

## ALBANY UPDATE FROM ASSEMBLY MEMBER RICHARD GOTTFRIED

### Dear Neighbor,

This newsletter will bring you up to date on some of my work in Albany.

As Chair of the Assembly Health Committee, I won several important victories in the 2015 legislative session, including increased funding for HIV/AIDS programs and Assembly passage of the “New York Health Act” universal health care bill. This newsletter covers these and other legislative updates, as well as my priorities for the upcoming session.

New York’s success depends on our extraordinary assets—including an educated workforce, diversity, culture, healthcare, and mass transit. Keeping those assets strong—and making sure every New Yorker has a fair chance to lead a full life—requires public spending for health care, schools, housing, subways and buses, public safety, and other public services. And in fairness, the necessary taxes must be based on ability to pay. That’s just common sense, and I have always fought for these values in Albany and our community.

I work for you, full-time, year-round, in Albany and in the neighborhood. I have a law license but do not maintain a pri-

vate practice. I am no one’s employee or consultant except the public’s. I believe this should be a rule for all state legislators.

You can follow my work and legislative news by going to my Assembly website: <http://www.assembly.state.ny.us/Gottfried>. If you’d like to contact me or sign up for updates, you can click on the “contact” link there or e-mail me at: [GottfriedR@assembly.state.ny.us](mailto:GottfriedR@assembly.state.ny.us). I look forward to hearing your comments and suggestions on legislative issues and community problems.

My Community Office, 242 West 27th Street, 212-807-7900, [GottfriedR@assembly.state.ny.us](mailto:GottfriedR@assembly.state.ny.us)—is here to serve you. Please contact us if you have a problem with a government agency, your landlord, a utility, noise or traffic issues, etc. We can help you. We can also assist you to apply for programs and benefits. If your block association or other group needs my help or would like me to come to a meeting, or if there is any other way I can help, please call or e-mail.

Sincerely,



## “New York Health Act” Universal Health Care Passes Assembly

For millions of us, our system of health coverage, based on insurance companies, is a major obstacle to health care and financial stability.

My bill, the “New York Health Act,” would provide universal, comprehensive health coverage to all New Yorkers without premiums, co-pays, deductibles, or limited provider networks. It would free us from health insurance companies. The Assembly passed New York Health this past May. This has helped elevate the issue on the public agenda and change the conversation from “it’s a great idea that will never happen” to a truly achievable goal.

The Affordable Care Act (Obamacare) made important repairs to our health care system and covered millions of people who did not have health care coverage. But it left insurance companies in charge. That means high premiums, high deductibles, co-pays, and out-of-network charges. Insurance companies control which doctors or hospitals we can go to and what care they can provide; and we pay for their high administrative costs. Even for New Yorkers with insurance, cost remains a significant barrier to care. One in three families with private health insurance had someone go without care in 2014 due to cost, mostly for serious medical conditions.

Only a single-payer system like the New York Health Act, funded fairly by broad-based assessments on income based on ability to pay, can remove the financial barriers to care facing New Yorkers.

According to an analysis by University of Massachusetts-Amherst Economics Department chair, Prof. Gerald Friedman, 98% of New Yorkers would spend less for health coverage and health care under New York Health than they do today.

New York would save over \$70 billion by eliminating health insurance company administration and profit; reducing health care provider and employer administrative costs; and negotiating prices of prescription drugs and medical devices. Even after expanding coverage to all New Yorkers; eliminating deductibles, co-pays, and out-of-network charges; and increasing low Medicaid reimbursement rates to health care providers, the New York Health Act would generate net savings of \$45 billion a year.

The recent collapse of the Health Republic “cooperative” health insurance company left 200,000 New Yorkers scrambling to find new health coverage, usually at a higher cost and often without services from their current, familiar health care providers. That could never happen under the New York Health Act.

Assembly passage is a major step forward. Now, health care advocates, labor unions, public health, and health care provider groups (especially nurses, family physicians, and pediatricians) and other groups are working with me to broaden our outreach to legislators and the public, so we can pass the bill in the State Senate.

I don’t expect this to happen quickly, but many of my bills have taken years of work—same sex marriage, medical marijuana, and the Family Health Care Decision Act, to name a few. New York led the way in enacting laws on minimum wage, child labor, and other worker protections. We can lead the way again for health care for all.

