

2018 LEGISLATIVE WRAP-UP

The 438th legislative session of the Maryland General Assembly drew to a close at midnight on April 9. In the final year of Governor Larry Hogan's first term, and with at least 40 lawmakers seeking higher office next year or leaving the legislature entirely, there was an urgency for action that led to the introduction of over 3,000 bills. In a continuing effort to expand access to quality mental health and substance use disorder services, MHAMD and the Maryland Behavioral Health Coalition navigated this deluge to achieve significant victories on a range of priority issues. We are proud to report that all major initiatives advanced this year by the Coalition were adopted, including legislation and budgetary action to:

- secure an additional \$16 million in funding for the state's behavioral health workforce,
- enhance the quality and effectiveness of behavioral health services delivered in primary care through a \$2 million pilot of the Collaborative Care Model,
- improve access to care through an expansion of telehealth services and a three-year, \$12 million funding initiative to increase crisis response services across the state, and
- ensure access to data necessary to improve the system of care for children and youth.

KEEP THE DOOR OPEN MARYLAND



MHAMD joined with its partners on the Maryland Behavioral Health Coalition in support of an ambitious agenda for the 2018 session. Building on a successful 2017 campaign that resulted in passage of the landmark Heroin and Opioid Prevention Effort (HOPE) and Treatment Act, the Coalition once again asked legislators to 'Keep the Door Open' for the one in four Marylanders with mental health and substance use disorders.

Enactment of the HOPE Act was an important step in combatting an ongoing behavioral health crisis that is devastating Maryland families, and it demonstrated a bipartisan desire to address the

problem in a comprehensive manner. But it was just a first step. Unmet need persists, demand continues to grow and resources remain scarce.

For those individuals living with a mental health or substance use disorder, it is literally a life or death situation. Maryland opioid overdose death rates in 2016 were the fifth highest in the country, behind only West Virginia, New Hampshire, Ohio and the District of Columbia. Data released in late February by the Maryland Department of Health indicates the problem is only getting worse. There were 1,501 opioid-related deaths in the state from January through September of 2017, up from 1,344 such deaths during the same period a year earlier. Demand for mental health and substance use treatment has steadily increased since 2008, with over 260,000 Marylanders now using and depending on the state's public behavioral health system.

Funding for Community Behavioral Health Services

Despite the explosion in demand and rising healthcare costs, funding for community behavioral health services has not kept pace with the need. Treatment providers have been asked to do more with less, and many are unable to keep up with the rising demand for care.

The HOPE Act offered some desperately needed relief in the form of a multiyear funding commitment for community behavioral health treatment. Unfortunately, the fiscal year 2019 budget as introduced in early January cut mandatory increases for mental health and substance use services by nearly \$8 million. Restoring this funding was the top priority this session for MHAMD and the Maryland Behavioral Health Coalition.

Hundreds of consumers, family members, providers, advocates, legislators and more attended the *Keep the Door Open Rally in Annapolis* to demand a rejection of these cuts. The event drew positive coverage from traditional media outlets and generated widespread social media activity. The Coalition rounded out the effort with testimony at every possible hearing, direct advocacy to legislators, sustained letter-writing drives and a strong social media presence.

In the end, the persistence and outpouring of support paid off. The General Assembly passed a bipartisan budget that restored the full \$8 million in state general funds for community behavioral health services – an action that also secures an additional \$8 million in federal matching funds.

Behavioral Health Crisis Response Services

Two years after passing legislation requiring the Maryland Behavioral Health Advisory Council (BHAC) to report on the availability of crisis services across the state, and just months after BHAC issued its final report and recommendations, MHAMD and the Coalition advocated successfully to enact legislation that will help to expand access to these critical services.

Crisis response services are an essential component of any comprehensive system of behavioral health care. They significantly reduce preventable behavioral health crises and offer earlier

intervention to stabilize crises more quickly and at the lowest level of care appropriate. A comprehensive crisis system will provide effective treatment for people with mental health and substance use needs while decreasing avoidable incarcerations, emergency room visits, hospitalizations and readmissions. However, Maryland's behavioral health crisis response system is woefully underfunded and the services vary greatly from jurisdiction to jurisdiction.

