



## 2022 Maryland General Assembly Wrap-Up Report – April 2022

The 2022 Maryland General Assembly Session came to a close, ushering in a state-level campaign season that will result in turnover of all four statewide seats and possibly a quarter turnover in the Senate and House of Delegates as all seats are up for election. With an unprecedented budget surplus, Governor Hogan and the General Assembly created a budget for fiscal year 2023 that includes significant new healthcare coverage, tax breaks, and investments in numerous capital projects around the state. One Constitutional Amendment was passed that, if approved by voters in November, will legalize adult use of cannabis. Other high-profile health issues that passed included the Paid Family Leave Act, comprehensive dental coverage for adults enrolled in Medicaid, and Medicaid coverage for pregnant immigrants.

### **Funding**

The budget outlook for Maryland continued to improve at the end of 2021 and in the first quarter of 2022, largely as a result of federal aid following the worst of the COVID-19 pandemic. The result was an historic budget surplus, much of which was invested in one-time projects, provided assistance to people still impacted by the pandemic, and saved in the State's Rainy Day Fund. The budget passed with an anticipated surplus of over \$200 million for FY 2023.

While Governor Larry Hogan's budget as introduced included the mandatory reimbursement rate increase for behavioral health providers of 3.25%, the final budget included a 7.25% increase that will take effect on July 1<sup>st</sup>. It was also announced at the beginning of the budget process that the Maryland Department of Health (MDH) had communicated with the Centers for Medicare and Medicaid Services that it is their intent to use \$24 million of remaining federal assistance funds to begin reimbursement for Certified Peer Recovery Specialists.

### **Opioid Restitution Fund**

There were two bills that passed the General Assembly related to the Opioid Restitution Fund (ORF), established by legislation in 2019 with NCADD-Maryland's support. The ORF was created to receive money from the result of lawsuits against opioid manufacturers.

- *Public Health – Opioid Restitution Fund Advisory Council (House Bill 794-Del. Sandy Rosenberg)* will add a needed layer of formality and transparency to how funding decisions will be made with regard to the money received by the ORF. NCADD-Maryland led this initiative to ensure appropriate public and expert input continues in future Administrations. > PASSED

- *Opioid Restitution Fund – Appropriation of Settlement Funds and Grant Program (HB 1086-Del. Sandy Rosenberg/Senate Bill 419-Sen. Brian Feldman)* amended the fund to reflect the recent multi-state settlement that involved Attorney General Frosh and most of the local jurisdictions in Maryland. > PASSED

### **Harm Reduction and Decriminalization**

The Session leading up to an election always adds another layer of politics that interferes with good policy decisions, and 2022 was no exception. Before Session opened, it was decided that legislation to allow Overdose Prevention Sites to formally exist would not be re-introduced. In the Special Session that took place in December, 2021, Senate President Bill Ferguson had the opportunity to override a misguided veto by Governor Hogan of the bill to decriminalize paraphernalia used to administer drugs, and refused to bring it to a vote. It was a Session where few harm reduction measures were passed. NCADD-Maryland led or supported these efforts:

- *Criminal Procedure – Medical Emergency – Immunity (HB 190-Del. Jon Cardin)* was a re-introduction of legislation to expand Maryland's Good Samaritan law regarding people experiencing overdoses and other substance-related emergencies. While the sponsor and proponents led by NCADD-Maryland were open to negotiating amendments with the opposition, the States Attorneys Association was not. The legislation died in committee without a vote. > FAILED
- *Criminal Law – Drug Paraphernalia for Administration – Decriminalization (HB 481-Del. David Moon/SB 509-Sen. Jill Carter)* was another re-introduction that NCADD-Maryland worked in partnership with the Baltimore Harm Reduction Coalition in supporting. Knowing it was a long-shot as the General Assembly did not override the veto of this legislation that passed in 2021, the House of Delegates once again passed this measure only to see it die in the Senate without a vote. > FAILED
- *Criminal Law – Use or Possession of a Controlled Dangerous Substance – De Minimis Quantity (HB 1054-Del. David Moon/SB 784-Sen. Jill Carter)* was a bill to decriminalize personal use amounts of drugs. There is a great deal of education needed to move this issue forward. > FAILED
- *Statewide Targeted Overdose Prevention (STOP) Act of 2022 (HB 408/SB 394-Hogan Administration)* was an initiative from the Governor to provide naloxone to intensive outpatient programs, opioid treatment programs, and homeless service programs to offer to clients per protocols to be established. Close to \$4 million was included in the budget for MDH to purchase the naloxone for distribution. The Administration also introduced successful legislation (SB 200) that will gather additional, aggregate data through the Prescription Drug Monitoring Program regarding where naloxone is and is not being dispensed through pharmacies to help the State identify geographic areas where naloxone distribution should be targeted. > PASSED