Health care should be a human right, not a privilege or commodity, and the New York Health Act is how we turn that principle into reality.

**New York Health Act –**  
*My bill would provide comprehensive health coverage for every New Yorker, without deductibles, co-pays, or restricted provider networks. The Assembly Health Committee, which I chair, held hearings around the state. Advocates joined me at a press conference before the New York City hearing. We took a big step forward when the Assembly passed the bill in May.*



## Retail Clinics: Useful Convenience or Corporate Health Care?

“Retail clinics” are health care clinics operated within pharmacies, supermarkets, and other retailers. They are growing in New York. They can be a convenient, less costly and better alternative to an emergency room visit for many needs. Like millions of New Yorkers, I’ve used them.

So far, retail clinics in New York have limited their services to episodic drop-in care.

But if they begin to expand their services to check-ups, on-going care, and more complex care—as Walmart is doing with its in-store clinics in other states—they will seriously undermine the continuity of primary care and the economic viability of the traditional medical practice. Going to a retail clinic for a skinned knee is one thing. But I believe we do not want these clinics to replace the family doctor.



*It's Not Too Late to Get a Flu Shot – It's important to be on guard against the flu as the weather turns colder. Everyone over six months old is strongly encouraged to receive a flu vaccine, especially those at high risk for complications from the flu, including children under the age of five, seniors over 65, pregnant women, and others with certain chronic medical conditions. People with diabetes, asthma, or heart or lung problems should consult a physician at the first sign of contracting the flu. To find out how to get a flu shot in NYC, call 311 or go to <http://www.NYC.gov/flu> or text FLU to 877877.*

For you and me, commercializing health care this way would mean loss of continuity of care, loss of a caring professional relationship, and care that is dominated by the business concerns of a big corporation.

An ordinary medical practice cannot hope to compete with a clinic where a big corporation provides expensive advertising and marketing, financing for equipment, management services, electronic health record systems, and other economic advantages.

New York law prevents large business corporations from owning a clinic or health care practice but some are getting around this rule. They rent space to a physician practice, but don’t own it. But when the corporation provides advertising, financing, equipment, management services, and other supports, and has all the powers of a commercial landlord—it is ownership in all but name.

I am cosponsor of a bill, A.1411-A, in the Assembly that would limit retail clinics to “drop-in” care. It would require the clinic to ask patients if they have a primary care provider; integrate services with that provider; and share records with them. The clinics would also be subject to regulation by the State Department of Health.

The bill would also allow the corporation to own the clinic if it is licensed under Public Health Law Article 28—the law that licenses hospitals, nursing homes, and community health centers. Putting a retail clinic under Article 28 actually provides far more protections and oversight mechanisms for the public than the current rental model.

## Protecting Traumatic Brain Injury Patients

Every year, traumatic brain injury (TBI, injury to the brain caused by force) results in more than 2,000 deaths, 19,000 hospital admissions, and over 100,000 emergency room visits throughout the state.

New York’s Medicaid program provides services in the home and plays a crucial role in letting TBI patients stay in environments less restrictive than nursing homes and long-term care facilities, as much as possible. This excellent program (called the “TBI Waiver program”) includes a service coordinator who actually works with the patient and on their behalf, helping ensure access to services. It has worked well for years.

But now the Health Department plans to move the program into Medicaid Managed Care, which could reduce services. Working with patient advocates, I got the Department to delay that at least until January 2017 and to form a work group on the issue to ensure that no services would be lost to patients in the transition.

In October, the Assembly Health Committee, which I chair, held a public hearing in Albany on the issue. TBI patients and their families, disability advocates, medical experts, service providers and representatives testified.

I believe it is clear that the TBI Waiver program works well, and that moving it to managed care could seriously undermine the quality of services and care received by patients. I will work in 2016 to exempt the TBI Waiver program from being moved into managed care.

## Nurse Staffing is Crucial in Hospitals and Nursing Homes

In hospitals and nursing homes, the evidence is clear that having enough nurses on staff has a direct impact on the quality of patient care. Research published by the American Medical Association estimates five additional deaths per 1,000 patients in hospitals with an 8-to-1 patient-to-nurse ratio compared to those with just a 4-to-1 ratio. More nurses per patient means fewer deaths and improves patient outcomes. It is well documented that hospitals with better staff ratios have lower rates of problems such as pneumonia, shock, cardiac arrest.

