

NEW YORK STATE
A S S E M B L Y

SHELDON SILVER, SPEAKER



committee on
Mental Health, Mental Retardation and
Developmental Disabilities

Felix W. Ortiz, Chair



Annual
Report 2010

THE ASSEMBLY
STATE OF NEW YORK
ALBANY



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Economic Development, Job Creation,
Commerce & Industry
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December 31, 2010

Honorable Sheldon Silver
Speaker of the Assembly
Legislative Office Building, Room 932
Albany, New York 12248

Dear Speaker Silver:

As the newly appointed Chair of the Committee, I am pleased to submit to you the 2010 Annual Report of the Assembly Standing Committee on Mental Health and Developmental Disabilities. My first year as Chair of the Committee has been an exciting and productive time. The Committee worked diligently during this session to ensure that persons with disabilities continue to have access to safe, appropriate care and treatment focused on and tailored to individualized needs.

As the State continues to struggle with the worst economic climate since the Great Depression, it is vital that the safety and well-being of those who depend on the State are not jeopardized. Just as our State is struggling with this economic recession, our citizens continue to struggle to make ends meet in their own lives. As fiscal conditions worsen, the risks of depression, anxiety, substance abuse, and suicide increase; and families who were already struggling to support a loved one with a disability find themselves in need of greater supports. The populations served by the Office of Mental Health (OMH) and the Office for Persons With Developmental Disabilities (OPWDD) are some of the most vulnerable in the State. In light of this dire situation, the Committee has focused its energy on seeking out efficiencies wherever possible, while trying to make the most of existing resources for enhancing safety, consumer rights, and an uncompromised focus on quality treatment.

This year, the Committee put forward legislative proposals to address the needs of individuals served by the mental hygiene system. I am particularly proud of renaming the Office of Mental

Retardation and Developmental Disabilities (OMRDD) to The Office for People With Developmental Disabilities (OPWDD); extending the sunset date of “Kendra's Law”; requiring OMH and OPWDD to establish a toll free hotline to receive allegations of abuse or mistreatment of persons served by its programs; and authorizing the Mental Hygiene Legal Services to provide legal services to certain individuals with mental illnesses who live in nursing homes. The Committee also collaborated with the Task Force on Disabilities to coordinate the annual Disability Awareness Day.

In September 2009, Judge Nicholas G. Garaufis of the United States District Court, Eastern District, ruled that the State violated the Americans with Disabilities Act by housing more than 4,300 persons suffering from serious mental illness in New York City, in 28 adult care homes (DAI v. David Paterson, et al). I am fully committed to the mandates under the ADA and the Olmstead decision to ensure that people with serious mental illness live in the most integrated settings appropriate to their needs. As Chair of the Committee on Mental Health, I intend to work with the Office of Mental Health to ensure that adult home residents are transitioned to the most integrated settings appropriate to their needs; and I will continue to advocate for increasing access to community living for all persons suffering from a mental or developmental disability. I believe that New Yorkers with disabilities have the right to live and receive services in the most integrated setting appropriate to their needs, as enshrined by the Supreme Court in the Olmstead decision.

In closing, I would like to thank the many advocates, providers, consumers, and family members who diligently kept me informed of important mental health and developmental disabilities issues; my colleagues for their continued assistance and collaboration; and you, for your leadership and support during this difficult economic time. In particular, I would like to thank my predecessor, Assemblymember Peter M. Rivera, who served as the long standing Chair of the Committee on Mental Health and Developmental Disabilities. I would also like to acknowledge, with deep sadness, the passing of Senator Thomas P. Morahan. He, along with Assemblymember Rivera, served tirelessly to uphold the rights of people with disabilities across this State and ensured continued and improved access to vital services.

I look forward to 2011 and the changes it will bring; most importantly, a new Governor of New York State. I call upon our new Governor to work with this Committee, the Chair of the New York State Senate Mental Health Committee, and the mental health and developmental disabilities communities to continue our efforts to meet the needs of individuals with disabilities and to preserve and enhance the State mental hygiene system they depend upon.