- *Health Records and Reporting of Overdoses – Limitations on Use in Criminal Investigation or Prosecution (HB 786-Del. Tony Bridges/SB 568-Baltimore City Administration)* is a statewide bill that was introduced at the request of Baltimore City Mayor Brandon Scott’s Administration to close a loophole in the overdose reporting system that inadvertently allowed law enforcement to use data reported by emergency medical providers at overdose reversal scenes in criminal investigations. > PASSED

## **Behavioral Health System**

As a member of several coalitions, NCADD-Maryland participates in efforts to prioritize and develop initiatives that strengthen the State’s behavioral health and recovery support systems for those with both public and private insurance. This session, NCADD-Maryland worked on the following bills:

- *Health and Health Insurance – Behavioral Health Services – Expansion (Behavioral Health System Modernization Act) (HB 935-Del. Heather Bagnall/SB 637-Sen. Malcolm Augustine)* was a bill led by the Behavioral Health Coalition, developed to address several areas of the State’s system related to payment mechanisms, children’s services, and peer services. Despite a great deal of compromising on the details of the bill, the price tag was deemed too high by MDH and the legislature. > FAILED
- *Health Insurance – Provider Panels – Coverage for Nonparticipation (HB 912-Del. Sheree Sample-Hughes/SB 707-Sen. Kathy Klausmeier)* – The Maryland Parity Coalition found success on this network adequacy legislation it has worked on for several years. The bill will apply to a member of a commercial insurance plan who is given permission by their carrier to go out of network due to the carrier’s inability to meet the member’s needs. In those cases, the member cannot be billed by the provider for the difference between what the provider’s rate is and the rate the carrier is willing to pay. The intent of the bill is to create an incentive for carriers to have adequate networks of providers. > PASSED
- *Consumer Health Access Program for Mental Health and Addiction Care – Establishment (HB 517-Del. Robbyn Lewis/SB 460-Sen. Malcolm Augustine)* – The Parity Coalition also developed this new initiative to create a Consumer Health Access Program that would help people seeking substance use and mental health services understand and best utilize their insurance benefits to access services. The Governor included start-up funding for the program in a supplemental budget and the Senate passed an amended version of the bill. It died, however, in a subcommittee of the House Health & Government Operations Committee. > FAILED
- *Public Health – Medications to Treat an Opioid Use Disorder – Preferred and Nonpreferred Medications (HB 578-Del. Anne Kaiser/SB 323-Sen. Malcolm Augustine)* – In an attempt to create parity in Medicaid with private insurance, this bill was introduced to prohibit prior authorizations for medications used in treatment for opioid use disorders (MOUD), similar to a law passed in 2017 that applies to commercial insurance plans. Significant opposition from MDH’s Medicaid division resulted in the bill being amended

to be an annual monitoring of prescribing habits of MOUD and outreach by Medicaid to providers prescribing non-preferred medications that require a prior authorization. > PASSED