[SB 703](#) | [HB 1092](#) (passed) provides \$12 million over three years to assist local jurisdictions in establishing or expanding behavioral health crisis response systems. The bills encourage the development of systems that address both mental health and substance use disorder needs across the lifespan, use innovative approaches to address economies of scale, make use of blended sources of funding, provide linkages to community-based care and demonstrate desired outcomes.

Improving Primary Behavioral Health with Collaborative Care

The vast majority of individuals will never seek or receive behavioral health treatment from a specialty provider. In fact, most individuals receive their mental health and substance use disorder care from their primary care provider, a situation that is increasingly common given the ongoing behavioral health workforce shortage.

Unfortunately, behavioral health treatment delivered in primary care settings is often suboptimal, with individuals poorly diagnosed and treated, or not identified at all. National data indicates that only 25 percent of individuals receiving mental health treatment in the primary care setting receive quality care, resulting in high overall costs and poor health outcomes.

The Collaborative Care Model (CoCM) can help. CoCM is an evidence-based intervention validated in more than 80 randomized controlled studies. Core elements include the use of standardized outcomes measures, care coordination and management, and the availability of behavioral health specialists for phone-based consultation to the primary care office. The model has been shown to improve clinical outcomes and save money, largely from a significant reduction in hospital costs.

With the introduction of [SB 835](#) | [HB 1682](#) (passed), MHAMD and the Behavioral Health Coalition put Maryland on a path toward widespread adoption of this proven service delivery model. The legislation provides \$550,000 in each of the next four years to establish a pilot program that will provide CoCM to Medicaid enrollees at up to three primary care sites across the state.

Assertive Community Treatment and Telehealth

A persistent workforce shortage is exacerbating the increased demand for behavioral health services and challenging Maryland's ability to address the unmet need effectively in the community. Many are forced to seek mental health and substance use treatment in hospital emergency departments when community care would be more efficient and cost-effective. As such, the Coalition supported legislation designed to ensure community providers have the tools necessary to deliver care as broadly as possible to those in need.

Assertive Community Treatment (ACT) is one of those tools. ACT is an evidence-based practice that improves outcomes for people with serious mental illness who are at risk of psychiatric crisis and hospitalization. But only 50 percent of Maryland jurisdictions are using ACT, and half of those programs are threatened by workforce issues. [SB 704](#) | [HB 1652](#) (passed) removes barriers to the provision of this service by allowing psychiatrists in the Maryland Medicaid program to participate in ACT remotely via telehealth.

Children's Behavioral Health Data Transparency

Children and youth with behavioral health needs are often faced with fewer treatment options than adults. Recent closures of several residential treatment centers (RTCs) have reduced access even further. More restrictive emergency departments are increasingly being utilized for behavioral health care, and there has been a decrease in the number of approved voluntary placement agreements (VPAs) for families who cannot obtain coverage from their private insurer or pay the out-of-pocket costs for step-down care following an RTC stay.

Data that can help identify gaps in services, target resources and design a system of care that meets the needs of children in every jurisdiction is often unavailable or difficult to attain. MHAMD and the Behavioral Health Coalition moved to address this lack of transparency through the introduction of [SB 977](#) | [HB 1517](#) (passed).

These bills require the Behavioral Health Administration and the Social Services Administration to prepare annual data reports related to the availability of services for children and youth. Reporting requirements include public behavioral health eligibility and expenditures, average length of time children are pending placement in emergency departments or waiting for placement in RTCs, readmission and discharge data, and information specific to the availability of VPAs.

