

# 2020 Legislative Session Summary

April 27, 2020



For the first time since the Civil War, Maryland adjourned its annual legislative session early. The usual 90-day session ended three weeks ahead of schedule. When the early adjournment was announced, the General Assembly had passed only three bills. In the next four days, 660 bills would pass.

In an unprecedented and chaotic legislative session, CBH managed not only to hold its own and stave off bad bills – but advanced our legislative priorities in virtually every area. For more details on the specific bills and positions on each of CBH’s goals, jump to the page indicated below.



CBH Goal	Result	Jump To
1. Increase funding for community-based behavioral health services.	✓ \$49.2 million in additional funding appropriated for FY2021	page 2
2. Improve accountability for expanding behavioral health capacity effectively under the All-Payer Waiver.	✓ Increased reporting on use of partnerships with existing providers to expand behavioral health services.	page 2
3. Expand telehealth to improve timely access to behavioral health services in the face of workforce shortages.	✓ Targeted expansions authorize use of telehealth in homes for some disorders and expand delivery mechanisms	page 3
4. Improve accountability for commercial carriers to make behavioral health treatment accessible to beneficiaries.	X Unsuccessful. Commercial carriers continue to set the agenda in Annapolis and evade efforts to increase accountability.	page 4
5. Oppose barriers to developing behavioral health capacity.	✓ Efforts to increase barriers to delivering behavioral health services failed to pass.	page 5
6. Oppose mandates that would increase personnel costs without funding mandates.	✓ Unfunded mandates to expand leave did not pass.	page 6
7. Improve accountability and oversight of behavioral health within state agencies	✓ Budget bill language requires reporting on ASO oversight and ACT fidelity reviews.	page 7
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<b>Goal 1: Increase funding for community-based behavioral health services.</b>		<b>Result: Goal achieved. \$49.2 million in additional funding, an increase of \$24.6 million over the governor’s FY2021 proposal.</b>
Budget Reconciliation & Financing Act	Governor Hogan was required to include a 4% rate increase (3% from the Keep the Door Open provisions of the 2017 HOPE Act plus an additional 1% to offset the costs of implementing the first year of the minimum wage bill passed in 2019) for community behavioral health providers in his FY21 budget request. He instead tried to cut the increase to 2% through the Budget Reconciliation and Financing Act (BRFA; SB192/HB152). CBH’s advocacy helped secure the full 4% rate increase, for a total increase of \$49.2 million in FY2021.	
Budget for Behavioral Health Administration	The Department of Legislative Services (DLS) budget analyst for BHA recommended moving the 4% rate increase implementation date from July 1, 2020 to January 1, 2021, effectively cutting the increase in half but preserving the base increase to the full 4%. Advocacy from CBH members persuaded the legislature to reject both the Governor’s cuts and the proposed delay from DLS, so community behavioral health should see a 4% increase beginning July 1, 2020.	

<b>Goal 2: Improve accountability for expanding behavioral health capacity effectively under the All-Payer Waiver.</b>		<b>Result: Goal achieved. Increased reporting on use of partnerships with existing providers to expand behavioral health services.</b>
SB 42 Health Services Cost Review Commission – Duties and Reports – Revisions	CBH Position: Support with Amendments Status: Passed with amendments This bill requires the HSCRC to report to the legislature and others on the status of the Total Cost of Care waiver. CBH was able to amend the bill to include as part of that report updates on the status of hospital/community provider partnerships, an area of concern as hospitals, rather than partner with our members, often develop behavioral health services to compete with them.	
SB774/HB1169  Hospitals – Community Benefits	CBH Position: Support with Amendments Status: Passed with Amendments This bill requires the HSCRC to establish a Community Benefit Reporting Workgroup and adopt regulations relating to hospital reporting of the use of community benefits money. CBH was able to amend the bill to specifically allow the use of community benefits money to support hospital/community behavioral health partnerships and to require input on community needs assessments by those with behavioral health expertise.	



<p><b>Goal 3: Expand telehealth to improve timely access to behavioral health services in the face of workforce shortages.</b></p>	<p><b>Result: Targeted expansions authorize use of telehealth in homes for some disorders and expand delivery mechanisms.</b></p>
<p>SB402/HB448                  (Health Care Practitioners – Telehealth and Shortage)</p>	<p>Note: Bill title changed to reflect amendments                  CBH Position: Support                  Status: Passed with Amendments; Enrolled as Emergency Legislation                  Authorizes practitioners to provide certain services via synchronous and asynchronous telehealth. It allows the various licensing boards to promulgate regs for the use of telehealth but prohibits them from establishing a separate standard of care for telehealth. It also allows the State to enter into interstate compacts regulating health care practitioners with adjacent states to improve access to care in areas experiencing a practitioner shortage. This was deemed an emergency bill and took effect as of the Governor’s signing it on April 3, 2020</p>
<p>SB502                  (Telehealth – Mental Health and Chronic Condition Management Services – Coverage and Pilot Program)</p>	<p>Note: Bill title changed to reflect amendments                  CBH Position: Support                  Status: Passed with Amendments; Enrolled as Emergency Legislation                  Allows, subject to the limitations of the State budget, mental health services to be delivered via telehealth to clients in their homes. Both synchronous and asynchronous telehealth are covered. It also requires MDH to apply to CMS for an 1115 waiver on or before Dec. 1, 2020 to allow the use of telehealth for the purposes of providing chronic condition management services. MDH must also conduct a study on or before Dec. 1, 2021 as to whether SUD services should be allowed via telehealth in clients’ homes. This was deemed an emergency bill and took effect as of the Governor’s signing on April 3, 2020.</p>



