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2011-2012 Legislative Session

Legislative News is a publication prepared and distributed by the SCDMH Office of Public Affairs to keep you informed of bills introduced in the General Assembly that may affect the SCDMH, 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 SCDMH 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.

Budget Update

The General Assembly has adopted the Conference Report on the FY 2011-12 Appropriation Bill. The bill has been sent to the Governor for consideration of vetoes. The Department of Mental Health will receive a base reduction of \$8,335,958 (6%). On the bright side the Department will receive \$1 million in State General Funds for Crisis Stabilization. In addition, a proviso which required the Department to annually transfer \$3.4 million to the General Fund from the paying patient account will be deleted and the Department may now use this \$3.4 million in the operation of inpatient facilities. During the current year, the Department received \$9.5 million in one-time funding; no one-time funding was appropriated for the Department in FY 2012.

The Department will also receive Capital Reserve Funds of \$8.6 million for several projects, including replacement of the remainder of the roofs impacted by faulty fire retardant chemicals at Bryan Psychiatric Hospital and deferred maintenance projects at Campbell Veterans Nursing Home and Stone Veterans Nursing Home.

The Department had one new proviso added during the budget deliberations. This proviso (23.16) requires the agency to ensure that patients receiving Medicaid paraprofessional services be afforded the opportunity to select the provider of these services.

Other provisos of interest to the Department include:

- The House version of the budget included 23.17 relating to the grandfathering of Department of Mental Health patients being able to remain on non-generic medications as long as they were stable. The Senate version deleted this proviso, but added 21.49 under the Department of Health and Human Services (the State's Medicaid agency) requiring that patients be placed on a generic medication if one was available and less costly than the non-generic medication. In the final appropriation bill both these provisos have been deleted.
- Proviso 89.127 included in the House version of the bill that would have transferred the responsibilities for the veteran nursing homes to the Lt. Governor's Office on Aging was deleted.
- Proviso 89.129 included in the House version of the bill that would have transferred the Department of Alcohol and Other Drug Abuse Services to the Department of Mental Health was deleted.

Senate Bills – Click the Bill number to view full text.

[S 187](#) Nursing Homes (Rose)

A bill to provide that nursing homes must carry at least one million dollars in comprehensive general liability insurance to obtain a license, to provide that a nursing home must notify the Department of Health and Environmental Control upon cancellation of a general liability policy, and to provide that a nursing home license shall be revoked upon failure to maintain general liability insurance. Referred to Committee on Medical Affairs, 1/11/11. Medical Affairs Subcommittee met on 2/17/11, and carried the bill over.

[S 191](#) Community Residential Care Facility Star Rating System (Rose)

A bill to enact the "Community Residential Care Facility Star Rating System"; to require the Department Of Health And Environmental Control to develop the rating system; to provide certain definitions; to provide requirements for the rating system, including a basis for determining a facility's rating; to amend section 44-7-150, relating to certain duties of the department, to add development and implementation of the Community Residential Care Facility Star Rating System; to amend section 44-7-310, relating to the prohibition of public disclosure of certain information received by the Department through inspection or otherwise, to provide an exception allowing limited disclosure of this information when related to a community residential care facility; to amend section 44-7-315, relating to disclosure of information regarding a facility or home licensed by the Department, to provide an exception for a community residential care facility to accomplish the rating system; and to amend section 44-7-370, relating to the residential care committee, to require the committee to expand its duties to include advising the Department with respect to the Community Residential Care Facility Star Rating System. Referred to Committee on Medical Affairs, 1/11/11.

[S 232](#) Health Care Facilities (Cleary)

A bill to amend the code of laws of South Carolina, relating to definitions of the state Certification of Need and Health Care Facility Act, to revise the definition of "health care facility." Referred to Committee on Medical Affairs, 1/11/11. Passed Senate 3/24/11 and sent to House. Referred to Committee on Medical, Military, Public and Municipal Affairs 3/29/11. Read third time 5/15/11 and ratified 5/17/11. Vetoed by Governor 5/23/11. Veto overridden 6/15/11.

[S 294](#) Joint Council on Children and Adolescents (Fair, Hutto, Jackson and Leventis) – Similar [H 3205](#)

A bill to establish the Joint Council On Children And Adolescents, to provide for its members, powers, and duties, including, but not limited to, promoting and facilitating activities to improve access to services for children, adolescents and their families, to provide that client records are confidential, and to provide circumstances under which records may be released. Referred to Committee on Judiciary, 1/11/11.

[S 567](#) Long Term Care Accessibility Task Force (Alexander, Hayes, O'Dell, Lourie, Pinckney and Land)

A Joint Resolution to create the Task Force on Long Term Care Accessibility in South Carolina, whose members include the State Director of the Department of Mental Health. Referred to Committee on Finance 2/15/11.

