April 17, 2017

2017 Maryland General Assembly
Legislative Session Summary

The 2017 legislative session of the Maryland General Assembly ended at midnight on April 10th, marking significant progress to advance Behavioral Health System Baltimore’s 2017 Policy Priorities. During the 90-day session, several key bills passed that will better support behavioral health and wellness in Baltimore City and a number of unresolved issues highlight key areas of advocacy for BHSB going forward.

Legislative Priorities
Keep the Door Open Act/HOPE Act

The General Assembly passed legislation that included BHSB’s top legislative priority, the Keep the Door Open Act (HB 580/SB 467), which will provide regular reimbursement rate increases for community-based behavioral health providers to ensure these providers can continue delivering high-quality mental health and substance use disorder treatment. BHSB and the Maryland Behavioral Health Coalition worked closely with Delegate Antonio Hayes (Baltimore City) and Senator Guy Guzzone (Howard County) to support an advocacy campaign that was instrumental in advancing the KTDO Act. This campaign organized a rally that drew hundreds of providers, consumers, and advocates to Lawyer’s Mall to call on the General Assembly to support behavioral health by passing the KTDO Act.

Delegate Antonio Hayes calls for a better resourced behavioral health system at the KTDO Rally on February 23, 2017
The KTDO Act received a major boost this year when it was included in the Heroin and Opioid Prevention Effort and Treatment Act of 2017 (HB 1329/SB 967), a bill designed to address Maryland’s worsening opioid overdose epidemic. BHSB worked with legislators and our partners to refine various provisions of the HOPE Act, including providers, regarding the KTDO Act, crisis centers, and a statewide crisis hotline. This bill passed on the last day of session with strong bi-partisan support. Key bill provisions:

- Require increases in funding for community behavioral health services (Keep the Door Open Act). Payments to providers increase by 3.5% in FY19 and FY20, and 3% in FY21. The bill also requires that the Behavioral Health Administration and Medicaid, in consultation with stakeholders, conduct a rate-setting study for community behavioral health services and implement a payment system based on the findings. The study must be completed by September 30, 2019.

- Require the establishment of behavioral health crisis treatment centers consistent with forthcoming recommendations from the Maryland Behavioral Health Advisory Council. At least one crisis center must be established by June 1, 2018.

- Make expansion and promotion of the statewide 24/7 crisis hotline a statutory requirement. The bill provides a framework for a comprehensive crisis hotline to serve as a critical access point to connect callers to appropriate behavioral health resources and supports.

- Repeal a requirement that an individual be certified in overdose recognition and response before receiving the overdose-reversal medication naloxone from a pharmacist.

- Require hospitals to have protocols for discharging patients who were treated for a drug overdose or identified as having a substance use disorder. The protocols may include coordination with peer recovery counselors, connection to community-based treatment, and a prescription for naloxone.

- Require an assessment to determine how to expand drug court programs. Drug courts are specialized dockets that handle criminal cases involving individuals with substance use disorders through judicial intervention, intensive monitoring and continuous substance use treatment. The bill also states the intent of the General Assembly that $2 million in additional funding be awarded next year to expand the programs.

- Require a report from the Department of Health and Mental Hygiene (DHMH) by December 1, 2019 on potential outcomes measures for behavioral health providers and recommendations for how reimbursement can be tied to outcomes.
Require development of a plan for increasing substance use disorder treatment in jails and prisons.

- Include a section stating the intent of the General Assembly that $10 million in supplemental funding issued by Governor Hogan for an Opioid Crisis Fund be used to implement the HOPE Act provisions.

Fiscal Year 2018 Budget

The Fiscal Year 2018 budget provides an increase in funding for community behavioral health services. The budget includes the 2% reimbursement rate increase for behavioral health providers, which is the same increase that was included in the FY 17 budget. In addition, Governor Hogan issued $10 million in supplemental funding to the Inter-Agency Heroin and Opioid Coordinating Council to develop a multi-pronged approach aimed at preventing and treating the opioid crisis.

The FY18 Budget includes language that calls on DHMH to complete a number of reports related to the public behavioral health system, including:

- **Integration of Somatic Health and Behavioral Health Services** - Requires a report to examine the state’s integration strategy with regard to behavioral and somatic health services and report to the General Assembly by January 1, 2018. A report is also required by the Center for Medicare and Medicaid Services (CMS) as part of the recent Health Choice Waiver renewal.


- **Merging of Core Service Agencies with Local Addictions Authorities** - Requires a report by November 1, 2017 on the feasibility, costs and benefits of merging the core service agencies with the local addictions authorities. The report should include recommendations on whether or not it would be beneficial to the oversight and efficiency of the public behavioral health system to combine CSAs and LAAs in each jurisdiction where it is not already so.

- **Adequacy Study of Rates for SUD Treatment Services** - Requires a report by November 1, 2017 on the adequacy of the rates for substance use disorder treatment services within the Medicaid program.

- **Rate Setting System** - Requires a review on potential improvements of the current rate-setting system used in Maryland and a review of innovations from other states in managed care payment systems similar to Maryland. The review must be complete by November 15, 2017 and cannot include any consideration of the implementation of a competitive bidding process.
• **Suboxone Film and the Maryland Medicaid Preferred Drug List** - Requires DHMH and the Department of Public Safety and Corrections to provide a progress report by October 1, 2017 on its decision to designate suboxone film as nonpreferred on the Maryland Medicaid Preferred Drug List, while adding Zubsolv tablets to that same list.

