

To: Howard Ashkin, President
Maryland Association for the Treatment of Opioid Dependence

From: Ann Ciekot
Public Policy Partners

Date: April 19, 2018

Re: 2018 Maryland General Assembly Wrap-Up

Public Policy Partners (PPP) is pleased to present the Maryland Association for the Treatment of Opioid Dependence (MATOD) with this review of activities during the 2018 Maryland General Assembly Session. There was a record number of bills introduced in this election year, although fewer specific to the opioid crisis than introduced last year. Attached to this document is the final status of bills tracked this Session.

Budget

The final budget for the upcoming 2019 fiscal year provides additional funding for the 3.5% reimbursement rate increase for community-based behavioral health providers. This was the amount mandated in 2017's HOPE Act. While the Governor provided the funds in his proposed FY19 budget, he also reduced the increase to 2% through the accompanying Budget Reconciliation and Financing Act (BRFA). Strong advocacy on the part of the behavioral health provider and advocacy community, as well as a revised revenue projection that showed a significant increase in expected revenues to the state, led to an amendment to the BRFA that allowed for the full 3.5% increase.

The operating budget also includes an additional \$3 million in grant funding for local boards of education to implement policies and practices that address opioid addiction and prevention. Finally, the budget has \$1.2 million to study the feasibility of a new Community Adult Rehabilitation Center to be located in Baltimore City to provide critical release re-entry programs and job readiness services for offenders who are being released from prison. Some substance use disorder treatment is envisioned to be included among the services. Related, there is a significant amount of budget language requesting information from the Department of Public Safety and Correctional Services regarding substance use disorder treatment services for people who are incarcerated.

- PPP recommends MATOD continue its involvement with the Maryland Behavioral Health Coalition as it played a meaningful role in the Coalition's activities prior to and during the Session. MATOD should also participate in any meetings that take place regarding substance use disorder treatment in the correctional system.

Legislation

Board of Professional Counselors and Therapists

House Bill 742/Senate Bill 552 – State Board of Professional Counselors and Therapists - Sunset Extension and Program Evaluation

This legislation will make a number of changes favorable to the field of alcohol and drug counseling. The bill was the result of the sunset review of the Board of Professional Counselors and Therapists (BoPCT) which included input from counselors and program directors of MATOD members as well as MATOD officers. The bill includes the creation of an Alcohol and Drug Counselor Subcommittee, a reciprocity provision, and directs the BoPCT to develop regulations clarifying internship and supervised work experience requirements.

In addition, MATOD's advocacy supported the inclusion of funding in one of the Governor's supplemental budgets for two additional staff positions for the BoPCT.

- PPP recommends MATOD and its members continue attending meetings and communicating with the BoPCT about the positive changes and issues that still need to be addressed. The law will be revisited after two years, giving the BoPCT and the field time to observe the changes and recommend any additional ones.

House Bill 32/Senate Bill 15 – Health Occupations - Certified Associate Counselors-Alcohol and Drug and Certified Supervised Counselors-Alcohol and Drug - Qualifications

This legislation was withdrawn by its sponsors as this issue was included in the Sunset bill described above. The BoPCT will promulgate regulations addressing the existing internship requirement and make the necessary changes.

Licensing and Medication Restrictions

House Bill 79 – Opioid Maintenance Therapy Programs - License Applications - Notice to Members of the General Assembly

House Bill 80 – Public Health – Opioid Maintenance Therapy Programs – License Renewal

Both of these bills were withdrawn by the sponsor after MATOD intervened, engaging in discussions with the sponsor, understanding his specific concerns, and making connections among local officials and program leadership. The interaction between representatives of MATOD and the sponsor of these bills is a testament to the power of communication and the need for the treatment provider community to build relationships with local officials.

- PPP recommends MATOD follow up with this specific legislator in attempts to further engage him and use this example as one to share and encourage its members to follow.

