



**2011 Legislative Report
and
Advocacy Initiatives Summary**



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The North Carolina General Assembly long session convened from Wednesday, January 26 until Saturday, June 18, 2011, passing a \$19.7 billion budget and more than 400 new bills. During July, lawmakers met to review redistricting and override vetoes made by the Governor. In September, another session will include amendments as the main agenda item. With Republicans leading in the House & Senate, tense negotiations were abundant with a Democratic Governor.

In the spring, Governor Bev Perdue presented a budget that protected some mental health services, including \$75 million reserved in the Mental Health Trust Fund. However, the House & Senate budget versions were much more detrimental to the service delivery system. In the end, a compromise between the House & Senate was negotiated and the Governor vetoed the final budget proposal. Yet, with five Democrats supporting the Senate's budget, the veto was overridden and the biennial budget passed, crippling mental health service delivery with major cuts.

Along with massive budget cuts to the Department of Health & Human Services, major legislation (HB916) passed, restructuring Medicaid-funded mental health services to a managed care model. By 2013, a smaller number of Local Management Entities (LMEs) across NC will exist and will operate under a "Waiver" format— creating the financial infrastructure to track and provide reimbursements with a blending of federal, state and local dollars. Service providers will be recognized as Critical Access Behavioral Healthcare Agencies (CABHA) in efforts to reduce duplication and improve quality of services. Our hope with this "reform" is that the needs of all individuals with disabilities will be included in the service delivery system.

Overall, the 2011 session kept advocates on their toes as a significant piece of legislation protecting the rights of individuals with a severe and persistent mental illness passed the House (HB659), and managed care for individuals with disabilities was debated. All-in-all, approximately 125 bills, which specifically mention mental health services were introduced, and roughly 30 of them passed. Below is a sampling of the most significant pieces of legislation. For mental health consumers and advocates, this past session will be remembered as the year that publicly funded mental health services moved into managed care.

ADVOCACY & EDUCATION

Since 1933, the Mental Health Association of Central Carolinas (MHA) has promoted mental wellness through advocacy, prevention, and education. ***As the state's oldest and largest association, the MHA is leading the state in recreating a statewide network for mental health advocacy and stigma reducing education.*** From joining statewide coalitions to better represent the consumer voice, to hosting an annual awards reception and celebrity speaker in hopes to reduce stigma and promote understanding of mental illnesses and resources, the MHA diligently promoted the long-time vision of its former state affiliate, MHA-NC, while partnering with twelve other associations across North Carolina.

MHA is proud of where we are today – as a separate agency and Collaborative – and a local consumer-focused network for advocacy and education. The MHA, locally and around the state, has become well-respected and well-known for its effective and dedicated mental health advocacy and education.

MHA's advocacy and education efforts for the past fiscal year include:

- ❖ MHA hosted an educational policy reception on September 23, 2010 at The Duke Mansion in Charlotte, NC. Community members and candidates for local and state office attended the two-hour long reception aimed at educating candidates on mental health services and consumers' needs. Representatives Martha Alexander (Mecklenburg), Beverly Earle (Mecklenburg), Senator Charles

Dannelly (Mecklenburg), and many local politicians, including Mecklenburg Board of County Commissioners: Jennifer Roberts (Chair), Dumont Clarke, and Harold Cogdell attended.

