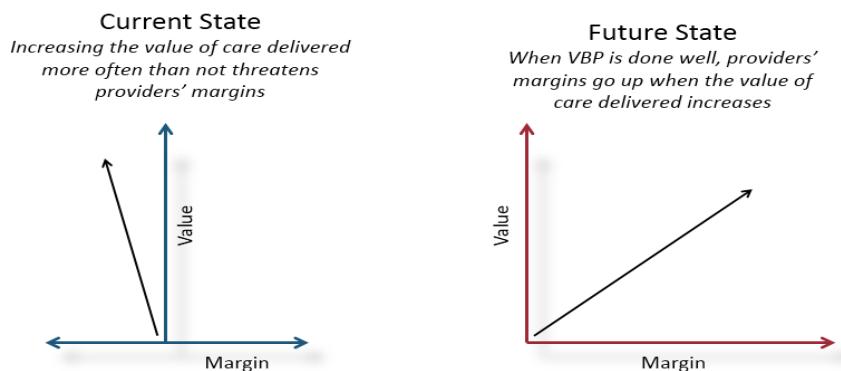
Albany NY

The Senate Standing Committee on Health and the Senate Standing Committee on Insurance joined forces to hold a roundtable discussion on value based payment (VBP). Value based payment between payers and providers of health care services are designed to replace fee-for-service payments and lead to payments based on positive health results.

The U.S. Department of Health and Human Services recently announced a timeline for shifting Medicare reimbursement from volume to value based, with the goal of tying 85% of all Medicare payments to quality or value by 2016. The roundtable was meant to ensure that New York State has a clear understanding of the trend towards VBP arrangements between Medicaid managed care plans, health care providers and performing provider systems under the Delivery System Reform Incentive Payment (DSRIP) program, as well as commercial insurers and what role(s) the State should play in such arrangements. A webcast of the hearing can be viewed at <https://www.nysenate.gov/calendar/events/health/kemp-hannon/april-27-2015/forumtown-hall-value-based-payment-closer-look>

Participants:

- **Jason Helgerson**, *Medicaid Director*, NYS Department of Health;
- **Troy Oechsner**, *Special Assistant to the Superintendent*, NYS Department of Financial Services;
- **Dennis Whalen**, *President and CEO*, Healthcare Association of New York State;
- **Kathleen Shure**, *Senior VP*, Greater New York Hospital Association;
- **Pat Wang**, *CEO*, Healthfirst;
- **Maria Basile, M.D., M.B.A.**, *President*, Suffolk County Medical Society;
- **Paul Macielak, Esq.**, *President and CEO*, the New York Health Plan Association;
- **Sean Doolan, Esq.**, *Principal*, Hinman Straub P.C., NYS Conference of Blue Cross & Blue Shield Plans;
- **James Sinkoff**, *Executive VP and CFO*, Hudson River Healthcare;
- **Scott Hayworth, M.D.**, *President and CEO*, Mount Kisco Medical Group;
- **David Manko, Esq.**, *Partner*, Riven Radler, LLP;
- **Jeffrey Thrope, Esq.**, *Partner*, Foley & Lardner, LLP; and
- **Harold Iselin, Esq.**, *Chair, Government Law and Policy Practice*, Greenberg Traurig, LLP.

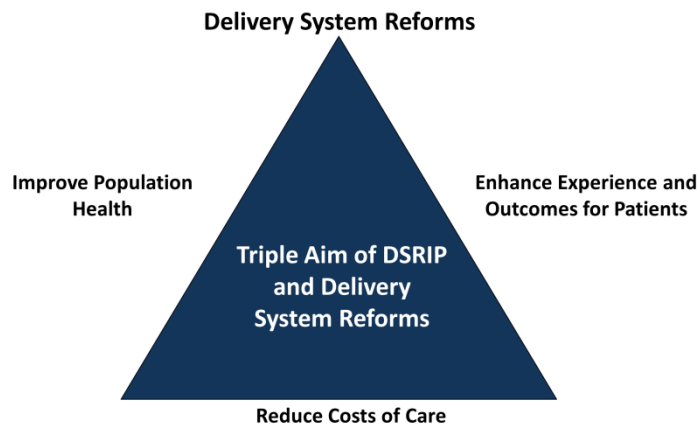


A report, entitled “*A Path Toward Value Based Payment - New York State Roadmap For Medicaid Payment Reform*” was issued by the NYS Department of Health in June, 2015 can be found at: https://www.health.ny.gov/health_care/medicaid/redesign/dsrp/docs/vbp_roadmap_final.pdf

Committee Presentations

Delivery System Reform Incentive Payment Program
Jason Helgerson, NYS Medicaid Director
February 26, 2015
Albany, NY

The Senate Standing Committee on Health heard a presentation by NYS Medicaid Director Jason Helgerson, who provided an overview and update on the Delivery System Reform Incentive Payment (DSRIP) Program the State is implementing. A webcast of the presentation can be viewed at <https://www.nysenate.gov/calendar/meetings/health/february-26-2015/health-meeting>



DSRIP Overview: On April 14, 2014 Governor Andrew M. Cuomo announced that New York has finalized terms and conditions with the federal government for a groundbreaking waiver that will allow the state to reinvest \$8 billion in federal savings generated by Medicaid Redesign Team (MRT) reforms.

The waiver amendment funding will address critical issues throughout the state and allow for comprehensive reform through a Delivery System Reform Incentive Payment (DSRIP) program. The DSRIP program will promote community-level collaborations and focus on system reform, specifically a goal to achieve a 25 percent reduction in avoidable hospital use over five years. Safety net providers will be required to collaborate to implement innovative projects focusing on system transformation, clinical improvement and population health improvement. Single providers will be ineligible to apply. All DSRIP funds will be based on performance linked to achievement of project milestones.