[S 590](#) Geropsychiatric Distinct Part Unit (McGill)

A Joint Resolution to exempt the establishment of a geropsychiatric distinct part unit for prospective payment system exclusion of up to ten beds from the requirement of obtaining a Certificate of Need. Referred to Committee on Medical Affairs 2/17/11. Passed Senate 3/29/11 and sent to House. Referred to Committee on Medical, Military, Public and Municipal Affairs Committee 3/29/11. Read third time 5/5/11 and ratified 5/17/11. Signed by Governor 5/23/11.

S 859 Residential Treatment Facilities for Children and Adolescents That Prohibit Licensure by DHEC (Rose and Fair) – Similar H 4148

A bill to establish provisions for residential treatment facilities for children and adolescents to prohibit licensure by DHEC of a facility unless it is at least one thousand feet from a school, child care facility, park, public swimming pool, and mass transportation stops and requires a facility to notify law enforcement of the admission of a child who has charges for a violent crime pending or who has been convicted of a violent crime within the previous five years, to provide sanctions for facilities in violation of this requirement, and to require a child to register as a sex offender if the provisions of registration apply to that child's defense. Referred to Committee on Medical Affairs 4/28/11.

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

H 3012 Licensure of In-Home Care Provider Act (Horne and H.B. Brown)

A bill to enact the "Licensure of In-Home Care Provider Act" so as to require a business to be licensed to provide, or to make provisions for, in-home care services through its employees or agents or through contractual arrangements; to provide that the department of health and environmental control shall promulgate regulations for licensure in accordance with requirements provided for in this act, including, but not limited to, criminal background checks; to require criminal background checks for in-home caregivers employed by in-home care providers; and to provide that the department shall retain all fees collected pursuant to this chapter to be used exclusively to carry out the department's responsibilities pursuant to this chapter; and to amend section 44-7-2910, as amended, relating to criminal record checks for caregivers, so as to include in-home care providers. Referred to Committee on Medical, Military, Public and Municipal Affairs, 1/11/11. Subcommittee met on 2/24/11 and approved the bill with amendments. The bill came before the Full Committee 3/1/11. Passed House 3/9/11 and sent to Senate. Referred to Committee on Medical Affairs 3/9/11. Senate read third time and enrolled for ratification 4/27/11. Signed by Governor 5/11/11.

H 3016 Commission on Disabilities & Special Needs (Harrison, Horne, G.R. Smith, G.M. Smith and Clyburn)

A bill relating to the creation of the Commission On Disabilities and Special Needs, so as to delete obsolete language; to amend section 44-20-220, relating to the promulgation of regulations by the Commission On Disabilities and Special Needs, so as to delete the provision requiring the commission to consult with the advisory committee of the division to which the regulations apply; to amend section 44-20-230, relating to the responsibilities of the director of the Department of Disabilities and Special Needs, so as to delete the provision authorizing the director to appoint and remove employees of the department; to amend section 44-20-240, relating to the creation and responsibilities of the Department of Disabilities and Special Needs, so as to delete the provision transferring the responsibility for autistic services from the Department of Mental Health to the department of disabilities and special needs. Referred to Committee on Judiciary, 1/11/11.

H 3150 Behavioral Health Services Act (G.R. Smith, Harrison and G.M. Smith) – Similar H 3229

A bill to enact the "Behavioral Health Services Act of 2011" by adding chapter 10 to title 44 so as to create the Department of Behavioral Health Services composed of the Division of Alcohol and Other Drug Abuse Services and the Division of Mental Health and to make conforming changes, to provide for the Department's powers and duties, including developing and implementing a state plan for the coordinated care and unified delivery of behavioral health services and overseeing the administration and delivery of behavioral health services, to create the Department of Behavioral Health Services Advisory Committee, to provide for the powers and duties of the advisory committee and for the membership of the advisory committee, to authorize the newly created Department to promulgate regulations, and to provide for the Department's administrative powers; to amend section 1-30-10, as amended, relating to departments of state government, so as to add the Department of Behavioral Health Services and make conforming changes; by adding section 1-30-68 so as to

transfer all necessary entities from the Department of Alcohol and Drug Abuse Services and the Department of Mental Health to the Department of Behavioral Health Services. Referred to Committee on Judiciary, 1/11/11.

