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2013-2014 Legislative Session

Legislative News is a publication prepared and distributed by the South Carolina Department of Mental Health (DMH) Office of Public Affairs to keep you informed of bills introduced in the General Assembly that may affect the DMH, mental health, health care issues, or employee issues. In addition, we will provide budget information and general news from the General Assembly. You can also access the complete bills online by clicking the link at the end of each description, OR visiting <http://www.scstatehouse.gov>.

This publication is also available on the DMH Internet and Intranet sites. However, if you do not have access to the site and wish to receive a copy of the update, call us, and we will send you one in the mail. If at any time you have questions or need more information about bills or other legislative issues, contact the Office of Public Affairs by phone, at (803) 898-8581 or e-mail, at TLL06@scdmh.org.

Budget Update

In September, 2012, the Department submitted its Fiscal Year 2013 -2014 budget request for approximately \$12.5 million in additional recurring State funds, and approximately \$60 million in one-time funds for capital improvements and other needs. The specifics of the Department's request are listed below.

Sustainability of Mental Health Services - \$9,416,420

- The Department received an additional \$7 million increase in general funds last year aimed at replacing its current reliance on non-recurring funds. The agency's goal is to maintain services to its patients at current levels. In order to do that, SCDMH must replace non-recurring funds from Medicaid cost settlements – which will be ending – with State recurring appropriations by FY 2015.

Sexually Violent Predator Treatment Program - \$1,406,533

- Last year, the agency was appropriated funds to fully fund the operational costs the State's Sexually Violent Predator Treatment Program, ending the recent practice of having to subsidize the cost of operating the program with funds intended for the treatment of persons with mental illness.
- The census of the program is steadily increasing, and the additional amount requested represents the increased personnel and operating costs anticipated to treat the expanding population

Forensic Inpatient Services -- \$1,200,000

- Another legislatively mandated inpatient program is the Department's secure hospital for adult patients committed following adjudication by a Court of General Sessions as being incapable of standing trial due to a mental illness or committed to SCDMH following a finding of Not Guilty by Reason of Insanity.
- Due to increased numbers of commitments, the agency has had difficulty timely admitting individuals committed by the criminal courts, resulting in a growing waiting list.
- The agency will be using a currently vacant building to create additional residential capacity for forensic patients who no longer require hospital level care, but who continue to require a structured, supervised, assisted-living program.

Telepsychiatry Program Sustainability - \$500,000

- SCDMH partnered with the South Carolina Department of Health and Human Services and the South Carolina Hospital Association to create in December 2007 the SCDMH telepsychiatry program to address the overcrowding of psychiatric patients in local hospital emergency departments ("ED").
- It is a cutting-edge statewide service delivery model that provides remote access for EDs in rural areas of South Carolina to psychiatrists whenever psychiatric consultation services are required. And it is the first of its kind nationally, and has been widely recognized for its effectiveness.

- Because of its success and its promise as a model of cost-effectiveness and efficiency in the future delivery of healthcare, SCDMH has received continuing grant funding for the program from The Duke Endowment. However, it has been understood that eventually grant funding for the program will end. Last year SCDMH instituted user fees for the participating hospitals and the agency received \$500,000 in appropriated State funds. The additional requested State funds are necessary to ensure the financial viability of the program following the expected reduction or elimination of further grant funding.

Capital and One-Time Funding Requests

Capital:

Santee-Wateree MHC Construction - \$9,856,000
 Anderson-Oconee-Pickens MHC Construction - \$9,592,000
 Catawba MHC Construction - \$10,580,000
 Community Buildings Deferred Maintenance - \$3,393,630
 Harris HVAC Renovations - \$7,100,000
 Inpatient and Support Buildings Deferred Maintenance - \$9,049,000
 Roddey Nursing Home FRTW Roof Replacement - \$3,700,000
 Columbia Area MHC Carter Street Renovations - \$2,500,000

One-Time Funding:

Inpatient Electronic Medical Record - \$4,905,000
 Pharmaceutical Automated Dispensing Machines - \$1,000,000
 Law Enforcement Vehicles, 5 new - \$126,005
 Physical Plant vehicles for patient transport - \$556,391

The Governor issued her budget recommendations for Executive branch agencies in December, 2012. The Governor recommended increased recurring State appropriations for DMH of over \$11.3 million, in addition to \$1.5 million in capital funding and over \$1.5 million of other one-time funding.