House Bill 551 – Recovery Residences - Condition of Acceptance of State Funds – Prohibition

This bill, which was withdrawn prior to its scheduled hearing, would have allowed recovery residences that receive public funding to deny access to people who are using medication in their recovery. MATOD met with the sponsor to express opposition, but it was the fiscal note that ultimately led to its withdrawal, as it stated Maryland could lose over \$30 million in Substance Abuse Prevention and Treatment block grant funding from SAMHSA due to federal nondiscrimination requirements.

- PPP recommends MATOD focus on this legislator for education. While he is generally supportive of treatment, he needs to hear a broader array of voices than ones he currently hears.

Substance Exposed Newborns

House Bill 1744 – Child Abuse and Neglect - Substance-Exposed Newborns - Reporting

This legislation will bring Maryland law into compliance with federal law regarding the reporting of substance-exposed newborns to local Departments of Social Services (DSSs). The bill, in part, changes existing law by removing the exemption that pregnant women in medication assisted treatment who give birth will not have to have their babies reported. With implementation of this new law, regardless of being in treatment with medication, if an infant shows signs of withdrawal, a report will be made to DSS.

- PPP strongly recommends MATOD reach out to the State Department of Human Services and begin ongoing discussions about the specific process that DSS undertakes; trainings that may be necessary for treatment providers, hospital staff, and DSS case workers; and other steps needed to mitigate any negative impact of this new law.

Good Samaritan, Criminalization of Overdosing, and Involuntary Treatment

House Bill 799/Senate Bill 625 – Criminal Procedure - Medical Emergency - Immunity

This bill, introduced at NCADD-Maryland's request, was intended to clarify the existing Good Samaritan law to ensure that the person who was the victim of the overdose was also immune from arrest, charge and prosecution of the specified offenses. While the bill flew through the House unanimously, it hit a roadblock in the Senate with several members of the Judicial Proceedings Committee stating they would not support it because they believe that people who survive overdoses will not seek treatment absent the threat of jail. This was the sentiment of House Bill 771 – Public Health - Opioid Overdoses - Prohibition and Rehabilitation Order, which would have made overdosing illegal. This bill died without a vote.

The frustration felt in the community about the increasing number of overdoses as well as the repeat overdoses of individuals, was also manifest in proposals to expand the state's involuntary

commitment for mental health treatment laws to include people who overdose (*House Bill 499 – Health - Standards for Involuntary Admissions and Petitions for Emergency Evaluation - Modification* and *Senate Bill 527 – Health - Standards for Involuntary Admissions and Petitions for Emergency Evaluation - Modification*). Neither of these bills passed. While these bills were all different, the theme that clearly emerged this Session was that of desperation in terms of policy makers wanting to force people who experience overdoses into treatment. To be fair, this desperation is also felt among many family advocates in the community as well as some in the treatment field.

- PPP strongly recommends MATOD participate in discussions among its members and with other organizations to examine this issue and determine, if possible, a consensus position.

Crisis Response

House Bill 1092/Senate Bill 703 – Behavioral Health Crisis Response Grant Program - Establishment

Thanks to the work of the Maryland Behavioral Health Coalition, of which MATOD is a member, Maryland’s Governor is mandated to start providing funding for crisis services in FY 2020. While the total amount of funding and timing are not ideal, this is the first significant investment that will be required of the state for these kinds of services.

- PPP Recommends MATOD continues its partnerships with the Behavioral Health Administration and the Opioid Operational Command Center to provide input in decisions made to implement this new program.

Peer Counseling

House Bill 772/Senate Bill 765 – Maryland Department of Health - Reimbursement for Services Provided by Certified Peer Recovery Specialists - Workgroup and Report

As passed, this bill that was introduced at the request of NCADD-Maryland requires a workgroup be convened to examine the issue of Medicaid reimbursement for certified peer recovery specialists and make recommendations. It is clear that legislators are generally interested in and supportive of efforts to ensure this part of the workforce is financially supported in a sustainable way. The workgroup should consider what services provided by peers are appropriate to be reimbursed by Medicaid.

- PPP recommends members of MATOD participate in this workgroup.