H 3421 Division of Alcohol and Other Drug Abuse Services (White)

A bill to delete the Department of Alcohol and Other Drug Abuse Services; to amend section 1-30-70, relating to the establishment of the Department of Mental Health, so as to establish within that Department the Division of Alcohol and Other Drug Abuse Services; to amend chapter 49, title 44, relating to the functions of the former Department of Alcohol and Other Drug Abuse Services, so as to reconstitute that Department as a division of the Department of Mental Health under the administration of the director of the Department of Mental Health; to repeal section 1-30-20 relating to the functions transferred to the former Department of Alcohol and Other Drug Abuse Services; to provide that the provisions of this act take effect July 1, 2011, and to provide transaction provisions. Referred to Committee on Judiciary, 1/25/11.

H 3179 Veterans Court Program Act (Rutherford)

A bill to enact the "Veterans Court Program Act", to require the creation and administration of a Veterans Court program in each judicial circuit by the Attorney General, to provide for the appointment, powers, and duties of a Veterans Court judge, and to provide for requirements for an offender to qualify for admission to a Veterans Court program. Referred to Committee on Judiciary, 1/11/11.

H 3196 Use of Restraints on Juveniles (Brady, Spires, Toole and Butler Garrick)

A bill to provide restrictions on the use of restraints on juveniles unless the restraints are necessary to prevent harm and there are no less restrictive alternatives available, to give a juvenile's attorney the right to be heard, and to require findings of fact in support if restraints are ordered. Referred to Committee on Judiciary, 1/11/11.

H 3205 Joint Council on Children and Adolescents (Brady, Spires and Butler Garrick) – Similar S 294

A bill to establish the Joint Council on Children and Adolescents, to provide for its members, powers, and duties, including, but not limited to, promoting and facilitating activities to improve access to services for children, adolescents and their families, to provide that client records are confidential, and to provide circumstances under which records may be released. Referred to Committee on Judiciary, 1/11/11.

H 3229 Behavioral Health Services Act (Harrison, G.R. Smith and G.M. Smith) – Similar H 3150

To enact the "Behavioral Health Services Act of 2011" by adding chapter 10 to title 44 so as to create the Department of Behavioral Health Services composed of the Division of Alcohol and Other Drug Abuse Services and the Division of Mental Health and to make conforming changes, to provide for the department's powers and duties, including developing and implementing a state plan for the coordinated care and unified delivery of behavioral health services and overseeing the administration and delivery of behavioral health services, to create the Department of Behavioral Health Services Advisory Committee, to provide for the powers and duties of the advisory committee and for the membership of the Advisory Committee, to authorize the newly created Department to promulgate regulations, and to provide for the Department's administrative powers; to amend section 1-30-10, as amended, relating to departments of state government, so as to add the Department of Behavioral Health Services and make conforming changes; by adding section 1-30-68 so as to transfer all necessary entities from the department of alcohol and drug abuse services and the Department of Mental Health to the Department of Behavioral Health Services. Referred to Committee on Judiciary, 1/11/11. House read third time and sent to Senate 4/14/11. Introduced by Senate 4/19/11 and referred to Committee on Medical Affairs.

H 3413 S.C. Health Information Exchange (Sandifer and Brady)

A bill to establish the South Carolina Health Information Exchange (SCHIEX), to establish the South Carolina Health Information Exchange Council as the governing body of SCHIEX to oversee and govern the exchange of

health-related information through SCHIEX, to provide for the Council's powers and duties, and to further provide for the electronic movement of health-related information through SCHIEX; and to amend section 8-17-370, as amended, relating to exemptions from the state employee grievance procedures, so as to include the executive director of SCHIEX in these exemptions. Referred to Committee on Labor, Commerce, and Industry, 1/25/11. House read third time and sent to Senate 2/23/11. Referred to Committee on Medical Affairs.

H 4148 Residential Treatment Facilities for Children and Adolescents That Prohibit Licensure by DHEC (Limehouse, Murphy and Horne) – Similar S 859

A bill to establish provisions for residential treatment facilities for children and adolescents to prohibit licensure by DHEC of a facility unless it is at least one thousand feet from a school, child care facility, park, public swimming pool, and mass transportation stops, that prohibit the admission of out-of-state clients that are or would be required to register for the sex offender registry and to provide that a facility in violation of this provision is subject to sanctions. Referred to Committee on Medical, Military, Public and Municipal Affairs 4/28/11.

H 4214 Private Detention Health Care Facility (Limehouse, Rutherford, Harrell and Gilliard)

A bill to provide that a private detention health care facility must not admit an out-of-state inmate for treatment unless his admission to the facility is pursuant to an agreement entered into by the Department of Corrections and an out-of-state correctional facility; to provide that a health care facility that provides psychiatric services and receives Medicaid, or any other form of state funds, must not admit an out-of-state inmate or juvenile who has been adjudicated delinquent for treatment. Referred to Committee on Judiciary 5/19/11.