<p><b>Goal 4: Improve accountability for commercial carriers to effectively make behavioral health services accessible to beneficiaries.</b></p>	<p><b>Result: Unsuccessful. Commercial carriers set the agenda and control efforts to increase accountability.</b></p>
<p>SB113                  Health Insurance-                  Provider Panels-                  Definitions of Provider                  and Health Care                  Services</p>	<p>CBH Position: Support                  Status: Failed in Committee                  This was a departmental (Maryland Insurance Administration) bill. CBH supported the bill because it would have added facilities to the definition of health care provider. The commercial carriers and Medicaid MCOs opposed. We thought we had agreement at a work session to limit the bill strictly to behavioral health facilities but the bill ultimately failed when the opposition successfully lobbied the MIA to pull the bill.</p>
<p>SB334/HB455                  Health Insurance –                  MH &amp; SUD Benefits –                  Reports on                  Nonquantitative                  Treatment Limitations</p>	<p>CBH Position: Support                  Status: Passed with Amendments                  This bill would have required strong reporting requirements by commercial health insurance carriers on their compliance with the federal Parity Act. It would also have increase sanctions for those carriers found to be out of compliance. The carriers were able to heavily amend the bill, removing or watering down the reporting and sanction provisions.</p>
<p>SB484/HB1165                  Health Insurance-                  Provider Panels-                  Coverage for                  Nonparticipating                  Providers</p>	<p>CBH Position: Support                  Status: Failed in Committee                  This bill would have held consumers financially harmless for going out of network for behavioral health services if unable to find an in-network provider. It was strongly opposed by health insurance industry.</p>
<p>SB872/HB959                  Health Insurance –                  Consumer Protections</p>	<p>CBH Position: Support with Amendments                  Status: Passed with Amendments                  This bill came out of the Maryland Health Care Insurance Protection Commission (on which CBH is represented) and is designed to add protections currently guaranteed in the federal Affordable Care Act (ACA) – such as pre-existing conditions protections - into state law, should the ACA be overturned in part or in its entirety. CBH tried to amend the bill to add mental health and substance use disorders to the list of uniform definitions required of carriers in the law – arguing that behavioral health benefits are among the most misunderstood by consumers - but was unsuccessful because the sponsors were reluctant to add any new provisions to the existing federal law.</p>
<p>SB952/HB1359                  Health Insurance –                  Requirements for                  Establishing Step                  Therapy Protocol and                  Requesting Exceptions</p>	<p>CBH Position: Support                  Status: Failed in Committee                  This bill would have required health insurers to use clinical practice guidelines to establish step therapy or fail first protocols and to post on their websites information about the ways to request an exception to the step therapy requirements. CBH supported the bill.</p>



<b>Goal 5: Oppose barriers to developing behavioral health capacity.</b>	<b>Result: Efforts to increase barriers to delivering behavioral health services failed to pass.</b>
<p>SB519                      Public Health – Behavioral Health Programs and Health Care Facilities – Safety Plan</p>	<p>CBH Position: Support with Amendments                      Status: Failed in committee                      This bill would have required behavioral health providers to submit as part of the licensure process and implement internal and external safety plans. CBH worked with the sponsor to amend the bill so that internal safety plans could include the types of plans (fire, severe weather event, workplace violence) already required by CARF and JCAHO for accreditation purposes. The amendments also changed the requirement for an external safety plan to the submission of a community relations plan if the organization’s accreditation body requires such a plan.</p>
<p>SB520                      Behavioral Health Programs – Opioid Treatment Services – Limitations on Licenses)</p>	<p>CBH Position: Oppose                      Status: Failed in Committee                      This bill would have set limitations on the number of behavioral health programs that provide opioid treatment to no more than five per 100,000 residents of a county. Although the bill was intended to target opioid treatment programs (OTPs), the definition of programs affected included those providing opioid treatment services, which could include IOPs - therefore CBH opposed.</p>
<p>SB522                      Behavioral Health Programs – Licensing and Fees</p>	<p>CBH Position: Oppose                      Status: Failed in committee                      This bill would have required behavioral health providers to pay fees for initial licenses or modifications to existing licenses. The fees would go into a pot to be distributed by the local Health Departments for enhancing safety or making improvements to behavioral health programs or their surrounding communities. CBH opposed the bill.</p>
<p>HB1461                      Behavioral Health Programs – Outpatient Mental Health Centers – Medical and Clinical Directors</p>	<p>CBH Position: Oppose                      Status: Failed in Committee                      CBH strongly opposed this bill – introduced on behalf of the Maryland Psychiatric Society - that would have rescinded last year’s successful legislation allowing psychiatric nurse practitioners to serve as medical directors of OMHCs.</p>



