

NEW YORK STATE ASSEMBLY

ANNUAL REPORT

2020



COMMITTEE ON
MENTAL HEALTH

CARL E. HEASTIE
SPEAKER

AILEEN M. GUNTHER
CHAIR



Aileen M. Gunther
Member of Assembly
100th District

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

CHAIR
Mental Health

CHAIR
Subcommittee on Women's
Health

COMMITTEES
Agriculture
Environmental Conservation
Health
Racing and Wagering

December 15, 2020

Honorable Carl E. Heastie
Speaker of the Assembly
Legislative Office Building, Room 932
Albany, New York 12248

Dear Mr. Speaker:

It is my duty and privilege to submit to you the 2020 Annual Report for the Assembly Standing Committee on Mental Health. As you know, the COVID-19 pandemic has affected every facet of our lives. New Yorkers have lost loved ones, lost jobs, and have been forced to isolate for more than ten months. It has had a devastating effect on mental health and on people with developmental disabilities.

While the Committee is cognizant of the unprecedented financial challenges the State faces, it will continue to prioritize people living with a mental illness or developmental disability. We cannot allow services to be cut at a time of such great need. The Committee will continue to engage with the mental health and developmental disability service communities, and will strongly advocate to the members of the Legislature and the Executive, to ensure that a sufficient amount of resources will be allocated to the Office of Mental Health (OMH) and the Office for People with Developmental Disabilities (OPWDD) so that programs are funded properly, individuals receive quality care, and services are readily available.

In closing, I would like to thank you for your leadership and support of the Assembly Standing Committee on Mental Health, and I look forward to a productive 2021 Legislative Session.

A handwritten signature in cursive script that reads "Aileen M. Gunther".

Aileen M. Gunther
Chair
Assembly Standing Committee on Mental Health

**2020 ANNUAL REPORT
OF THE
NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON MENTAL HEALTH**

**Aileen M. Gunther
Chair**

Committee Members

Majority

Ellen Jaffee
Robert Rodriguez
Didi Barrett
Kimberly Jean-Pierre
Diana Richardson
Angelo Santabarbara
Carmen De La Rosa
Nathalia Fernandez
Mathylde Frontus

Minority

Melissa Miller
Mary Beth Walsh
John Mikulin

Committee Staff

Thomas Gatto, Legislative Director and Committee Clerk

Program and Counsel Staff

Jennifer Sacco, Assistant Secretary for Program and Policy
Willie Sanchez, Principal Analyst
Janice Nieves, Associate Counsel
Sarah Conklin, Secretary

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I. INTRODUCTION

The Assembly Standing Committee on Mental Health has jurisdiction over policy and initiatives affecting programs that deliver services, care, treatment, and advocacy for individuals with various disabilities. The Committee focuses on ensuring that individuals with a mental illness or a developmental disability are provided appropriate and necessary services to live a fulfilling life and are protected from abuse or harm in institutional and community settings.

The Committee has legislative oversight of programs administered and licensed by the State Office of Mental Health and the State Office for People with Developmental Disabilities. The Committee also has statutory oversight of the Justice Center for the Protection of People with Special Needs (Justice Center), the Developmental Disabilities Planning Council (DDPC), the Inter-Office Coordinating Council (IOCC), and the Most Integrated Setting Coordinating Council (MISCC).

The aforementioned agencies are expected to serve nearly one million individuals in 2021, including persons with mental illness, individuals with developmental disabilities, and their families. The Committee also works closely with the New York State Assembly Standing Committee on Alcoholism and Drug Abuse, the Assembly Standing Committee on Veterans Affairs, the Assembly Standing Committee on Correction, and the Task Force on People with Disabilities.

During the 2020 session, the Committee reviewed a number of bills and addressed many issues aimed at providing quality services, enhancing protections, and increasing access to services for individuals with various disabilities.

This report describes the Committee's major legislative activities during the 2020 session.

II. STATE BUDGET HIGHLIGHTS

Over the past several years, the mental hygiene service system has experienced sweeping changes to funding structures of programs under the auspices of OMH and OPWDD. The State Fiscal Year (SFY) 2020-21 Enacted Budget provides critical resources for individuals with mental illness, developmental disabilities, and their families. The Enacted Budget provides an increase of \$58.7 million in funding for OMH and an increase of \$171.9 million in funding for OPWDD over the Enacted Budget for 2019-20.

