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Ideas of Reference

is the newsletter of the Minnesota Psychiatric Society, a district branch of the American Psychiatric Association.



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2017 Legislative Session

Dominic Sposeto, MPS Legislative Consultant

Once again, acrimony and partisanship were on display at the capitol as the 2017 session of the state legislature ended. The governor and Republican legislative leaders were unable to reach agreement on the state biennial budget, the primary goal of the odd-year session. Based on a tentative outline for an agreement, the governor called a special session starting at 12:01 a.m. on Tuesday May 22, one minute after the regular session adjourned. That agreement gave the negotiators till 7 AM to work out the particulars of the five major spending bills, a tax bill, and a capital investment bill that were the agenda of the special session.

When 7 AM came without agreement, the legislature veered into uncharted territory. For three and a half days, legislators, lobbyists, and protestors filled the capitol rotunda with little to do other than wait for the back-room negotiations to be completed. With some issues still in the air, the legislature passed their bills, sending them to the governor.

On May 30, the governor reluctantly signed the remaining spending, tax, and capital investment bills. In signing the bills, he indicated his continued opposition to several provisions in these bills but said he signed them to avoid a government shut-down. He "requested" that legislative leaders bring members back for another special session to address his concerns. As retaliation for forcing him to sign a tax bill for which he was uncomfortable, and as an unprecedented retaliation, Governor Dayton line item vetoed the appropriations for the House and Senate.

Republican leaders indicated they would not return for a special session and they would take the governor's veto of their funding to the courts. They claim that it is unconstitutional for the governor, one branch of government, to void another branch of government, the legislature.

This fight will drag on in the courts for several weeks. Fortunately, it should not affect the state budget that was eventually enacted. Here is a summary of the legislative issues of interest to MPS:

Prior Authorization. One of MPS's top legislative priorities was a joint proposal with the Minnesota Medical Association to add patient protections to the state's process for health plan prior authorization for medications. Under the bill, patients who are undergoing a drug therapy that is working could not have their formulary changed in the middle of their enrollment year. Health plans would be required to disclose to patients their drug formulary, related benefit information, cost-sharing, and out-of-pocket expenses prior to the purchase of coverage by enrollees.

The prior authorization bill was favorably heard in the Senate but initially failed to gain a hearing in the House where opponents of the bill convinced Republican leaders that the bill was contrary to cost-containment and therefore too expensive. The opponents were led by pharmacy benefit managers, the state's non-profit health plans, and the business community.

However, due to the strong advocacy by the House author of the bill, Rep. Rod Hamilton, House leadership granted a hearing on the bill. The hearing came after the committee deadline for action, so there was no vote taken on the bill. The bill is still alive and can be acted upon when the legislature returns in 2018.

Health and Human Services Funding. The health and human services appropriation bill was one of the bills for which the governor and the legislature could not reach consensus and was

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Editor's Column

Matt Kruse, MD

On June 16, a woman was found guilty for involuntary manslaughter after encouraging her boyfriend to take his own life, which he eventually did. Although the verdict was controversial, and raised questions about freedom of speech, even those with a lay understanding of the law know that freedom of speech is not absolute. Paul Appelbaum, MD, supported the guilty verdict, noting that "...people who are depressed and suicidal are very vulnerable people..." He added that society disapproves of the mistreatment of those who are suffering.

Several months ago, the Star Tribune ran an excellent multi-part series about the use of solitary confinement in Minnesota's correctional facilities. This series inspired Representative Nick Zerwas to craft a bipartisan bill to overhaul the use of solitary confinement in the state, especially for those with mental illness. Unfortunately, the bill failed to pass during the most recent legislative session.

Of course, the bill may be reintroduced next year, but this gives me little solace. A United Nations special rapporteur reviewed the psychological effects of solitary confinement, and defined such isolation in excess of 15 days to be torture. Waiting another year (plus time for implementation) while vulnerable individuals continue to languish in isolation seems like eons.

A judge has ruled that words alone can be lethal to a vulnerable individual. And I fear that our (in)actions may speak even louder than words. ■

Hennepin-Regions Psychiatry Residency Training Program hosts Capitol Retreat

On April 21, members of the Hennepin-Regions Psychiatry Residency Training Program toured the newly renovated Capitol and convened for an informational retreat.

The retreat began with a breakfast provided by the Minnesota Psychiatric Society, and included educational presentations on medical education issues as well as mental health issue updates. The presenters included former Senator Linda Berglin, and representatives from Healthpartners and MMC-GME.

The group enjoyed a beautiful spring day for the event and found the tour interesting and the program engaging. ■





Planning to Meet Challenges

Paul Goering, MD, DFAPA
MPS President

Some time ago (18 months ago to be exact) I shared a quick introduction of who I am, and what I planned to hold important as President. The essence of that message was that I find the Minnesota community to be special, especially its psychiatric community. I also saw MPS as an organization uniquely poised to help address some of our most pressing mental health problems at exactly the time that leadership is desperately needed. My belief was that the voice of MPS could be strengthened by deliberately focusing it.

