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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 Alyce McEachern in the Office of Public Affairs by e-mail at acm83@scdmh.org, or by phone at (803) 898-8585.

Budget Update

The Senate adopted the Appropriation Bill ([H 3700](#)) on Tuesday, May 24th. The Senate version includes the \$8.3 million (6%) base budget reduction adopted by the House, but also included \$1 million for crisis stabilization. The Department's recurring state appropriation would go from \$138,932,635 to \$131,596,677. As in the House, the Senate included no one time funding. For the current year, the Department had a one-time appropriation of \$9.5 million.

The Senate included the proviso adopted by the House providing for the reimbursement of rehabilitation services to the provider selected by the patient, but amended the proviso to clarify the requirement was for paraprofessional services such as Rehabilitative Psychosocial Services.

The Senate deleted several provisos adopted by the House, including:

- The transfer of DAODAS to the DMH;
- The transfer of the Continuum of Care to DMH;
- The transfer of DMH's veterans nursing homes to the Office of Aging within the Lt. Governor's Office.

The Senate also amended the proviso added by the House which provided for the grandfathering of non-generic medications for patients who were stable. The Senate Finance Committee had moved the proviso from the section of the billing governing the Department of Mental Health and moved the proviso to the section governing the Department of Health and Human Services. On the floor, the proviso was amended to require patients to be moved to generic medications if the generic medication cost less than the non-generic after rebates received by the Department of Health and Human Services.

The Senate has not passed the Capital Reserve Bill (H 3701) which includes funding of more than \$8 million for DMH. Funds are designated for the replacement of roofs at Bryan Psychiatric Hospital, and deferred maintenance for Campbell Veterans Home and Stone Veterans Home.

The Appropriation Bill will now be referred back to the House. It is anticipated that the House will amend the Bill, since an additional \$105 million has been verified by the Board of Economic Advisors. The Senate version also includes \$80 million in revenue collections from the Department of Revenue that the House version did not include.

With the regular session ending on June 2nd, it is generally felt that the Conference Report will occur when the General Assembly is called back into Session this summer (most likely mid-June). Once the Conference Report is adopted by both Chambers, the bill will be sent to the Governor for consideration and possible vetoes. Depending on the Sine Die Resolution (resolution which allows the House and Senate to continue the Session after the mandatory Sine Die date) adopted, vetoes may or may not be addressed during this summer, but potentially could be acted upon when the General Assembly returns in January.

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. Vetoes by Governor 5/23/11.

[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.