Within OMH and OPWDD, the following proposals and appropriations were enacted in the 2020-21 Budget:

A. Workforce Wage Increase

The Enacted Budget provides funding for salary increases for direct support professionals, direct care workers, and clinical staff employed by OMH, the Office of Addiction Services and Supports (OASAS), and OPWDD that was initially enacted in the budget from SFY 2019-2020. Direct care and direct support staff received a 2.0 percent increase on January 1, 2020, and direct care workers, direct support professionals, and clinical staff received another 2.0 percent increase on April 1, 2020, for a total of \$106.6 million. OMH providers are estimated to receive \$22.3 million, and OPWDD providers are estimated to receive \$74.7 million in SFY 2020-21.

B. Veterans Mental Health Services

The Enacted Budget provides \$4.5 million to restore and expand services under the Joseph P. Dwyer Peer Pilot Program.

It also includes \$1 million to establish a program for suicide prevention for veterans, first responders, law enforcement, and correction officers.

C. Supported Housing Resources

The Enacted Budget provides an increase of \$20 million in funding to preserve access to existing supported housing and single residence occupancy (CR-SRO and SP-SRO) programs. The funding will mainly be used to increase rental stipends to the supported housing rate.

The Enacted Budget also includes \$12.5 million in funding for up to 500 new supported housing beds for individuals transitioning out of adult homes into the community.

D. Services for Individuals with Developmental Disabilities

The Enacted Budget provides an increase of \$30 million to support the development of new community-based services opportunities, including an expansion of certified housing supports and rental subsidies to individuals living in an apartment, as well as the expansion of day programs, employment options and respite services.

E. Behavioral Health Ombudsman Program

The Enacted Budget continues \$1.5 million to maintain the operation of an independent behavioral health ombudsman program. The program educates individuals, families, and health care providers on their legal rights to coverage, help them to access treatment and services and will investigate and resolve complaints regarding denial of health insurance coverage.

- Additionally, the Behavioral Health Compliance Fund, which will collect penalties from insurers who violate Federal and State behavioral health parity laws, would contribute up to \$1.5 million to support the Substance Use and Mental Health Ombudsman program, for a total funding of \$3 million.

III. SIGNIFICANT LEGISLATION

1. **Develop Trauma Informed Supports and Services for Frontline Workers**

A.10629-A (Gunther)/S.8608-A (Carlucci)

Chapter 295

This law establishes a frontline workers trauma informed care advisory council. The Council would include representatives from the Office of Mental Health, the Department of Health (DOH), the State Office for the Aging (SOFA), the Office for Addiction Services and Supports, the commissioner of the Department of Corrections and Community Supervision (DOCCS), as well as behavioral health advocacy organizations, health care provider organizations, employee organizations representing nurses, doctors, and other frontline workers, human services organizations, law enforcement agencies, individuals who have expertise in fields of discipline related to trauma informed care; and any other group, association, organization, or individual deemed appropriate by the commissioner.

The council will be tasked with examining issues and developing recommendations to address the anticipated mental health needs of frontline workers that have experienced trauma associated with the COVID-19 pandemic. The council will submit a report with their recommendations to the Governor and the Legislature.

2. **Financial Support for Individuals Receiving Care**

A.3402 (Gunther)/ S.4255 (Carlucci)

Chapter 305

This bill would prohibit the Office of Mental Health from billing a person for his or her care and treatment when the source of the funds for making such a payment comes from the proceeds of a suit against the State for negligent or improper treatment.

3. **Examining Alternatives for Personal Financial Management**

A.7859-B (Jean-Pierre)/S.5538-A (Brooks)

Chapter 234

This law requires the Commissioner of the Office for People with Developmental Disabilities, in consultation with the State Comptroller's Office, to conduct a study to determine the feasibility of authorizing the use of debit cards for residents of facilities certified by OPWDD.

The study would examine the following but not be limited to these topics: (a) Any conflict with provisions of federal law or state finance law and authorizing the use of debit cards by residents of OPWDD facilities; (b) the impact of banking fees on the finances of each resident as well as the impact on the finances of the state; and (c) the effect of shifting the funds of individuals served by OPWDD into the financial industry.