Since that time, two things have been made extremely clear to me. The first is that since that time, the needs of those with mental illness have not diminished. One can hardly go a day without hearing about some flaw in our safety net services that leaves patients stuck without the right level of care in communities, jails, ERs and on inpatient units awaiting adequate services. Meanwhile, workforce solutions are not expected to give immediate relief and the method for funding services in the future remains unknown.

The second is how quickly time passes. Since I wrote that note, the MPS presidency has turned over twice.

This frames our two key challenges. The things we care about have urgency and complexity. And we will have to make decisions, predictably, about how we use our resources, whether it's our money, people, or political capital.

2017 Legislative Session *(Continued from Page 1)*

the last spending bill passed during the special session. Governor Dayton's objections to the bill were primarily based on the Republican objective of controlling the human services budget, the fastest growing sector of government spending. Yet, he signed the bill. The legislature agreed to use nearly \$700 million from the health care access fund surplus for HHS funding between 2018-2021. Even with this additional non-general revenue funding, the final bill ultimately cut HHS base spending funding by \$463 million. The HHS budget will grow by \$2 billion this biennium and continue to be the fastest growing segment of the state budget.

Some items of interest in the HHS appropriation bill include:

- **Interactive Video Case Management Services** - \$51,000,000 (2018-2019). This is payment for mental health practitioners working under the supervision of mental health professionals, and will be effective upon federal approval for case management services via telemedicine.
- **Mental Health Innovations Grants** - \$2.1 million (2018-2019)

Currently there is not an MPS Roadmap for me as president to answer the pressing questions. What gets prioritized and what does not? What do we absolutely have to do and what do we have confidence to ignore?

These complex issues will not be solved over any period of 12 months, one cycle of MPS elected officials. That leaves one more challenge: creating a framework to connect our priorities for our elected members from one term to the next (over periods of three to five years) so that we can move beyond ideas to sustained action.

It is in that spirit that the Council, past-president, president-elect, executive director and I are prioritizing the strategic planning activity you have heard Dr. Oberstar introduce. Our plan is to complete a five-year strategic plan in 2017. We see this as the most important exercise to let MPS successfully see a good idea through to completion. We believe such a plan would help us move predictably over a longer arc of time so that we can complete work we now only imagine because of its complexity.

So now what? We began with making the commitment to strategic planning and the member survey that many of you participated in. The next steps will be planning the actual event. Expect to get regular updates from me in *Ideas of Reference* related to more details, how the work evolves and how you can be involved. ■

and \$2.1 million (2020-2021). The DHS commissioner will award grants to establish and operate programs to improve accessibility and quality of community-based, outpatient mental health services and reduce the number of clients admitted to regional treatment centers and community behavior health hospitals.

- **Children's Residential Treatment.** The bill establishes a new method of MA reimbursement (per diem) for psychiatric residential treatment facility services for persons under 21 years of age and specifies who may be eligible.
- **Redesign of Intensive Mental Health Services for Children.** The legislature appropriated \$4.9 million for the redesign.
- **Mental Health Study.** The commissioner of human services will conduct an analysis of mental health services for children with serious mental health needs. Report to legislature is due by December 15, 2018.

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MPS gives the Gloria Segal Medical Student Award to fourth year medical students who demonstrate excellence in the care of psychiatric patients, show outstanding performance during pre-clinical and clinical rotations in psychiatry, and exhibit enthusiasm for the psychiatric profession. Award winners demonstrate excellence in scholarly and/or research activities and community involvement on behalf of those with mental illness. Congratulations to our winners!



Growing Psychiatric Specialty Health System Seeks Psychiatrists

PrairieCare, a physician-owned psychiatric healthcare system in the Minneapolis/St. Paul metropolitan area, is recruiting child, adolescent and adult psychiatrists for its Brooklyn Park, Chaska, Edina, Maple Grove, Maplewood and Rochester sites. Child/Adolescent clinical duties may include treating youth in inpatient, partial hospital, intensive outpatient, residential and clinic settings. Adult patients are served in intensive outpatient programs and busy outpatient clinics with therapist, social work and nursing support on site. Academic appointment on the faculty of the University of Minnesota Medical School possible for interested candidates. Reports to Chief Medical Officer. Requires BC/BE in Psychiatry and unrestricted license to practice medicine in Minnesota.

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763.762.6806

Ricci Bender

Ricci Bender is the University of Minnesota Medical School winner. She has already relocated to Connecticut to start psychiatry residency training at Yale. At the U of M, Dr. Bender participated in a variety of research experiences. She worked with Dr. Kaz Nelson developing online modules to introduce medical students to psychotherapy. She also parlayed her interest and experience in public health with research investigating factors that influence opioid prescribing variation among urban and rural providers. As an undergrad, her volunteer efforts focused on benefited young people as a tutor, mentor, or point of contact for homeless youth. She published several articles and presented posters on plant biology as an undergraduate, and went on as a medical student to present a poster on rural factors for consideration when prescribing opioids at the Family Medicine Midwest Conference. A Minnesota native, Dr. Bender enjoys hiking, showshoeing and spending time with family – we hope to see her back in Minnesota after she completes her residency in Connecticut.