Assembly Member Aileen Gunther—who is both a registered nurse and a former hospital administrator—is sponsoring legislation I have long supported that would set nurse-to-patient ratios in New York hospitals and nursing homes. The ratios in the bill are based on academic and evidence-based studies. The Health Department could also set more demanding and specific ratios.

California was the first state to mandate nurse staffing ratios and it has seen significant improvements in outcomes for both patients and staff.

As Chair of the Assembly Health Committee, I am working with Assembly Member Gunther, patient safety advocates, and nurses, to advance this important legislation.



*Nurse staffing legislation – I met with a group of nurses who came to Albany to lobby for the bill to guarantee an adequate level of nurse staffing in hospitals and nursing homes to improve patient care. As chair of the Assembly Health Committee, I know how important this is, and I have been working to pass this legislation.*

## Medical Marijuana Moves Ahead – But Not Enough

I am proud to have sponsored the law that created New York’s medical marijuana program in 2014. It was a 17-year effort! Twenty dispensaries are supposed to be up and running across the state by mid-January, including two in Manhattan.

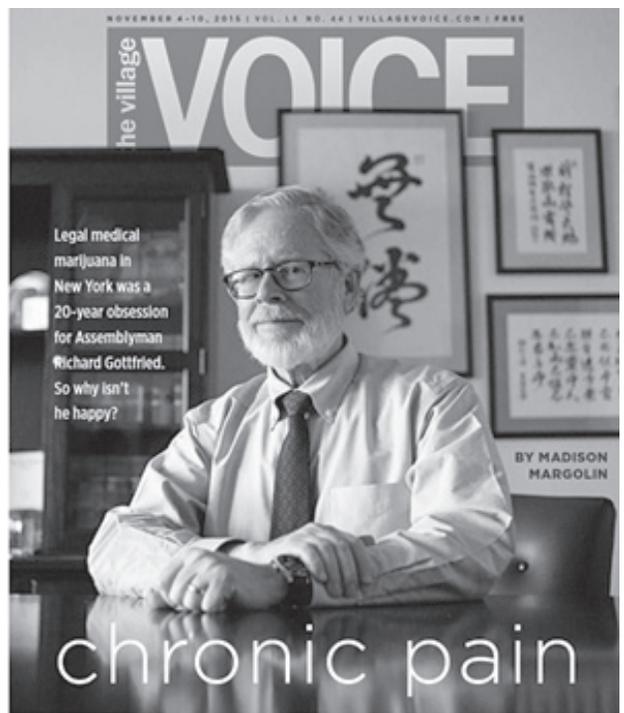
Unfortunately, the program is very limited, because of changes insisted on by Governor Cuomo when the bill was passing. Several serious conditions were excluded from being covered, including post-traumatic stress disorder. There will be only 20 dispensaries in the whole state. The companies producing medical marijuana (which the Governor limited to only five) are required to do the whole process: growing, processing, distributing, and dispensing. There is no industry I know of where this “vertical integration,” as economists call it, is required. These restrictions make it hard for additional qualified companies to serve patients.

The Health Department and the five “registered organizations” are working hard to get the program running by mid-January. But glitches can happen. There is a real danger that many seriously ill patients will still not be able to get access to medical marijuana authorized for them by their physicians, and that their conditions will deteriorate, even to the point of placing their lives in jeopardy. These patients include young children with severe forms of epilepsy that have been successfully treated with particular forms of medical marijuana in other states.

In November, Governor Cuomo signed my Medical Marijuana Expedited Access bill. It gives the Health Department temporary authority to waive the 2014 law’s requirements and regulations if needed to speed up production and distribution for patients with the most urgent medical need.

In 2016, I will be working to remove some of the restrictions to make medical marijuana accessible to more patients.

Patients and families worked hard to get both the 2014 law and the expedited access bill passed. They will be key to making the program better.