Sincerely,



Felix W. Ortiz
Chair

**2010 ANNUAL REPORT
OF THE
NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON MENTAL HEALTH, MENTAL RETARDATION
AND DEVELOPMENTAL DISABILITIES**

**Felix W. Ortiz
Chair**

Committee Members

Majority

Karim Camara
Michael Cusick
David Koon
Barbara Lifton
Donna A. Lupardo
William L. Parment
Mark J. F. Schroeder
Harvey Weisenberg

Minority

Thomas McKeivitt – Ranking Member
Jane Corwin
Robert Barra

Committee Staff

Linda Buckley, Chief of Staff
Alice McGrath, Legislative Assistant and Committee Clerk

Program and Counsel Staff

Giovanni Warren, Assistant Secretary for Program and Policy
Jennifer Best, Senior Legislative Analyst
Nicholas Cartagena, Legislative Counsel

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I. INTRODUCTION

The Assembly Committee on Mental Health has jurisdiction over legislation affecting programs that provide services, care, treatment, and advocacy for individuals with various disabilities. The Committee focuses on ensuring that individuals with a mental illness or a developmental disability and those with multiple disabilities are provided appropriate and necessary services to live as fully as possible and are protected from abuse or harm in institutional and community settings.

The Committee has legislative oversight of programs administered and licensed by the State Office of Mental Health (OMH) and the State Office for Persons with Developmental Disabilities (OPWDD). The Committee also has statutory oversight of the State Commission on Quality Care and Advocacy for Persons with Disabilities (CQC-APD), the Developmental Disabilities Planning Council (DDPC), the Inter-Office Coordinating Council (IOCC), and the Most Integrated Setting Coordinating Council (MISCC). According to the Division of the Budget, these agencies – OMH, OPWDD, CQC-APD, DDPC, and the Office of Alcoholism and Substance Abuse Services (OASAS) are expected to serve nearly one million individuals in 2010-11, including 600,000 persons with mental illness, 260,000 persons with chemical dependencies, and 125,000 persons with developmental disabilities. The Committee also works closely with the New York State Assembly Standing Committee on Alcoholism and Drug Abuse, the Assembly Standing Committee on Veterans Affairs, and the Task Force on People with Disabilities.

During the 2010 session, the Committee reviewed a number of bills and addressed many issues aimed at providing quality services and enhancing protections for individuals with various disabilities. Some key issues addressed were: the State's response to abuse allegations in programs and facilities, the extension of important programming like Kendra's Law and Community Reinvestment, reducing stigma faced by veterans with disabilities and individuals with developmental disabilities, and ensuring the safety of those living in family care homes by expanding criminal background checks for prospective employees.

This report describes the Committee's major legislative activities during the 2010 session.

II. STATE BUDGET HIGHLIGHTS

The State continues to face record budget deficits resulting from the worldwide financial crisis of the last few years. Throughout the 2010 Legislative session, the Committee was forced to grapple with the difficult task of determining priorities for the mental hygiene system within the difficult constraints imposed by the State's poor fiscal climate. Despite the constraints caused by the State's \$9.2 billion deficit for the 2010-11 state fiscal year, many important programs in the mental hygiene system continued to be funded. Within the Office of Mental Health and the Office for People with Developmental Disabilities, the following proposals and appropriations were enacted in the 2010-11 Budget:

1. ARTICLE VII

A. Increased Medicaid Payments to Providers Through Managed Care Organizations (cost neutral)

The Office of Mental Health is currently undergoing a multi-year initiative to restructure the way the State delivers and reimburses publicly supported mental health services. Such restructuring eliminates "Comprehensive Outpatient Program Services" (COPS), a program that enabled certain providers of licensed mental health outpatient services to be eligible to receive supplemental medical assistance reimbursement. The elimination of COPS funding would have resulted in a loss of revenue for many providers. While "ambulatory patient group" (APG) rates are increasing as part of restructuring, many clinics provide services to consumers who are covered under a Medicaid Managed Care organization that do not use the APG rate for reimbursement, but negotiate a lesser rate that is often less than the cost of actual care provided. The Legislature accepted the Executive proposal to provide funding to Medicaid Managed Care companies to increase their rates so it matches current Medicaid APG rates. This proposal offsets the resulting loss of revenue stemming from the elimination of the COPS funding stream and supports clinics and providers who provide services to the Medicaid Managed Care population.