The budgeting process has now moved to the General Assembly, starting in the House of Representatives. The Department presented its budget request at a House Ways and Means Committee, Health sub-committee hearing on January 23, 2013.

Senate Bills (with companion House bills) – Click the bill number to view full text.

[**S117**](#) **Adult Healthcare Consent Act (Hayes, Courson and O'Dell)**

[**H3366**](#) **Medical Information Disclosure (J.E. Smith, Long, Delleney, Skelton, Huggins, Allison, Toole and Felder)**

Both bills amend the code of laws to require a health care provider to give a patient an opportunity to authorize disclosure of certain information to designated family members or representatives and to authorize the involvement of these family members or representatives in the treatment of the patient; to specify when the opportunity to sign an authorization must be provided to a patient; to specify the contents of the authorization; and to define "patient" and "treatment".

S117 – Introduced, read first time and referred to Committee on Medical Affairs, 1/8/13

H3366 – Introduced, read first time, and referred to Committee on Medical, Military, Public and Municipal Affairs 1/17/13

House Bills – Click the bill number to view full text.

3024 Child abuse (McCoy, Henderson and Long)

This legislation requires any person in this state to report suspected child abuse or neglect. The legislation also makes certain conforming changes.

Introduced, read first time, and referred to Committee on Judiciary 1/8/13

3054 Behavioral Health Services Act Of 2013 (Rep. G. R. Smith)

The legislation enacts the "Behavioral Health Services Act of 2013". It eliminates the Department of Alcohol and Other Drug Abuse Services and the Department of Mental Health and consolidates their powers and duties within a newly-created Department of Behavioral Health Services, which is charged with developing and implementing a plan for the coordinated care and unified delivery of behavioral health services.

Introduced, read first time, and referred to Committee on Judiciary 1/8

3098 Long-Term Care Facilities (Spires)

This bill requires the resident of a community residential care facility to provide the facility administrator written notice of the resident's intent to voluntarily relocate to another community residential care facility. The written notice must be given not less than thirty days before the resident relocates. The facility administrator may charge the equivalent of thirty days occupancy for failure to give this notice.

Introduced, read first time, and referred to Committee on Medical, Military, Public and Municipal Affairs 1/8/13.

3103 Physician's Patient Records Act (Crosby, Daning and M.S. McLeod)

This bill requires a physician, upon the written request of a patient or a patient's representative, to transmit the patient's medical record to a hospital where the patient has been, or is scheduled to be, hospitalized. The physician is also must transmit a summary of the treatment the physician rendered, . on a form developed and published by the Department of Health and Environmental Control.

Introduced, read first time, and referred to Committee on Medical, Military, Public and Municipal Affairs 1/8/13.

3124 Protections for Reporting Child Abuse or Neglect (Bingham, Taylor, Long and M.S. McLeod)

This legislation provides a civil cause of action for reinstatement and back pay against an against any employer who dismisses, demotes, suspends, or otherwise disciplines or discriminates against an employee for reporting child abuse or neglect.

Introduced, read first time, and referred to Committee on Judiciary 1/8

3142 Sex Offenders and Procedures for Admittance as a Resident to a Facility (Rutherford and M.S. McLeod)

This legislation provides that a facility considering the admittance of a person as a resident of the facility shall determine whether the person is a registered sex offender by following certain procedures. If the facility determines the person is a registered sex offender, it must provide certain notice to the other residents of the facility or, if applicable, their legal guardians. Failure to comply with either of these requirements constitutes a knowing and willful neglect of the safety of the vulnerable adults residing in the facility.

Introduced, read first time, and referred to Committee on Judiciary 1/8

3163 Freedom of Information Act (Taylor, G.R. Smith and Long)

This bill revises the Freedom of Information Act (FOIA), which establishes an individual's rights to inspect or obtain copies of public records and other government documents. The changes would include: provisions for the electronic transmission and online posting of public records; making available documents from meetings during the previous six-month period; revising the required timeline for complying with a FOIA to no later than

30 calendar days from the date of the original request (or 45 days in some cases). The legislation also revises the fees that a public body is allowed to charge for complying with FOIA requests by: disallowing copy charges for records that are stored or transmitted in an electronic format; capping fees at the prevailing commercial rate for producing copies; and, prohibiting a public body from charging for staff time associated with gathering or reproducing the records. The legislation allows a deposit of up to 25% of the total cost for reproduction of the records to be required prior to the public body searching for or making copies of records. A citizen of this state may apply to the appropriate magistrate court for specific enforcement of a request if the public body from which the records are requested fails to comply with the time limits.