To learn more about the background about the long struggle to enact medical marijuana legislation in New York, read the cover story published in *The Village Voice* last month, available online at <http://www.villagevoice.com/news/why-the-architect-of-new-yorks-medical-marijuana-law-is-already-trying-to-change-it-7864748>.

## Ending the HIV/AIDS Epidemic in New York

In 2014, Governor Cuomo appointed an “Ending the Epidemic Task Force” to create a “blueprint” for ending the HIV/AIDS epidemic in New York State by 2020. As Assembly Health Committee chair, I participated in Task Force deliberations along with my colleagues Senator Brad Hoylman and Councilmember Corey Johnson (who chairs the City Council Health Committee).

To help people with HIV/AIDS and slash the rate of new infections, the plan’s goals are:

- Encourage people to get tested.
- Link people diagnosed with HIV to health care and get them on anti-HIV therapy, to lower their virus levels so they remain healthy and prevent further transmission.
- Promote access to Pre-Exposure Prophylaxis (PrEP) and post-exposure prophylaxis (PEP) for high-risk persons to keep them HIV-negative.
- Enact laws and programs to increase sex education and access to clean needles, to reduce transmission of HIV.
- Reduce new HIV infections in New York State from 3,000 a year to 750 by the end of 2020, and reduce the rate at which persons diagnosed with HIV progress to AIDS by 50%.

As part of the 2015 state budget, the Legislature included \$10 million in funding to begin implementing the Blueprint. We enacted laws to simplify getting tested for HIV and getting care. While these actions were a good start, more needs to be done.

Governor Cuomo and Mayor de Blasio have proposed major increases in funding, and I will work with them to make that happen, along with laws to advance the Blueprint.



*End the Epidemic – Senator Gustavo Rivera and I joined advocates from Vocal and other organizations at their rally in Albany for comprehensive programs to reduce HIV/AIDS infections and get people into care.*

## Nursing Homes Over-drugging Patients with “Anti-Psychotic” Drugs

Although only 1% of the population will ever be diagnosed with a psychotic condition, the federal Centers for Medicare and Medicaid Services (CMS) found in 2011 that over 20% of nursing home patients are “medicated” with powerful anti-psychotic drugs (commonly called “chemical restraint”).

These drugs are over-used in many nursing homes to keep residents quiet and compliant. These places would rather keep residents drugged than hire staff to work with patients. This is drug abuse and substandard care, and patients are seriously harmed as a result.

While a federal initiative has reduced this number since then, a 2014 analysis by the Long Term Care Community Coalition (LTCCC) showed that progress has been seriously uneven in New York. Some nursing homes are still medicating over 50% of their residents, even after adjusting the data to exclude patients with diagnoses for which these drugs would be medically appropriate.

As chair of the Assembly Health Committee, I held a public hearing on this abuse and I introduced legislation in 2015 (A.7351) that would protect nursing home residents by tightening the rules on use of anti-psychotic drugs in nursing homes. It would detail what needs to happen before prescribing these medications; establish record-keeping requirements; require written informed consent before the initial order or an increase in dosage or duration; and spell out rules for surrogates of patients who lack the ability to consent. The bill passed the Assembly unanimously in 2015, and in 2016 I will work with my Senate colleagues to pass the bill in both houses.

## Reproductive Health Act Passes Assembly

I believe the right to reproductive freedom is a fundamental right. New York state must strengthen reproductive health rights and respect women’s decisions.

The Assembly passed the Reproductive Health Act (A. 6221) the day after it was favorably reported by the Health Committee, which I chair. Sponsored by Manhattan Assembly Member Deborah Glick, the bill would bring New York law more fully in line with the Roe v. Wade Supreme Court decision. I am a co-sponsor of the bill.

The Roe decision has guaranteed abortion rights in every state, including New York, since 1973. However, while New York’s own pioneering 1970 abortion rights law contains many protections similar to those established by Roe, several protections in Roe would be lost in New York if that landmark Supreme Court decision were overturned.

The Reproductive Health Act (RHA) will permanently codify in State law the rights that Roe has guaranteed since 1973. For example, in the third trimester, the Roe decision protects the right to an abortion if it is necessary to protect the life or health of the woman. The New York 1970 law only allows a third-trimester abortion if necessary to protect the life of the woman.