- Maryland Medical Assistance Program – Substance Use Disorder Treatment – Network Adequacy (HB 971-Del. Nic Kipke) requires Maryland Medicaid to ensure an adequate network of providers are available to provide substance use disorder treatment for children under the age of 18. Because of the current state of that network, Governor Hogan provided \$500,000 in the budget to conduct a needs assessment. NCADD-Maryland successfully advocated to make the bill an Emergency Bill which means it will take effect upon the Governor’s signature, thus speeding up the process of the needs assessment and subsequent increase in services. > PASSED
- Behavioral Health Crisis Response Services – 9-8-8 Trust Fund (HB 293-Del. Karen Lewis Young/SB 241-Sen. Malcolm Augustine) – In preparation for the entire country moving to a 9-8-8 crisis hotline, a coalition of organizations convened by the Greater Baltimore Regional Integrated Crisis System (GBRICS) Partnership was successful in getting legislation passed and funding secured to ensure Maryland call centers are adequately staffed and available around the clock when 9-8-8 launches nationally in July 2022. > PAASED
- Administrative Services Organizations – Requirements for Retraction, Repayment, or Mitigation of Claims (HB 715-Del. Geraldine Valentino-Smith/SB 549-Sen. Malcolm Augustine) was an effort led by Community Behavioral Health Association of Maryland (CBH) with strong support from NCADD-Maryland and its partners, the Maryland Addiction Directors Council (MADC) and Maryland Association for the Treatment of Opioid Dependence (MATOD). The bill was intended to protect behavioral health treatment providers from claw-backs of payments made by the administrative services organization, Optum, without verified claims data. In absence of the bill passing, much weaker budget language was included in the FY 2023 budget that passed. > FAILED

## **Workforce**

- Workgroup on Black, Latino, Asian American Pacific Islander, and Other Underrepresented Behavioral Health Professionals (HB 97-Del. Marlon Amprey) creates the Workgroup on Black, Latino, Asian American Pacific Islander, and Other Underrepresented Behavioral Health Professionals that will make recommendations on how to increase the number of underrepresented people in education programs to become behavioral health professionals. > PASSED
- Commission to Study the Health Care Workforce Crisis in Maryland – Establishment (HB 625-Del. Ariana Kelly/SB 440-Sen. Pam Beidle) establishes a commission to examine myriad issues related to the health care workforce, including those working in behavioral health professions. NCADD-Maryland successfully advocated for the

inclusion of the Deputy Secretary of Behavioral Health on the Commission, and language specific to behavioral health workforce needs. > PASSED

### **Alcohol, Tobacco and Cannabis**

NCADD-Maryland has maintained a neutral position on whether or not adult use of cannabis should be legalized. While long supporting efforts to decriminalize the use of drugs, NCADD-Maryland's efforts on the issue of legalization have focused on including best practices in its public health aspects and learning from the successes and failures of other states, if Maryland were to legalize its use by adults.

- Constitutional Amendment – Cannabis – Adult Use and Possession (HB 1-House Speaker Adrienne Jones) – Passage of this bill will put this question on the November ballot for voters to answer: “Do you favor the legalization of the use of cannabis by an individual who is at least 21 years of age on or after July 1, 2023, in the State of Maryland?” If approved by the majority of voters, it will trigger the implementation details established through HB 837. NCADD-Maryland did not take a position on the Constitutional Amendment. > PASSED
- Cannabis Reform (HB 837-Del. Luke Clippinger) – NCADD-Maryland provided comprehensive information to legislators about the public health measures that should be included in implementing a legal market for adult use of cannabis. Much of this bill that passed is contingent on passage of the ballot measure (HB 1). Components include establishing the Cannabis Public Health Advisory Council and Cannabis Public Health Fund, conducting a baseline study of the use of cannabis, establishing the Community Reinvestment and Repair Fund, setting legal possession limits for adults, addressing past criminal convictions related to possession, and much more. > PASSED

NCADD-Maryland has consistently opposed legislation that would increase the accessibility of alcohol to minors, and has also supported efforts to decrease their access to cigarettes and other tobacco and nicotine products. While no tobacco restriction bills passed this session, NCADD-Maryland joined a chorus of public health organizations to successfully defeat several bills that would have allowed certain grocery stores to sell alcoholic beverages or created ballot measures for voters to decide, and a bill that would have reduced the alcoholic beverage tax on certain products:

- Constitutional Amendment - Beer and Wine Licenses – Retail Grocery Establishments (HB 506-Del. Lily Qi/SB 603-Sen. Cory McCray); Alcoholic Beverages – Class A Licenses - Retail Grocery Establishments (HB 858-Del. Regina Boyce); Baltimore City – Alcoholic Beverages – Sales in Grocery Stores and Supermarkets – Referendum (SB 618-Sen. Cory McCray) > FAILED
- Alcoholic Beverage Tax – Ready-to-Drink Cocktails (HB 867-Del. Ebersole/SB 793-Sen. Guy Guzzone) would have reduced the alcoholic beverage tax rates for ready-to-drink cocktails, resulting in a loss of several million dollars in alcohol tax revenue. > FAILED