No later than December 31, 2020 the Commissioner of OPWDD must issue a report on the

findings of the study, which shall include but not be limited to: (a) ways to resolve any conflicts with state finance law or federal law; (b) viability and numbers of vendors in the marketplace; and (c) any additional financial implications on individuals or the state that would result from authorizing the use of debit cards.

4. Enhance Patient Safety and Notification Procedures

A.9670 (Gunther)/S.8978 (Carlucci)

Passed the Assembly

This bill would amend the notification process required for any accident or injury which affects the health or safety of a patient who is residing in a facility providing mental health, developmental disability, or addiction services, by requiring the director of such facility, within ten days of an accident or injury, to provide a copy of the incident report to a qualified person and offer to hold a meeting with such person to further discuss the accident or injury. This bill would also allow the director to provide all reports to the qualified person electronically.

5. Improve and Expand Mobile Crisis Respite Services

A.10667-A (Joyner)/No Same As

Passed the Assembly

This bill would establish within the Office of Mental Health, the New York State Advisory Council on Mental Health Emergency and Crisis Response. The council membership would consist of the commissioner of OMH, the commissioner of the Department of Corrections and Community Supervision, a representative of the local mental hygiene directors, a representative of mental hygiene legal services, and representatives with experience in the delivery of mobile crisis services including but not limited to, mental health professionals, advocates for individuals with a psychiatric condition, mental health service providers, hospitals, first responders and law enforcement.

The bill would also require the council to develop and submit a report to the Governor and the Legislature pertaining to effectively implementing any initiative or recommendation identified by the council, and anything else deemed appropriate by the commissioner.

IV. HEARINGS & ROUNDTABLES

A. Impact of COVID-19 on Individuals with either a Mental Illness or an Intellectual or Developmental Disability

On September 8, 2019, the Assembly Standing Committee on Mental Health convened an online hearing on the impact of COVID-19 on individuals with either a mental illness or an intellectual or developmental disability. The purpose of the hearing was to provide the Committee an opportunity to obtain input from various stakeholders and ascertain the impact of the COVID-19 pandemic on current and emerging cases of individuals with either a mental illness or an intellectual or developmental disability, with a focus on their ability to access services, and the potential need for additional resources, or policies and procedures that will help to mitigate the impact of COVID-19.

The committee received testimony from the New York State Office of Mental Health, service providers, advocacy organizations, parents, and other stakeholders from the mental health and intellectual and developmental disability community.

In the OMH Commissioner's testimony she reported that outpatient clinics and ambulatory programs remained open throughout the pandemic. OMH State campuses served over 7,200 individuals since March of 2020, and hospitals and residences under the auspice of OMH followed guidelines addressing infection control, including restricting all visitors, while utilizing virtual visitation and monitoring staff and employees. OMH also convened and hosted regular meetings and webinars with providers, advocates, and other stakeholders regarding infection control practices, programmatic and fiscal guidance, and other key information to aid in disaster mitigation. In general, the Commissioner reported the COVID-19 infection curve within inpatient and residential programs followed trends in larger community.

The Commissioner, Dr. Sullivan, also stated in her testimony that the local offices of emergency management worked with county mental health departments to allow agencies to purchase personal protective equipment (PPE). In addition, the HANES corporation provided 750,000 cloth masks for all individuals receiving mental health services. According to her testimony, OMH will have a stockpile of PPE to meet needs for at least 45 days of peak use in the event of another surge.

The Commissioner also noted that there was a major shift to telehealth and telephonic services and OMH provided both regulatory and billing flexibility to enable a significant expansion in the provision of tele-mental health during the COVID-19 Disaster Emergency. This flexibility included allowing New York State licensed providers living outside the state to provide tele-mental health services in the state; allowing for services to be provided over the telephone and other audio/visual platforms and be reimbursed by Medicaid. OMH reported the use of telehealth has been effective. According to data collected from a survey conducted by OMH of 6,000 clients; 85.6% of the surveyed clients found telehealth/telephonic easy and effective and 86.7% felt they were receiving enough support

during the pandemic. The surveyed clients also felt that telehealth helped to eliminate some barriers to services (e.g. transportation issues); worked as well as in-person services for regular or routine visits; and reduced the number of “no-shows.”