- ❖ MHA staff attended statewide rallies in Raleigh for Disability Day (March) and The Coalition Rally (May) to meet with lawmakers one-on-one, while encouraging consumers to share their stories and showing solidarity among state advocates for mental health services.
- ❖ MHA hosted and helped organize a Town Hall meeting in Charlotte, NC. The Town Hall meeting took place at Myers Park United Methodist Church on March 17, 2011. The meeting, attracting more than 50 individuals, provided an opportunity for local needs to be communicated with state level representatives and offer the latest updates on the state budget forecast. Town Hall meetings, hosted by other advocacy groups in coordination with The Coalition, followed suit in Raleigh, Winston-Salem, Wilmington, Fayetteville, Greenville and Asheville.
- ❖ MHA staff represented the Collaborative regularly by attending statewide meetings, including the Coalition for Persons Disabled by Mental Illness (CPDMI; a unique group of advocates focused on specific legislation and its broad impact), The Coalition (40-member statewide advocacy organization), and Covenant for NC's Children (statewide advocacy group concerned with the needs of children). MHA presence was known to represent the consumers' perspectives from across the state.
- ❖ MHA successfully raised \$40,000 through partnerships with Charlotte Area Health Education Center and the NC MHA Collaborative to host a statewide educational conference, featuring celebrity-speaker, Mariel Hemingway. The conference attracted more than 230 individuals, 25 vendors, and numerous sponsors who rated the overall day as "excellent"! The speakers included a personal testimony by Mecklenburg County's Bobby Livingston; NC Division of Mental Health Liaison, Mark O'Donnell; and national presenters, such as Amy Showalter and Lee Stephan. The conference was held on May 18, 2011, during "Mental Health Awareness Month".
- ❖ MHA staff, consumers, and board chair attended the national conference in Washington, D.C. on June 9-12, 2011, and participated in Capitol Hill Day. The day consisted of meeting with key personnel in lawmakers' offices, including Kay Hagan, Sue Myrick, Mel Watt, and Richard Burr. Topics for discussion involved national level funding priorities and legislation affecting North Carolina, specifically.

Following is a list of the major public law provisions enacted during the most recent session, with effective dates from July 1, 2011 through January 1, 2012. For additional assistance please contact a member of the Legislative Library staff at (919) 733-9390. For a complete list of bills passed during the most recent session, visit the North Carolina General Assembly website for bill look up by text, number or sponsor.

H916—Statewide Expansion of 1915 b/c Waiver—The bill creates a managed care system for MH/DD/SA services that will be run by the Local Management Entities (LMEs). Under the new system, LMEs would get a monthly allotment based on population. The LME would manage all funding sources, including Medicaid, state and Federal funds. (Keeping in mind that this is primarily Medicaid driven but LMEs will manage all funds, such as block grants, IPRS, local funding, etc.)

H595—Reorganization/Legislative Oversight Committee—Proposes a new structure for the numerous legislative committees and commissions, including establishing a Joint Legislative Oversight Committee on Health and Human Services, which merges the Study Commission on Aging, the Joint Legislative Health Care Oversight Committee, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Public Health Study Commission.

H344–Tax Credit for Children with Disabilities–Allows the parents of children with disabilities to receive a tax credit if they moved their children from public school into a private or home school. (For more specific information on this bill, please see the Autism Society of NC’s website.)

H374–Eugenics Records/Public Records Exemption–The bill makes clear that records in the custody of the State concerning the North Carolina Eugenics Board program are not public records to the extent they concern: (i) persons impacted by the program, (ii) persons or their guardians or authorized agents inquiring about the impact of the program on them, (iii) persons or their guardians or authorized agents inquiring about the potential impact of the program on others. A person impacted by the program may obtain his/her individual records, and a guardian or authorized agent of that person may also obtain them.

H618–Streamline Oversight/DHHS Service Providers–Seeks to streamline duplicative oversight of DHHS service providers. The bill directs DHHS to: prepare a rate setting memorandum for every change or adjustment made by DHHS in service definition, policy, rule, or provider requirements that impacts services; dissolve North Carolina Treatment Outcomes Program Performance System (NC TOPPS) Advisory Committee, and establish a task force made up of division staff, Behavioral Health Managed Care Organizations, consumers, and providers to objectively evaluate the NC TOPPS.

H659–Capital Trials/Severe Mental Disability–Seeks to amend the capital trial, sentencing and post-conviction procedures for a person with a severe mental disability to address the issue upfront in trial, and to remove the death penalty as the highest punishment if the individual qualifies as a person with severe mental disability under the law. It also seeks to provide that Not Guilty by Reason of Insanity is not an available defense if prior alcohol, or drug use are the sole cause of the psychosis. HB 659 passed successfully out of the House with strong bipartisan support with an 84-31 vote. It received a favorable report from the Senate Judiciary II committee and has been referred to the Senate Appropriations committee. It is hoped that the bill will be voted upon by the full Senate during the 2012 short session.