FISCAL YEAR 2019 BUDGET

For the second year in a row, budget negotiations were relatively free from contention. The legislature gave bipartisan approval to the \$44.5 billion state budget a full two weeks before the General Assembly adjourned. The allowance for the Behavioral Health Administration increases by \$89 million (4%) over the fiscal 2018 working appropriation. The majority of this increase is in fee-for-service community behavioral health expenditures, including a 3.5% provider rate increase.

Voluntary Placement Agreements and Other Budget Narrative

In addition to the legislation detailed above requiring an annual report on the availability of VPAs for children and families with behavioral health needs, MHAMD and partners advocated successfully for the adoption of budget language drilling deeper into concerns around this issue.

When youth not in the care and custody of the state are discharged from an RTC, they are usually discharged to a lower intensity setting. Unfortunately, private insurance generally does not pay for these placements, and out-of-pocket costs can be extremely prohibitive. For the past 20 years, parents and guardians in this situation have been able to enter into a VPA with a local department of social services (LDSS). Under these agreements, the parent or guardian retains legal custody of their child while the LDSS is given the responsibility to determine the most appropriate out-of-home placement based on treatment recommendations.

These VPAs have been extremely helpful for parents that are unable to afford step-down care for their child with behavioral health needs following an RTC placement. Unfortunately, VPA approvals have been in decline, which is resulting in children cycling in and out of high intensity placements or not getting the care they need at all.

The budget language restricts funding for the Maryland Departments of Health and Human Services pending the receipt of a report detailing the use of VPAs over the past three years for youth with behavioral health disorders or co-occurring developmental disability and behavioral health disorders who were discharged from RTCs. The report must include information on the amount of VPA approvals and denials, reasons for denials, subsequent disposition of youth that were approved or denied VPAs, the extent to which RTC discharge planning was followed, and readmission rates for children that were approved or denied VPAs and for children that did or did not receive follow-up treatment as recommended by the RTC.

Additional budget language and narrative requires the Maryland Department of Health and other agencies to report on the following:

- Length of hospital stays for youth in out-of-home placements
- Statewide review of behavioral health workforce and capacity
- Direct care staffing requirements at the Behavioral Health Administration
- Plans for funding contained in the Opioid Crisis Fund
- Fidelity audits of supported employment and assertive community treatment programs
- Use and allocation of Nursing Home Diversion program funds
- Grant allocations to local area agencies on aging
- Recruitment and retention of direct care staff across the Maryland Department of Health
- Public assistance provided to individuals experiencing homelessness
- Affordable housing needs in Maryland

OTHER LEGISLATION

Older Adults

As chair of the Maryland Coalition on Mental Health and Aging and a member of the state Oversight Committee on Quality of Care in Nursing Homes and Assisted Living Facilities (the

Committee), MHAMD played an active role this session in crafting legislation to restructure and revitalize the Committee. Tasked with evaluating quality standards and making recommendations for quality improvement to benefit residents in nursing homes and assisted living facilities, the Committee has experienced several administrative and leadership changes in recent years that have stifled its effectiveness.

[SB 4](#) (passed) will breathe new life into the Committee by altering the membership, expanding the scope of its charge and allowing the members to play a larger and more direct role in legislative and regulatory policy development.

Children and Youth

After establishing a new Children's Behavioral Health Coalition in late 2017, MHAMD expanded its scope of work in the 2018 session to address more legislative proposals specific to children and youth. The public policy team joined a number of successful advocacy efforts this year to increase services and safeguards for children, prevent abuse and ban harmful practices.

Adverse childhood experiences (ACEs) are potentially traumatic events that can have negative and lasting effects on health and well-being. These experiences range from physical, emotional and sexual abuse to parental divorce or the incarceration of a parent or guardian. Trauma during these formative years places children at a greater risk for subsequent psychological problems, including depression and anxiety, post-traumatic stress disorder, eating disorders and poor self-esteem.