Data Reporting and Sharing

House Bill 359 – Health - Reporting of Overdose Information

This bill, introduced by the Governor, authorizes an emergency medical services provider or law enforcement officer who treats an individual experiencing a suspected or actual overdose to report the incident using an appropriate information technology platform, including the Washington/Baltimore High Intensity Drug Trafficking Area overdose detection mapping application program.

House Bill 922 – Maryland Department of Health - “Pill Mill” Tip Line and Overdose Report

This bill has three components, one of which requires the Maryland Department of Health (MDH), in collaboration with other state agencies, to examine and report annually on the treatment history of people who suffered fatal overdoses in the immediately preceding four calendar years. In addition, MDH is to report annually on myriad factors and data sets related to all report fatal and non-fatal overdoses. The purpose is to identify methods of intervention for people at risk of an overdose and provide recommendations for improving statewide prevention, response, and data collection efforts related to substance use disorders.

The other two components of the bill require MDH to identify a method for establishing a tip line for a person to report a licensed prescriber who they suspect is prescribing or overprescribing medication, and require MDH to examine and report on the feasibility of establishing a Hub and Spoke model program in the state and determine the cost of the model.

- PPP recommends MATOD participate in any discussions with MDH about data sharing and also be aware of how the data is utilized. While the expressed intent of these measures focuses on a public health response, providers and other advocates should be aware and report on any misuse of data or other negative outcomes.

Crime and Violence Bills

The crime problem in Baltimore City was a big topic among lawmakers this Session. The legislative results include a mix of funding for community-based programming aimed at addressing violence, an increase in various penalties for violent offenses, and some changes in sentencing specific to the possession of fentanyl, the decriminalization of testing strips, and denial of access to treatment for people convicted of violence offenses.

Senate Bill 122 – Criminal Law - Comprehensive Crime Bill of 2018 was the omnibus bill passed out the Senate and died in the House, and included some of the pieces of funding for anti-violence programs. It also included a number of sentencing changes that were divvied up into two other bills described below. MATOD signed on to an opposition letter along with its partners due to two pieces in SB 122 that unfortunately ended up in these bills.

Senate Bill 101 – Criminal Law – Crimes of Violence, Expungement, and Drug Treatment includes a prohibition on access to treatment through the 8-505/8-507 process for people convicted of violent offenses, until they are eligible for parole. This prohibition does not deny a person access to other treatment options that might be available.

Senate Bill 1137 – Criminal Law - Prohibitions, Prosecutions, and Corrections includes a number of sentencing increases and new mandatory minimums. It also includes the component that makes possession of 5 grams or more of fentanyl a crime punishable by a 5 year mandatory minimum. This creates some concerns about a possible negative impact on the use of the Good Samaritan law. One piece of good news is that the bill also removes from the paraphernalia law the equipment used to test and analyze controlled dangerous substances. This is a harm reduction measure to allow people to test a substance for the presence of fentanyl.

Follow Up Opportunities

MATOD was exceptionally active during the Legislative Session. PPP believes this election season presents a good opportunity to engage local officials in educational efforts. Taking a careful look at which incumbents will be facing difficult races (and whether their fights are more so in the Primary or General Elections), MATOD should identify a reasonable number of legislators to meet with and ideally, invite to tour a treatment program or two in their district or county. Regarding challengers or those running for open seats, MATOD should again target areas where its members are willing to engage in educational efforts.

A positive outcome to these kinds of meetings would be twofold. First, MATOD is in need of some champions in the legislature who will speak up about the importance of medication as a necessary option in the treatment of opioid use disorders. While there are supporters, they need to be made more comfortable at challenging negative comments that are stated at hearings and meetings. Having a local connection with one or more opioid treatment programs, and optimally with people in recovery with support of medication, is what can make this happen. This can also help lessen the opposition of those who currently do not support medication assisted treatment.

Second, with new and strengthened relationships with legislators as we enter the 2019 General Assembly Session, not only could they result in better policy proposals and decisions, but this could also help build the confidence of MATOD members and their understanding of the need and benefit to participate in meetings and hearings in Annapolis. The more effort that is spent at the local level engaging with legislators, the easier it should be to get MATOD members to commit to traveling to Annapolis once or twice for important opportunities.