<p><b>Goal 6: Oppose mandates that would increase personnel costs without funding mandates.</b></p>	<p><b>Result: Unfunded mandates to expand leave did not pass.</b></p>
<p>SB539/HB839                  (Labor and Employment – Family and Medical Leave Insurance Program – Establishment)</p>	<p>CBH Position: Oppose                  Status: Failed in committee                  This bill would have established a Family and Medical Leave Insurance Program funded by both employer and employee contributions. The fund would be used to pay employees for time off taken for qualifying reasons. The bill also would have allowed employees an additional 12 weeks of paid time off over and above that allowed by the Family Medical Leave Act for certain qualifying conditions.</p>
<p>SB260/HB712                  Labor and Employment – Leave with Pay – Bereavement Leave [Family Bereavement Act]</p>	<p>CBH Position: Oppose                  Status: Passed the House amended; Failed in the Senate                  This bill would have required employers to allow employees to take existing paid leave for purposes of bereavement in the event of the death of an immediate family member or a pet of the employee. The bill did not define “pet.” The House Economic Matters Committee amended the bill to strike “pet” from the bill’s provisions. The House passed the amended bill on third reader but it failed in the Senate.</p>



<p><b>Goal 7: Improve accountability and oversight of behavioral health within state agencies</b></p>	<p><b>Result: Budget bill language requires reporting on ASO oversight and ACT fidelity reviews.</b></p>
<p><b>Office of the Secretary</b>                  Maryland Department of Health  <u>Provided that \$1,000,000 of this appropriation made for the purposes of executive direction may not be expended until the Maryland Department of Health submits a report to the budget committees on the administrative services organization transition and estimated payments made during the transition. The report shall be submitted by July 1, 2020, and the budget committees shall have 45 days to review and comment, Funds restricted pending the receipt of a report may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund if the report is not submitted to the budget committees:</u></p> <p>Explanation: The Maryland Department of Health (MDH) transition to a new Administrative Services Organization (ASO), effective January 1, 2020, found many providers unable to register, submit claims, or receive proper reimbursements. MDH’s short-term solution for providers is to issue estimated payments based on calendar 2019 services until April 20, 2020, when the new ASO will hopefully be ready to process claims. This language restricts funding from the MDH Secretary budget until a report is submitted detailing the full scope of the estimated payments issued during this period of transition. <i>This report should also address progress made on the ASO functionality and the client-access issues that may have resulted from the ASO transition. Further, the report should include the process for reconciliation of estimated payments to providers, inconsistencies between provider claims records and MDH’s, and financial impacts experienced by providers during this transition period.</i>                  Due Date: July 1, 2020</p>	
<p><b>Behavioral Health Administration</b>                  M00L01.01 Program Direction  <u>Provided that \$100,000 of this appropriation made for the purposes of program direction may not be expended until the Maryland Department of Health submits a report to the budget committees on Assertive Community Treatment. The report shall be submitted by September 1, 2020, and the budget committees shall have 45 days to review and comment. Funds restricted pending the receipt of a report may not be transferred by budget amendment or otherwise to any other purpose and shall revert to the General Fund if the report is not submitted to the budget committees.</u></p> <p>Explanation: <i>The budget committees are interested in Assertive Community Treatment (ACT), an evidence-based practice designed to serve high-risk individuals and reduce unnecessary hospital utilization, and the evaluation of these programs. The Maryland Department of Health (MDH) has been planning to transition from the Dartmouth Assertive Community Treatment Scale (DACTS) to the Tool for Measurement of Assertive Community Treatment (TMACT). These scales are used for measuring ACT trams on fidelity to the ACT model. The budget committees request a timeline for moving from the DACTS to the TMACT. The report should also discuss any incentives, assistance, or other programs planned for providers to ensure compliance with the new TMACT standards.</i>                  Due Date: September 1, 2020</p>	

## Miscellaneous

HB1121 (Maryland Mental Health and Substance Use Disorder Registry and Referral System)

CBH Position: Support with Amendments

Status: Passed with Amendments

This legislation arose out of a workgroup led by Delegate Pena-Melnyk. It requires the state’s Health Information Exchange (CRISP) to work with MDH in developing a searchable inventory of behavioral health services for use by referral sources and others. It establishes an advisory committee - including providers of mental health and substance use disorders – to make recommendations regarding the design, development, and implementation of the searchable system. The bill was scaled back from its initial version due to its large fiscal note.

## Meet CBH’s Legislative Team

The Community Behavioral Health Association of Maryland is the only voice in Annapolis devoted solely to representing the interests of community-based mental health and addiction treatment providers in Maryland.

With a team of three full-time lobbyists dedicated exclusively to representing its members, CBH ensures that every bill introduced is scrutinized for its impact on behavioral health. Our lobbying team analyzes legislation, meets with legislators, their staff and budget analysts, coordinates coalition efforts, and facilitates its members’ grassroots outreach.



Shannon Hall, J.D.  
Executive Director



Lauren Grimes, MPA  
Assistant Director



Lori Doyle  
Public Policy Director