Children in the care and custody of the state often have unique healthcare needs stemming from a range of ACEs. Early identification and treatment of trauma and other healthcare concerns is essential to improving outcomes for this population. [HB 1582](#) (passed) will employ a new medical director at the Department of Human Services (DHS) to ensure greater coordination and monitoring for children receiving welfare services and those in out-of-home placements. [SB 787](#) (passed) requires DHS to develop a Foster Youth Bill of Rights and to annually provide a copy of those rights to each child in an out-of-home placement.

In addition to the associated mental health and developmental effects, children subject to sexual abuse are at an increased risk for repeated or additional victimization into adulthood. [HB 1072](#) (passed) requires local school systems to provide every employee with annual instruction and training on the prevention, identification and reporting of child sexual abuse. [HB 1130](#) (passed) clarifies that staff at private residential treatment centers (RTCs) who observe or receive a complaint regarding inappropriate sexual behavioral are subject to the same reporting requirements as staff at public RTCs.

[SB 1028](#) | [HB 902](#) (passed) prohibits mental health and child care practitioners from engaging in conversion therapy with minors. Conversion therapy is defined as a practice or treatment that seeks to change an individual's sexual orientation or gender identity. MHAMD supported the

prohibition of this practice, which has been found to increase cases of depression, anxiety and loneliness, feelings of guilt and shame, suicidal thoughts, hostility and substance use.

Healthcare Reform and Insurance

Having worked in recent years to ensure the proper implementation of the federal Affordable Care Act in Maryland, MHAMD kept a watchful eye this session on legislative efforts to stabilize the state's individual health insurance market. Action was needed to curtail rising insurance premiums and to bolster and assuage a market that remains unsettled following a partial repeal of the federal law and continuing uncertainty about its future.

[SB 1267](#) | [HB 1795](#) (passed) creates a new reinsurance program for insurers to mitigate the impact of high-risk individuals on overall premium rates in the individual insurance market. Companion legislation [SB 387](#) | [HB 1782](#) (passed) establishes a one-year tax on health insurers to help pay for the program in the initial year. It also requires the state to seek federal funding to support the program in future years. Premiums were set to rise next year by as much as 50 percent for the second year in a row, but it is estimated these actions could cut the expected increases in half.

Additional bill provisions require the Maryland Health Insurance Coverage Protection Commission to study and make recommendations for individual and health insurance market stability, including whether to establish a Basic Health Program and/or a Medicaid buy-in program.

Network Adequacy and Workforce Development

On several occasions throughout the session, MHAMD took the opportunity to raise awareness about findings in a troubling new national study, reinforcing a need to stay focused on reducing disparities in the delivery of and access to behavioral and physical health services. The Maryland General Assembly and the Maryland Insurance Administration have taken some important steps to address network adequacy concerns and improve access to mental health and substance use treatment for those with commercial insurance, but there is still much work to be done.

According to an independent report by the Milliman Group, Maryland is among the worst states for access to affordable in-network behavioral health services. The national actuarial firm analyzed three years of insurer claims data from 2013 to 2015, covering approximately 42 million Americans in all 50 states and Washington, D.C. The data demonstrates that insurers in Maryland are much more likely to provide in-network care for physical health services compared to mental health and substance use disorder services. This limits access to care and results in higher out-of-pocket costs that can make treatment unaffordable, even for those with insurance.

The Milliman report also uncovered a troubling disparity in reimbursement rates for behavioral health providers in Maryland as compared to those delivering physical health services. In 2015, mental health and substance use treatment providers were paid over 27 percent less than other providers for the very same office visits billed using identical or similar payment codes.

MHAMD and partners worked to address these concerns during discussions related to [HB 1310](#) (passed). Amendments offered at the end of session would have required the Maryland Insurance Administration (MIA) and the Maryland Department of Health to convene a workgroup of providers, carriers and other interested stakeholders to review the reimbursement of and credentialing practices for behavioral health services and providers by health insurers in the state. Opposition from MIA and the carriers doomed the amendment, but the chair of the Senate Finance Committee indicated that the committee would send a letter to MIA asking them to consider the issues as part of separate study they are expected to undertake.

