



## 2021 Maryland General Assembly Wrap-Up Report – April 2021

The 2021 Maryland General Assembly Session was unlike any before, with the bulk of the legislative work and all of the public interaction taking place virtually. The two issues that dominated policy discussions were those related to recovery from the pandemic and those addressing racial injustice in health care, law enforcement, education, and housing. This report highlights the budget and policy decisions that impact the recovery community and those suffering from substance use disorders.

### **Funding**

The budget outlook in the summer of 2020 was bleak due to the economic impact of COVID-19. The Governor had announced his intentions to reduce the reimbursement rate increases for community-based behavioral health services and the federal government had not acted on direct aid to the states. But by the end of the year, the financial picture changed, with significant federal aid in the works plus a smaller reduction to state revenues than feared.

The brighter budget projections plus the measurable negative impact of COVID-19 on the population's behavioral health, not only changed the Governor's mind about the reimbursement rate increase, but he also advanced the implementation of 3.5% planned increase for FY 2022 by six months. Finally, the Governor also allocated \$12 million from the Opioid Restitution Fund (created through legislation in 2019) to the Maryland Department of Health (MDH). This money is from the [recent settlement](#) with the consulting firm McKinsey & Company for their role in developing marketing plans for pharmaceutical companies that contributed to the nation's opioid crisis.

For behavioral health crisis response services, there was a \$15 million boost in funding provided in the RELIEF Act ([SB 496](#)), the Governor and General Assembly's COVID-19 aid package passed early in Session. Additional legislation was passed ([HB 108/SB 286](#)) that extends mandatory annual funding of \$5 million each year. The bill also expands priorities to include proposals that demonstrate cultural competency, stakeholder feedback, connection to peer and family supports.

Also in support of the essential public health services provided by local health departments throughout the state, along with substantial funding from federal aid, legislation supported by NCADD-Maryland passed (HB 1123/[SB 563](#)) to maintain the current funding formula for Maryland's 24 jurisdictions through fiscal year 24, then increases in FY 25 and beyond.

## **Harm Reduction and Decriminalization**

NCADD-Maryland has supported for many years the various harm reduction measures considered by the General Assembly along with efforts to end the criminalization of people who use drugs and the over-incarceration of people of color. As a member of the Drug Policy Workgroup of the People's Commission on Decriminalize, there were several bills NCADD-Maryland pressed this year. There were many disappointments in the 2021 Session, a few bright spots, and an emerging campaign to reduce the presence of police in overdose situations and mental health crises.

- *Criminal Law – Drug Paraphernalia for Administration – Decriminalization* (HB 372/SB 420) – This bill represents one of the highlights in this issue area. NCADD-Maryland worked in partnership with the Baltimore Harm Reduction Coalition's efforts to successfully pass legislation that will – unless vetoed by Governor Hogan – make it legal for a person to possess paraphernalia intended for personal use of drugs, and also to possess such paraphernalia to distribute to others. The intent of this policy is to decrease the likelihood that people who use drugs and public health outreach workers will be arrested.
- *Criminal Procedure – Medical Emergency – Immunity* (HB 212) – This bill was a re-introduction of legislation to expand Maryland's Good Samaritan law regarding people experiencing overdoses and other substance-related emergencies. The judicial committees of the House and Senate had substantial workloads that included all of the legislation related to police reform and most related to housing. While proponents were open to negotiating amendments with the States Attorneys who opposed the bill, the committees did not have the capacity to make this issue a priority to address. The legislation died in committee without a vote.
- *Public Health - Overdose and Infectious Disease Prevention Services Program* (HB 396/SB 279) – Despite being introduced prior to the start of the Session, legislation to allow for the creation of Overdose Prevention Sites never received a vote in either the House or Senate committees.

## **Racial Disparities**

A number of pieces of legislation aimed at addressing racial disparities in health care passed the General Assembly. NCADD-Maryland supported four sets of bills that will play a role in closing the gaps in accessing quality services.

- *Health Equity Resource Act* (HB 463/SB 172) – As passed by the General Assembly, this bill requires the Maryland Community Health Resources Commission to approve Health Equity Resource Communities (HERCs), using \$14 million provided for in the RELIEF Act. The legislation also establishes a Pathways to Health Equity Program to provide the foundation and guidance for a permanent HERC Program in MDH in 2023. The bill, as introduced, included a 1% increase in the alcoholic beverage tax to fund the HERCs and additional substance use and mental health services.

- *Public Health – Implicit Bias Training and the Office of Minority Health and Health Disparities* ([HB 28/SB 5](#)) – The bill requires all licensed or certified health care providers complete implicit bias training on the first renewal application submitted after April 1, 2022. It also requires a minimum amount of annual funding to support the Office of Minority Health and Health Disparities.
- *Public Health – Maryland Commission on Health Equity (The Shirley Nathan-Pulliam Health Equity Act of 2021)* ([HB 78/SB 52](#)) – The legislation establishes the Maryland Commission on Health Equity to develop a comprehensive plan to achieve health equity in the state. The areas the Commission is to study and make recommendations on include:
  - Health considerations that may be incorporated into State’s general decision-making process;
  - Training for providers on collection of patient self-identified race, ethnicity, and language data; and
  - Requirements to comply with, and for enforcement of, National Standards for Culturally and Linguistically Appropriate Services (HHS guidance).
- *Public Health – Data – Race and Ethnicity Information* ([HB 309/SB 565](#)) – The bill requires the Office of Minority Health and Health Disparities to collect race and ethnicity data for all health care license and certificate holders in the state. To facilitate the data collection, the bill requires that health occupations boards include an option for license and certificate applicants/renewals to provide race and ethnicity information, and encourage its use.