The \$8 billion reinvestment will be allocated in the following ways: \$500 Million for the Interim Access Assurance Fund (IAAF); \$6.42 Billion for Delivery System Reform Incentive Payments (DSRIP); and \$1.08 Billion for other Medicaid Redesign purposes. In addition, the special terms and conditions also commit the state to comprehensive payment reform and continuing New York's effort to effectively manage its Medicaid program within the confines of the Medicaid Global Spending Cap.

Confirmations

The Health Committee considered nominations from the Governor to several positions during the 2015 legislative session. Nominees approved by the Health Committee are referred to the Senate Finance Committee and if approved, to the Senate Chamber for a vote. Below is a listing of those nominations confirmed by the full Senate in the last session.

Commissioner of Health



Health Commissioner Howard A. Zucker, MD, JD: On May 5th, 2015 the Committee considered the nomination of Howard A. Zucker as Commissioner of Health and voted to move his nomination. Commissioner Zucker was confirmed by the full Senate later that day.

In his previous role as first deputy commissioner, Dr. Zucker led the state Department of Health's preparedness and response initiatives in natural disasters and emergencies. He worked closely with the New York City Department of Health and Mental Hygiene and other health-related entities in New York City. Before joining the state Department of Health in September 2013, Dr. Zucker was a professor of Clinical Anesthesiology at Albert Einstein College of Medicine of Yeshiva University and pediatric cardiac anesthesiologist at Montefiore Medical Center in the Bronx. He was also an adjunct professor at Georgetown University Law School. Previously, he served as Assistant Director-General of the World Health Organization (WHO) in charge of the Health Technology & Pharmaceuticals cluster. Additionally, Dr. Zucker served as Associate Professor of Clinical Pediatrics and Anesthesiology at Columbia University College of Physicians & Surgeons and pediatric director of the ICU at New York Presbyterian Hospital. A native of the Bronx, Dr. Zucker earned his M.D. from George Washington University School of Medicine at age 22, becoming one of America's youngest doctors. He also holds a J.D. from Fordham University Law School and a LL.M. from Columbia Law School.

Confirmations

Medicaid Inspector General



Medicaid Inspector General Dennis Rosen, Esq.: On June 15, 2015 the Committee considered the nomination of Dennis Rosen as Medicaid Inspector General and voted to move his nomination. Medicaid Inspector General Dennis Rosen was confirmed by the full Senate later that day.

Mr. Rosen previously served as Chairman of the New York State Liquor Authority, a position he has held since 2009. Prior to that, he was an Assistant Attorney General in the Real Estate Financing Bureau (1982-1983) and the Consumer Frauds Bureau (1983-2009) of the NYS Attorney General's Office. Previously, he was an attorney with the NYC Legal Aid Society's Juvenile Rights and Criminal Defense divisions. Mr. Rosen has a B.A. from Brooklyn College and a J.D. from Harvard Law School.

Continuing Care Retirement Community Council

Public Health Law §4602 established the Continuing Care Retirement Community Council in 1989. The Council provides oversight of Continuing Care Retirement Communities (CCRC), with regard to financial viability and the health and care provided by these communities. On June 17, 2015 the Health Committee considered and recommended the following nominee:

- ❖ **Carol Fenter**, Co-Chair, Advocacy and Public Policy Program, Jefferson's Ferry Lifecare Retirement Community, Centereach, NY

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 advise the Commissioner of health on these issues. The Committee considered and recommended the following nominee to the Senate Finance Committee on June 17, 2015.

- ❖ **Ingrid Allard, MD, MEd**, Associate Dean for Community Outreach and Medical Education, Albany Medical College, Albany, NY

Confirmations

Administrative Review Board for Professional Misconduct

The Administrative Review Board for Professional Medical Conduct is comprised of physicians, physician assistants and lay members who fulfill major roles in the disciplinary process by serving on investigation, hearing and license restoration committees. The Health Committee considered and recommended the following nominees to the Senate Finance Committee on June 17, 2015:

- ❖ **Peter Koenig, Sr.**, Consultant in health care systems.
- ❖ **Richard Milone, MD**, Medical Director, Saint Vincent's Hospital Westchester.
- ❖ **Steven V. Grabiec, MD**, Niagara Allergy, P.C./Allergy & Asthma Associates of W.N.Y., PC./Adult and Pediatric Allergy & Asthma of WNY.

State Camp Safety Advisory Council

The State Camp Safety Advisory Council, established under PHL §1390, was created to advise and consult on policy matters relating to youth camp safety. The Council consists of nine members, three of which are representatives of New York for-profit youth camps, three of which are representatives of New York non-profit or charitable youth camps, two of which represent youth camp consumer interests, and one of which represents camps run by municipal corporations. On June 17, 2015 the Health Committee considered and recommended the following nominee:

- ❖ **Thomas Welch, MD**, Professor and Chair of Pediatrics, Medical Director, Upstate Golisano Children's Hospital

Council on Human Blood and Transfusion Services

Public Health Law Article 31 established the Council on Human Blood and Transfusion Services in 1973. The Council enacts and amends regulations affecting the safety of the blood supply in New York State, subject to approval by the Commissioner of Health. The Committee considered and recommended the following nominees on June 17, 2016:

- ❖ **Rachael C. Elder, MD**, Partner, Pathology Associates of Syracuse, PC
- ❖ **Joseph Chiofalo, MD**, Medical Director, Hematology and Coagulation Laboratories, Winthrop-University Hospital, Mineola, NY