In light of the ongoing access issues, MHAMD also supported bills to provide for the continued expansion and development of several critical workforces. [SB 163](#) | [HB 490](#) (passed) establishes the State Community Health Worker Advisory Committee and requires the adoption of regulations related to community health worker training and certification. [SB 765](#) | [HB 772](#) (passed) requires the Maryland Department of Health to convene a stakeholder workgroup to make findings and recommendations on issues related to the reimbursement of certified peer recovery specialists

School Safety and Gun Control

In the wake of tragic shootings at high schools in Florida and Southern Maryland, the legislature considered a number of initiatives intended to improve school safety. MHAMD worked to influence the development of these bills to ensure a balanced approach that directs resources to students without stigmatizing and labeling children in need of emotional and mental health supports. The various measures were ultimately combined into a single omnibus piece of legislation titled the Maryland Safe to Learn Act of 2018. [SB 1265](#) (passed) includes the following among its multiple provisions:

- Makes the **Maryland Center for School Safety** an independent unit within the Maryland State Department of Education, adds to its duties, and increases its mandated annual budget from \$500,000 to \$2 million.
- Creates a new **School Safety Subcabinet and Advisory Board**. The subcabinet is charged with multiple responsibilities, chief among them is collaborating with various stakeholders to provide a comprehensive, coordinated approach to school safety.
- Requires development of a **specialized curriculum for training school resource officers** that addresses specific issues. The training shall include information on de-escalation techniques, disability awareness, maintaining a positive school climate, implicit bias and diversity awareness.
- Requires development of a model policy for and establishment of **assessment teams** to identify and intervene with students or others who may pose a threat to school safety. The policies must include processes for diversion, de-escalation and referral to authorities or evaluation and treatment when appropriate.

- Requires each local school system to appoint a **mental health services coordinator** by September 1, 2018 to coordinate existing mental health services and referral procedures. The coordinator must work with local entities to develop plans and maximize external funding for delivering behavioral health and wraparound services to students in need.
- Tasks the School Safety Subcabinet with completing a jurisdictional review of the availability of mental health services and practitioners to address the needs of school-age children in the state. The **gap analysis** must include recommendations for expanding treatment and capacity as necessary.

Though it was introduced prior to the shootings referenced above and not directly related to school safety, [HB 1302](#) (passed) nevertheless became a central part of the conversation. Often referred to as a 'red flag' law, the bill creates a process by which certain interested parties can seek a court order to prohibit an individual from possessing a firearm for a period of time. Again, MHAMD was involved throughout session in crafting this legislation, which holds enormous potential to reduce suicide by firearm and gun violence in Maryland.

General Behavioral Health and Disability

According to the Substance Abuse and Mental Health Services Administration, approximately 18.5 percent of service members returning from Iraq or Afghanistan have post-traumatic stress disorder or depression, and 19.5 percent report experiencing a traumatic brain injury during deployment. An average of 20 United States veterans die by suicide every day, a rate that is more than 20 percent higher than for civilian adults. Given these numbers, MHAMD gave support for legislation designed to give a better understanding of the situation in Maryland. [SB 66](#) | [HB 1159](#) (passed) requires the Maryland Department of Health to publish annual statistics on suicides by veterans and active duty personnel.

Many people under guardianship have the capacity to make informed decisions about whether they may benefit from inpatient mental health treatment. Unfortunately, Maryland law has long prohibited these individuals from voluntarily admitting themselves to psychiatric facilities. [HB 33](#) (passed) reverses this prohibition, facilitating access to important mental health treatment for individuals under guardianship who are capable of understanding the circumstances.

For Marylanders with mental health and substance use disorders, access to medication is often critical to disease management, wellness and recovery. Rates of comorbidity between behavioral health and somatic health issues are extremely high, which can result in a reliance on numerous and costly prescription medications. [SB 576](#) | [HB 736](#) (passed) removes barriers that prevent pharmacists from providing consumers with information about lower cost drug options.