Many of the witnesses who represented either mental health or developmental disability service providers were understanding of the state’s grave fiscal climate and the need for federal resources. However, they also have great concern that the combination of added expenses related to the pandemic and the reduction in funding resources may force them to reduce or eliminate programs and services. In nearly every type of service sector, it was reported that safety protocols were implemented by providers, which includes purchasing and distributing sanitizing products and PPE. Agencies also reported that there were shortages of PPE at the height of the pandemic. Some providers indicated that they have stopped filling staffing vacancies, are unsure of how they will continue to pay rent for clients in supportive housing programs, and that, if these funding withholds are permanent and there is no fiscal relief, they will need to reduce the number of individuals they serve.

The groups and associations that testified echoed the OMH Commissioner’s concern related to an elevation of adverse mental health conditions associated with COVID-19, including younger adults, racial/ethnic minorities, essential workers, and unpaid adult caregivers reporting to have experienced disproportionately worse mental health outcomes, such as increased anxiety/depression, trauma, and substance use and seriously considering suicide. It was mentioned by one witness that most reports found communities of color or persons with a mental health or substance use disorder experienced a disproportionately higher covid-19 infection rate, hospitalization rate, morbidity, and mortality; and it is their opinion that this is largely due to a social failure to focus on and examine the social determinants of health.

There were several family organizations and parents who testified on behalf of individuals with a developmental disability that receive supports and services from programs certified or funded by the New York State Office for People with Developmental Disabilities. Overall, these witnesses expressed great trepidation related to the overall support provided to the families and service providers by OPWDD at the beginning of the pandemic. Some witnesses questioned the State’s seeming prioritization of opening programs and services for the most able and least impaired first, causing great concern that such an approach leaves the needs of individuals with severe disabilities unmet. More specifically, it was communicated by family members who testified that the most vulnerable individuals with an IDD, many with cognitive and/or physical impairments, underlying medical problems and possibly non-verbal, were left on their own at the height of the pandemic. Lastly, some witnesses disagreed with the continued transition of OWPDD into managed care due a lack of empirical evidence that this system is effective for this population.

Lastly, telehealth services were a common theme that was mentioned by several witnesses representing both the mental health and developmental disability communities. Overall, service providers and others stated that the flexibility provided under state guidance and waiving regulations was helpful by increasing the utilization of telehealth. Also, it was reported that agencies saw an increase in service engagements for clients. Some of the family

representatives supported continuing remote sessions as an option for those who do not want to return to site-based programs, but its use must be contingent upon being tailored to the individuals' needs. A general concern regarding telehealth was increasing access to certain populations and areas of the state. To address this issue, many witnesses called for additional investment in IT infrastructure and staffing to increase access to broadband internet, which is required for remote learning, permanently provide telehealth flexibilities, and ensure these telehealth modalities are reimbursed on par with face-to-face services.

APPENDIX A

2020

SUMMARY OF ACTION ON ALL BILLS
REFERRED TO THE COMMITTEE ON

Mental Health

TOTAL NUMBER OF COMMITTEE MEETINGS HELD 3

ASSEMBLY SENATE
TOTAL

BILLS BILLS

BILLS

BILLS REPORTED FAVORABLE TO:

	2	0	2
Codes	0	0	0
Judiciary	5	0	5
Ways and Means	1	0	1
Rules	1	1	2
Floor	9	1	10
TOTAL			

COMMITTEE ACTION

Held For Consideration	5	0	5
Defeated	0	0	0
Enacting Clause Stricken	0	0	0
REMAINING IN COMMITTEE	67	3	70

BILLS REFERENCE CHANGED TO:

TOTAL	0	0	0
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APPENDIX B

**FINAL ACTION ON BILLS REPORTED BY THE STANDING COMMITTEE ON
MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES IN 2020**