## New York Can Help Stop Torture and Abuse of Prisoners

It is now well documented that torture and improper treatment of prisoners in the custody of the Central Intelligence Agency included active involvement of licensed health care professionals. They helped design the program and advised on how the actual “enhanced interrogations” were conducted. This was not a few errant individuals, but a systematic official program.

U.S. government reports—and the Red Cross, Physicians for Human Rights, and other groups—have documented that medical personnel, including doctors and psychologists, helped facilitate abuses in the C.I.A. “enhanced interrogation program.” By designing and participating in torture and abuse of prisoners, these medical personnel violated national and international laws, in addition to their medical ethical obligations.

Health care professionals have an ethical obligation to protect prisoners against torture and other cruel, inhuman, or degrading treatment.

New York State licenses health care professionals. I believe we can and should at least make sure that our licensed health care

professionals do not participate in torture or abuse of prisoners.

I have introduced legislation establishing obligations for New York-licensed health care professionals in relation to the treatment of prisoners; prohibiting direct and indirect actions that constitute torture or improper treatment of prisoners; establishing a duty to report, consistent with protecting the safety of prisoners and health care providers; and creating appropriate whistleblower protections. The bill is based on the codes of ethics of the American Medical Association and American Psychological Association, as well as the United Nations Convention Against Torture and other international standards for professional medical conduct that legally apply to the U.S.

A New York-licensed health care professional is subject to professional discipline by the State of New York for professional misconduct that takes place outside New York. In fact, most license revocations of New York doctors are for out-of-state misconduct. New York must ensure the highest ethical standards for its licensees whether at home or abroad, and this legislation would make us a moral leader.

## Honest Work: Restoring Public Trust in State Government

Wrongdoing by public officials deprives all of us of what good government should provide. It undermines public confidence in the political process and makes it more difficult for honest work to get done. Elected officials should focus on the public interest. They should not have their thinking distorted by personal or political interests.

Big money in election campaigns is the most serious corrosive force in politics all across the country. For many years, I’ve worked to enact a broad range of campaign finance reforms. The NYS Assembly has repeatedly passed bills I have cosponsored to reduce campaign contribution levels, increase disclosure, provide public campaign financing (so people can run for office without having to be wealthy or get support from PACs or rich people), eliminate loopholes (like the “LLC loop-hole”) that allow people to get around contribution limits, and tighten the law so campaign contributions are not used for personal expenses.

When elected officials have outside employment, there is too

much opportunity for that to distort an official’s judgment and for outright corruption. I believe that serving as a legislator should be a full-time job, and I support eliminating outside employment for legislators. I have a law license, but I do not practice law. I am not anyone’s employee or consultant, except the public’s. I have served as a full-time legislator for decades, as do many of my colleagues. That should be the rule for all of us.

We have enacted laws to increase disclosure of the financial interests of all elected officials, and should do more. We also need to strengthen enforcement of the laws requiring disclosure and punishing wrongdoing. These are just a few of the actions we need to take.

I have always fought for reforms to make our government more open and accessible. **For me, being able to work for our community and help shape public policy for the values I believe in is a cherished privilege and public trust.**



Assembly Member  
**Richard  
Gottfried's**  
Newsletter Part 1:  
**Albany Update**  
December 2015

*Este boletín está disponible en español.*

## Family Leave Legislation Passes Assembly

New York City local law gives many workers the right to paid family leave. The Assembly has passed a bill that I co-sponsor to extend that right statewide.

We passed the Paid Family Leave Act (A. 3870, introduced by Assembly Member Cathy Nolan), that would allow employees to keep their jobs and still earn some income while taking time off from work to manage an unexpected medical emergency or care for a family member, including domestic partner, or newborn, foster, or newly adopted child.

The federal Family Medical Leave Act of 1993 provides an employee with as much as 12 weeks of unpaid leave to care for

a family member. But most workers cannot afford to go without income for long, if at all, and not all are covered by the federal law in the first place.

Under A.3870, paid leave would be a new benefit under Workers Compensation, paid for by workers paying up to 45 cents per week. Employees would be entitled to up to 12 weeks of paid family leave, two-thirds of their salary, and guaranteed job security.

New Yorkers should not be forced to choose between keeping their jobs and taking care of a sick family members or spending time with a newborn.