### **Behavioral Health System of Care**

To maintain and increase access to health care, including treatment for substance use and mental health disorders, there were several pieces of legislation regarding the delivery of services via telehealth. While NCADD-Maryland has long supported greater use of technology to address the transportation, child care, and network adequacy barriers that impede access to care, the COVID-19 pandemic caused a rapid expansion and up-take of its use. To make pieces of this expansion continue past the current public health emergency, NCADD-Maryland supported the following bills:

- *Preserve Telehealth Access Act of 2021* ([HB 123/SB 3](#)) – This legislation, supported by the overwhelming majority of health care provider and consumer groups across the state, expands telehealth reimbursement provisions under Medicaid and private insurance. The law:
  - Covers any service that may appropriately be delivered through telehealth;
  - Includes reimbursement for all licensed or certified health practitioners, and also includes behavioral health programs, developmental disabilities programs, and a Medicaid provider of long-term care services;
  - Permanently repeals Medicaid’s policy that required both patient and provider be an approved clinical site;
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- Prohibits insurers from excluding coverage of in-person services solely because they could be provided through telehealth; and
  - Creates a two-year period where the use and effectiveness of services delivered via telehealth will be studied by the Maryland Health Care Commission in collaboration with the Maryland Insurance Administration, providers and other stakeholders. During this time, audio-only technology will be included under the definition of telehealth, and services delivered via telehealth will be reimbursed at the same rate as in-person services.
- *Maryland Medical Assistance Program and Health Insurance – Coverage and Reimbursement of Telehealth Services* (HB 551/SB 393) – This telehealth bill was introduced at the request of the Maryland Parity Coalition. While the legislation itself did not pass, several key components of it were amended into the Preserve Telehealth Act. The work of the Parity Coalition was critical to the passage of the broader telehealth bill.
  - *Alcohol and Drug Counseling – Alcohol and Drug Trainees – Practice Through Telehealth* (HB 1287/SB 646) – This bill, introduced at the request of NCADD-Maryland’s partners MATOD and MADC, makes permanent the ability of alcohol and drug trainees (ADTs) to deliver services via telehealth. This ability was enabled under the public health emergency. With passage of the legislation, ADTs will be able to continue using telehealth under existing supervision requirements and within their existing scope of practice.
  - *Maryland Insurance Commissioner – Specialty Mental Health Services and Payment of Claims – Enforcement* (HB 919/SB 638) – This legislation was introduced in response to the failure of Optum as the administrative service organization (ASO) for the public behavioral health system. Current law requires one of 3 things from the ASO within 30 days: 1. Claims payment; 2. Notification of a dispute regarding reimbursement amount, or; 3. Notification that the claim is not “clean” and what action would need to be taken by the provider to fix it. If none of those happens within 30 days then interest penalties are applied. The Maryland Insurance Commissioner will now be responsible for enforcing this law, and additionally, will have authority in connection with any investigation or examination of potential violations of clean claims provisions.

## **Problem Gambling**

Working with its partners at the Center of Excellence on Problem Gambling, NCADD-Maryland weighed in on several gambling bills, urging inclusion of education and prevention strategies as well as additional funding for treatment.

- *Gaming – Regulation of Fantasy Gaming Competitions and Implementation of Sports Wagering – Supplementary Appropriation* (HB 940) – As expected, legislation was passed to provide operational detail for the legalization of sports wagering, the statewide ballot measure approved by Maryland voters in November of 2020. NCADD-Maryland was successful in lobbying for additional funds to be directed to the Problem Gambling

Fund and ensure treatment can specifically address issues related to sports wagering, fantasy competitions, and online wagering.

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

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 kill a bill to allow certain grocery stores to sell alcoholic beverages.

- *Alcoholic Beverages - Class A Licenses - Retail Grocery Establishments (Healthy Food Accountability Act of 2021)* (HB 996/SB 763) – Pitched as a way to fight obesity, this legislation would have created minimum fresh produce standards and allow such grocery stores to apply for a license to sell alcoholic beverages.
- *Alcoholic Beverages – Sale or Delivery for Off-Premises Consumption (HB 12/SB 205)* – This legislation will allow restaurants to continue to allow for carry out and delivery of alcohol with their food sales for the next two years. The allowance started under the Governor’s public health emergency order and legislators continue to be concerned about the economic impact on the restaurant industry. NCADD-Maryland and its public health partners again weighed in to ensure the bill that passed contains additional age restrictions and training and proof of age requirements related to employees and how delivery can be made. There is also a requirement in the bill for the Alcohol and Tobacco Commission and MDH to conduct a study on the impact of the expansion of alcohol access.