**Outpatient Civil Commitment Pilot Program**

*The General Assembly passed legislation to authorize BHSB’s Outpatient Civil Commitment (OCC) pilot program* (HB 1383/SB 1042). This bill authorizes the development of the pilot program to serve Baltimore City residents with a mental illness who are currently committed involuntarily to an inpatient psychiatric hospital and (1) have been civilly committed at least one other time over the previous twelve months; (2) have a demonstrated history of declining available community treatment; and (3) are unlikely to seek and/or participate in community treatment upon discharge.

BHSB received $2.8 million in federal funding from the Substance Abuse and Mental Health Services Administration (SAMHSA) to support this pilot. Eligible individuals referred to the program will receive a comprehensive range of evidence-based and client-centered behavioral health and social services in the community, either through voluntary engagement or involuntarily as a condition of release. The OCC pilot is going to be thoroughly evaluated by SAMHSA and BHSB. Research will look at the effectiveness of service delivery and health and social outcomes for participants involved.

**Summary of Other Legislation**

BHSB took positions on a number of bills in 2017 General Assembly that impact behavioral health in Baltimore City. The following bills passed the legislature:

• **Start Talking Maryland Act** – *(HB 1082/SB 1060 Heroin and Opioid Education and Community Action Act of 2017 (Start Talking Maryland Act)* - This legislation seeks to address opioid prevention and education in schools throughout the state. Provisions in the bill that require cooperation between the Maryland State Department of Education, local health departments, and local school boards are:
  o The State Board of Education shall expand an existing program in the public schools to encompass drug addiction and prevention education specifically focused on heroin and opioids.
  o Local board of education shall establish a policy requiring each public school to store naloxone and authorize personnel to administer it.
  o Each local board of education or local health department shall hire a county or regional community action official that will coordinate school based community forums and conduct public relations efforts.
Each institution of higher education in Maryland that receives State funding shall establish a policy that addresses heroin and opioid addiction and prevention, including awareness training for incoming students, obtaining and storing naloxone, and training campus police (or other designated personnel).

Maryland State Department of Education shall convene a workgroup and submit a report due by December 1, 2017 on behavioral and substance abuse disorder services in public schools.

This bill also requires a mandatory appropriation of general funds of at least $3.0 million in the fiscal 2019 budget for the Maryland State Department of Education to award grants to local boards of education to implement the bill’s policy and training requirements.

- **Essential Generic Drugs - Price Gouging** - (HB 631/SB 415 Public Health-Essential Generic Drugs- Price Gouging- Prohibition) -This bill would allow the Maryland Medical Assistance Program to notify the Attorney General’s Office when it sees that patients are being charged an “unconscionable increase” for essential generic drugs. The Attorney General can then seek an explanation from the manufacturer and sue to protect the consumers with a fine of up to $10,000 for each violation. A judge could also order the company to reverse its price increase.

- **Maternal Mental Health** - (HB 775/ SB 600 Public Health-Maternal Mental Health) -This legislation requires the Department of Health and Mental Hygiene to (1) develop accredited continuing medical education programs for providers to improve early identification of postpartum depression and other PMADs; (2) work to expand the Behavioral Health Integration in Pediatric Primary Care (BHIPP) consultation program to assist providers in addressing the emotional and mental health needs of pregnant and postpartum patients; and (3) identify up-to-date, evidence-based information about PMADs, which must be provided to health care facilities and providers, and posted on the Department’s website. These provisions will begin to address a frustration among providers about the lack of available training, resources and tools specific to PMADs, and they will ensure that mothers and their families have the information necessary to recognize signs and symptoms when they occur.

- **Problem Gambling Treatment Fund** - (HB 1227 The Problem Gambling Funding and Treatment Act of 2017) -This bill increases the annual fee paid by video lottery operation licensees for video lottery terminals and table games to the Problem Gambling Fund. The video lottery fee will increase from $425 to $500 annually, and the table games fee will increase from $500 to $700. This increase will provide additional funding for problem gambling treatment and prevention efforts. In addition, any remaining funding can be used for substance use disorder treatment services.

- **Prior Authorization** - (HB 887 Health Insurance- Preauthorization For Drug Products to Treat Substance Use Disorders- Prohibition) - This bill prohibits insurers
from requiring prior authorizations for methadone, buprenorphine, and naltrexone products.

The following bills did not pass:

- **Cigarette Restitution Fund** - (HB 541/SB 474) – Cigarette Restitution Fund - Establishment of Behavioral Health Treatment Account and Funding for Substance Use Treatment Services) — This bill would have required a separate account of no more than $10,000,000 to be included in the Cigarette Restitution Fund that would be used for substance use treatment, with priority given to residential treatment services, recovery support housing, crisis response services, and rate adjustments for agencies and programs.

- **Safe Injection Facility** - (HB519 Public Health-Overdose and Infectious Disease and Prevention Safer Drug Consumption Facility Program) - This bill would have authorized the establishment of an Overdose and Infectious Disease Safe Drug Consumption Facility Program by a community-based organization. BHSB joined other members of the Drug Policy Alliance to support this legislation. While this legislation did not move this year, it did spark a robust conversation about the facilities and their impact. This is an issue that will continue to be explored by both legislators and other stakeholders.

- **Telehealth** - (HB 658/SB570 Maryland Medical Assistance Program-Telehealth-Requirements) - This bill would have removed service and provider restrictions related to the use of telehealth in the Medicaid program. While this bill did not pass, the Senate Finance and the House Health and Government Operations Committees sent a letter to the Department of Mental Health and Hygiene asking them to explore the use of telehealth throughout the state.

- **Licensing and Accreditation of Outpatient Programs** - (SB 1129 Substance Use Disorder Treatment and Licensing of Outpatient Programs and Provision of Naloxone Kits) - This bill would have removed the requirement for accreditation for small substance use disorder treatment programs located outside of Baltimore City or County. BHSB organized a sign-on letter in opposition to this bill.