Introduced, read first time, and referred to Committee on Judiciary 1/8

3166 Medicaid Eligibility as Provided by the Federal Patient Protection and Affordable Care Act (Sellers, R.L. Brown and M.S. McLeod)

This bill provides that, beginning January 1, 2014, an adult sixty five years of age or younger whose income is at or below one hundred thirty eight percent of the federal poverty level is eligible for Medicaid as provided for in the federal Patient Protection and Affordable Care Act and its amendments.

Introduced and referred to Committee on Ways and Means 1/8/13

3167 Participation by South Carolina in a Medicaid Expansion (Sellers, R.L. Brown and M.S. McLeod)

This concurrent resolution declares that participation by the state of South Carolina in Medicaid expansion as provided by the federal Patient Protection and Affordable Care Act is necessary to the state's economic growth and welfare and to the health, wellbeing, and livelihood of hundreds of thousands of South Carolinians.

Introduced and referred to Committee on Ways and Means 1/8/13

3320 Nursing Homes (Hart)

This bill requires a nursing home to obtain and carry a liability insurance policy in the amount of at least one hundred thousand dollars.

Introduced, read first time, and referred to Committee on Medical, Military, Public and Municipal Affairs 1/15/13

3365 Mental Health Counseling (Govan, Jefferson and Williams)

This legislation requires that each public school employ a licensed psycho-educational specialist certified in school psychology by the Department of Education on a full-time basis to help school personnel identify students in need of mental health counseling, promote awareness of mental health issues and the availability of treatment, screen and identify students for mental health issues, and provide appropriate mental health counseling and make referrals for appropriate social services counseling.

Introduced, read first time, and referred to Committee on Education and Public Works 1/17/13

3371 Mandatory Reporting of Child Abuse and Neglect (Clemmons)

This legislation provides that a person required to report child abuse or neglect must make the report by telephone or otherwise to the county Department of Social Services or to a law enforcement agency in the county where the child resides or is found. The legislation further provides that a person required to report must make the report within 24 hours or the next working day after receiving the information that gives the person reason to believe that a child has been or may be abused or neglected.

Introduced, read first time, and referred to Committee on Judiciary, 1/22/13

3413 Medicaid Coverage Requirements (Bales)

This bill provides that, beginning January 1, 2014 through December 31, 2016, the Department of Health and Human Services shall provide Medicaid coverage to: (1) nonpregnant, childless adults ages nineteen up to sixty five years with income up to one hundred thirty eight percent of the federal poverty level (with five percent income disregard); (2) individuals who are aged, blind, or disabled with income up to one hundred thirty eight percent of the federal poverty level (with five percent income disregard); and, (3) low income families with

income up to one hundred thirty-eight percent of the federal poverty level (with five percent income disregard). Introduced, read first time, and referred to Committee on Ways and Means, 1/23/13.

3416 Patient Firearm Ownership (Putnam, Pitts, H.A. Crawford, Kennedy, Southard, McCoy, Allison, Loftis, Gambrell, G.R. Smith, J.R. Smith, Taylor, Rivers, Erickson, Hamilton, Hardee, Huggins, Toole, Hiott, Limehouse, Bannister, Bowen, Chumley, Clemmons, Cole, Crosby, Daning, Felder, Forrester, Gagnon, Goldfinch, Hardwick, Herbkersman, Hixon, Long, Lowe, Lucas, Merrill, D.C. Moss, V.S. Moss, Murphy, Nanney, Newton, Owens, Pope, Riley, Sandifer, Simrill, Sottile, Spires, Stringer, Tallon, Thayer, Wells, White, Whitmire, Willis and Wood)

This legislation prohibits a health care provider from asking a patient about firearm ownership or possession of a firearm or the presence of firearms in the patient's home. However, this provision does not apply if the health care provider is: (1) treating a patient with a gunshot wound or an injury related to the use or discharge of a firearm; (2) treating a patient for a mental health or psychiatric disorder; (3) required by law to report adult abuse and neglect or child abuse and neglect and information concerning firearms in the home or in possession of the patient is integral to the report.

Introduced, read first time, and referred to Committee on Judiciary, 1/24/13.