Leah Schmelkin

Leah Schmelkin is our Mayo Medical School winner. Dr. Schmelkin is highly regarded and has been recognized for her excellence in a variety of areas of study including family medicine and oncology, but has chosen to pursue psychiatry. She will be a member of the next class of psychiatry residents at Mayo. In 2014, she received a Helping Hand grant from the APA Foundation. In addition to the Gloria Segal Medical Student Scholarship, Leah has a long list of honors and awards. Her wide variety of interests are well documented with a wealth of oral and poster presentations and articles reflecting a well-developed aptitude for integrating study areas. She has also served in leadership in several Mayo Medical School student groups and as the Class of 2017 Representative on the Mayo Medical School Student Representatives. ■





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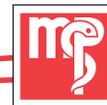


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2017 Legislative Session (Continued from Page 3)

- **First Psychotic Episode** - \$1 million (2018-2019), \$1 million (2020-2021). The bill contains new funding for treatment and supports for adolescents and adults experiencing a first psychotic episode including outreach, training, and screening.
- **Housing** - \$1.15 million in grants plus \$1 million for supportive housing. Grants will be awarded for housing options for adults with serious mental illness.
- **Assertive Community Treatment**. The bill contains \$400,000 to fund grants to expand assertive community treatment services, and \$800,000 for

grants for adult and child mental health crisis services.

- **Substance Use Disorders**. A majority of the language comes from existing rules but is being codified into a new chapter of law, 245G. A new section relating to opioid treatment programs was added requiring compliance with Federal Regulations, title 42.

The governor and state legislature argued a great deal over HHS spending. Funding of health and human services was the hardest agreement to reach and according to the governor, he is not happy with the final product. He did gain \$58 million of funding for the Minnesota Security Hospital (MSH) for improved client care and staff safety, \$70 million for state bonding money for MSH facility improvement and remodeling, \$179 million for the Minnesota Sex Offender Program, and \$10 million for State Operated Services.

One initiative that the governor failed to gain was making MinnesotaCare a “public option” for the state’s individual health insurance market. He recommended making MinnesotaCare available to all individuals seeking insurance through the state health insurance exchange in competition with private health insurance.

Fortunately, the final HHS spending bill did not include a reduction in physician MA reimbursement by 2.3 – 3% or a delay of hospital rebasing. Both were part of the legislature’s earlier proposals.

The legislature did not repeal the provider tax, as the governor had requested to offset probable changes to the Affordable Care Act and cuts to federal Medicaid funding. This will no doubt be a topic of discussion for the 2018 legislative session, assuming Congress takes some action on the ACA and Medicaid reform.

MPS members wishing to learn more about HHS spending can pull up a copy of the HHS bill at the Minnesota Legislature’s web site: Search for SF 2 under the 90th Legislature, 2017 1st Special Session or at the link below.

https://www.revisor.mn.gov/bills/text.php?number=SF0002&session=ls90&version=latest&session_number=1&session_year=2017

Capital Investment (state bonding bill). The legislature committed \$7.5 million for a Child and Adolescent Behavioral Health Services (CABHS) program to be located in or near Willmar and \$1.25 million

(Continued on Page 8)

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Legislative Session Summary (Continued from Page 7)

to convert and expand an existing hospice center in Chaska into an adult residential crisis stabilization clinic. The legislature also approved the addition of 21 new beds to Prairie Care for patients under 21.

Telemedicine. Legislation was enacted to clarify the use of telemedicine. The law specifies that a physician-patient relationship is established and the same standards of practice and conduct apply to physicians providing services via telemedicine as would apply to in-person patient care. A telephone conversation, email or facsimile transmission is not telemedicine. Senate File 1353

Title Protection. A new law brought forth by the Board of Medical Practice would protect the title "physician". It gives the board disciplinary authority to oversee the use of titles such as, doctor of medicine, medical doctor, physician, surgeon, DO, and MD without the appropriate license. Previously the board did not have this power. Senate File 482

Mental Health Peer Specialists. Legislation modifies the requirements for "mental health practitioner" to include a person with a bachelor's degree in behavioral science or related field who is working in an adult day treatment program. It also removes the requirement for a high school diploma for certification of family peer specialists. House File 1186

* * * * *

It seemed to me a special session, albeit short, was entirely predictable. This is the 12th special session since 2001. Minnesota voters' penchant for divided government will likely bring more special sessions in the future. Perhaps one even in the months ahead.

The governor's attempt to de-fund the state legislature has not enticed the legislature back into negotiations. I have no idea what happens next. The fight between the executive and legislative branches of government may ultimately be decided by the third branch of government, the State Supreme Court. This is truly unprecedented and frankly bizarre. ■

September 9, 2017 9 am - noon
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www.MnPsychSoc.org, 651-407-1873

November 11, 2017 SAVE THE DATE!
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