S498–Modify Law Regarding Corporal Punishment–This law will allow parents to opt their children out of corporal punishment. Corporal punishment is now allowed in 36 counties and has been actively used in 17 counties across the state. The numbers of counties allowing it continue to shrink as school systems review their policies.

S648–Amend Law Regarding School Discipline–This bill puts parameters on school districts’ suspension policies in an effort to reduce long-term suspensions. The bill also codifies case law and reorganizes the statutes to make them less confusing. It also eliminates zero tolerance policies, except in cases of very serious offenses such as carrying a firearm to school.

S32–Hospital Medicaid Assessment/Payment Program –Provides for hospital assessments in order to obtain matching federal Medicaid funds to reduce losses hospitals sustain when treating Medicaid and uninsured patients, and to reduce the inequity in Medicaid payments between public and nonpublic hospitals. It directs the Department of Health and Human Services to file a State Plan amendment with the Centers for Medicare and Medicaid Services.

S375–Facilitate Statewide Health Information Exchange–Creates a statewide health information exchange network. The framework proposed is to facilitate the exchange of healthcare information among covered healthcare providers within the confines of HIPAA. It allows individuals the right to opt out. The provisions proposed only apply to protected health information disclosed within the Health Information Exchange.

S437—Enact First Evaluation Program—Waives the requirements for a physician or eligible psychologist to perform the initial examination for involuntary commitment and substitute a licensed clinical social worker, a master's level psychiatric nurse, or a master's level certified clinical addictions specialist at the request of an LME.

S597—Behavioral Health Services for Military —Requires LMEs and schools to make certain staffing and procedural changes to ensure that care for members of the military, veterans, and their families, whose care is funded through federal programs is coordinated appropriately.

BUDGET SUMMARY – For more detailed budget information, please visit the North Carolina General Assembly website and search for HB200/S.L. 2011-145.

The Department of Health & Human Services - *\$432 million cut in FY12 and \$472 million cut in FY13*

- Medicaid cuts total \$356 million in FY12 and \$407 million in FY13. Because the federal government provides \$2 for every \$1 in state money, North Carolina's Medicaid program was reduced by \$1 billion in the current budget year and another \$1.2 billion next year.
 - Preferred Drug List – Mental Health Medications - prior authorization language left in, as well as language prohibiting the usage of mental health medications that are non-FDA approved
- Mental Health Funds – Statewide mental health funds are cut by over \$50 million. This funding cut is combined with substantial administrative changes in the mental health system, and a 2% provider rate cut (because of the timing of the cut for this year, and the exemption of some services, in practice it is almost 3% and will be so ongoing).
- Health and Wellness Trust Fund – The Health and Wellness Trust Fund is eliminated.

Juvenile Justice and Public Safety- *\$20 million cut in FY12 and FY13*

- Youth Detention Centers – The budget will eliminate two Youth Detention Centers, Samarkand and Swannanoa.
- Educators – The budget also eliminates a number of education positions in the Youth Detention Centers.
- Drug Court – Drug Court (for adults and youth) is eliminated and Family Court is put on Continuation Review (one year of funding and an investigation into its utility).
- Department of Juvenile Justice and Delinquency Prevention merged into a new Department of Public Safety.

SOURCES

- ❖ North Carolina General Assembly website: <http://ncleg.net>
- ❖ Autism Society of NC, <http://www.autismsociety-nc.org>
- ❖ NC Department of Health & Human Services (NC DHHS) website: www.ncdhhs.gov
- ❖ Governor's website, <http://www.governor.state.nc.us>
- ❖ NC Policy Watch website, <http://www.ncpolicywatch.org>
- ❖ The Covenant with NC's Children, <http://www.nccovenant.org>
- ❖ Disability Rights NC, <http://www.disabilityrightsncc.org>
- ❖ News & Observer, <http://www.newsobserver.com>



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