ASSEMBLY BILL # SPONSOR	SENATE BILL # SPONSOR	FINAL ACTION	Description
A.2046 Gunther	S.4013 Carlucci	Referred to the Assembly Committee on Ways and Means	This bill would provide for the reimbursement of a service furnished by a local service provider prior to the approval of such service by the commissioner. If a service is ultimately not approved and reimbursement has already occurred, such reimbursement shall be returned to the Office for People with Developmental Disabilities within sixty days of notice of such denial.
A.2756 Barrett	NA	Advanced to 3 rd Reading	This bill would discharge a mandated reporter from the statutory reporting obligation in circumstances where someone else has already reported the same incident to the Vulnerable Persons' Central Register and they have been named as a witness in the reported incident. The bill would also prevent a mandated reporter from facing any penalties or other consequences for failure to report an alleged incident, if the provisions described above can be applied.
A.3402 Gunther	S.4255 Carlucci	Chapter 305	This bill would prevent monetary awards arising from judgments or settlements because of an action against state employees or officials, to be used to pay for their care and treatment.
A.6566-B Gunther	S.8745 Carlucci	Advanced to 3 rd Reading	This bill would require the commissioner of the Office of Mental Health on a periodic basis, to identify barriers which may prevent an authorized service provider from participating in the Geriatric Demonstration Program. The commissioner would be required to share the identified barriers with the appropriate state agency, as well as any recommendations to address such barriers.
A.7859-A Jean-Pierre	S.5538-A Brooks	Chapter 234	This law requires the Commissioner of OPWDD in consultation with the State Comptroller's Office to conduct a study to determine the feasibility of authorizing the use of debit cards for residents of facilities certified by OPWDD.
A.9548 Cruz	S.2597 Parker	Referred to the Assembly Committee on	This bill would create within the autism advisory board, an education and mapping program for autism; establish a statewide public education and

ASSEMBLY BILL # SPONSOR	SENATE BILL # SPONSOR	FINAL ACTION	Description
		Ways and Means	outreach campaign to publicize autism detection and education services; and provide grants to approved organizations that would execute the initiatives developed under the education and mapping program.
A.9670 Gunther	S.8978 Carlucci	Passed the Assembly	This bill would amend the notification process required for any accident or injury which affects the health or safety of a patient who is residing in a facility providing mental health, developmental disability, or addiction services, by requiring the director of such facility, within ten days of an accident or injury, to provide a copy of the incident report to a qualified person and offer to hold a meeting with such person to further discuss the accident or injury. This bill would also allow the director to provide all reports to the qualified person electronically.
A.10484 Lentol	NA	Referred to the Assembly Committee on Rules	This bill would require the OMH, in consultation with the Department of Health (DOH), OPWDD and the Office of Addiction Services and Supports, to prepare and issue a report no later than January 1, 2021, and bi-annually thereafter, to the governor and the legislature on the delivery of integrated health services.
A.10629-A Gunther	S.8608-A Carlucci	Chapter 295	This law establishes a frontline workers trauma informed care advisory council, which would be tasked with examining issues and developing recommendations to address the anticipated mental health needs of frontline workers that have experienced trauma associated with the COVID-19 pandemic. The council would submit a report with their recommendations to the Governor and the Legislature.
A.10667-A Joyner	NA	Passed the Assembly	This bill would establish within the Office of Mental Health, the New York State Advisory Council on Mental Health Emergency and Crisis Response. The bill would also require the council to develop and submit a report to the governor and the legislature pertaining to effectively implementing any initiative or recommendation identified by the council, and anything else deemed appropriate by the commissioner.

APPENDIX C

LAWS ENACTED IN 2020

ASSEMBLY BILL # SPONSOR	SENATE BILL # SPONSOR	FINAL ACTION	DESCRIPTION
A.3402 Gunther	S.4255 Carlucci	Chapter 305	This bill would prevent monetary awards arising from judgments or settlements because of an action against state employees or officials, to be used to pay for their care and treatment.
A.7859-A Jean-Pierre	S.5538-A Brooks	Chapter 234	This law requires the Commissioner of the Office for People with Developmental Disabilities (OPWDD) in consultation with the State Comptroller's Office to conduct a study to determine the feasibility of authorizing the use of debit cards for residents of facilities certified by OPWDD.
A.10629-A Gunther	S.8608-A Carlucci	Chapter 295	This law establishes a frontline workers trauma informed care advisory council, which would be tasked with examining issues and developing recommendations to address the anticipated mental health needs of frontline workers that have experienced trauma associated with the COVID-19 pandemic. The council would submit a report with their recommendations to the Governor and the Legislature no later than December 1, 2020.

APPENDIX D
LEGISLATION VETOED IN 2020

No bills have been vetoed during this Legislative session