B. Update of the Base Year of the Disproportionate Share (DSH) Payments of Article 28 Hospitals Serving Office of Mental Health Consumers (\$3 million in savings)

Hospitals that treat a disproportionate share of uninsured and underinsured patients receive a payment, called Disproportionate Share (DSH) Payment, to offset the costs of treating such patients. Prior to 1997, OMH provided State Aid to Article 28 voluntary hospitals for this same purpose. In 1997, Article 28 hospitals with OMH wards saw a decrease in their State Aid as a DSH payment from OMH was established on top of DSH payments the general hospital may have already received. The rate of payment was determined by the population served by the hospital in 1996 and 1997. In 2003, the base year was updated to 2000. The Legislature accepted the Executive proposal that updates the base year of the Disproportionate Share Payments (DSH) for OMH Article 28 voluntary hospitals from 2000 to 2008 and establishes an automatic

mechanism to update the base to two years prior to the payment year, mirroring the public health hospital method for DSH payments. This not only increases the total amount of DSH dollars Article 28 Mental Health wards receive, but also offsets State aid by \$3 million, providing relief in this difficult fiscal time.

C. Closure and Conversion of Wards in the Office of Mental Health (\$9 million in savings)

The Legislature accepted the Governor's plan to close up to 175 beds and convert up to 75 beds into Transitional Placement Programs (TPP) in certain psychiatric hospitals. Transitional Placement Programs provide transitional services to individuals who have received as much assistance possible from inpatient treatment but are not prepared for community living. While not part of the Executive's proposal, the Legislature clarified the language to prohibit children's beds from being closed.

D. Extension of the Community Reinvestment Act (cost neutral)

The Community Reinvestment Act, originally enacted in 1993, requires that all savings within State operated mental health delivery system be reallocated to localities to meet the needs of consumers of mental health services and facilitate consumers ability to live independently in their home communities. In 2002, the Act was amended to require that savings be used for workforce training, recruitment and retention. The Community Reinvestment Act expired on March 31, 2010; however, the Legislature and Executive reached an agreement to extend the act for three years.

E. Representative Payee Protections

In his Executive budget proposal, the Governor proposed language to permit the Office of Mental Health and the Office for People with Developmental Disabilities facility directors to receive a resident's private or public benefit funds as representative payee and use such funds to pay for the resident's cost of care and treatment. The Executive proposal would have also eliminated the \$5,000 limit in state law on the amount of funds that may be held by a facility director and would have eliminated the requirement that state and voluntary facility directors hold funds in a fiduciary manner.

Upon further review, however, the Legislature determined that the Executive proposal did not reflect current practice. This was particularly evident in the proposal to eliminate a State or voluntary director's duty to hold funds in a fiduciary capacity. It has long been the practice in New York that consumers' funds are used for the benefit and best interest of the consumers, including but not exclusively for the cost of care and treatment. Allowing state or voluntary directors to deviate from this standard could have led to a misuse of consumer funds. As such, the Legislature and Executive agreed on new language that permits the use of funds to be used for the cost of care and treatment, but mandates that consumer funds continue to be held in a fiduciary manner.

Additionally, the Legislature was concerned that upon discharge, the individual did not have adequate funds to be self-sufficient in the community while maintaining eligibility for benefits. Currently, in order to be eligible for SSI a disabled person must have less than \$2,000 in assets. The Legislature and Executive agreed on new language that permits OMH and OPWDD to use 'Special Needs Trusts' under certain circumstances when an individual may need more than \$2,000 to transition to the community, thus allowing them to maintain their SSI eligibility.

Lastly, the Legislature was concerned that there were not adequate safeguards protecting consumers' funds from misuse. Perceptually, facility directors have a conflicting role in handling a resident's money in a fiduciary capacity and charging the resident for services in the facility. As such, the Legislature and Executive agreed on new language that creates new consumer protections, including requiring OMH and OPWDD to promulgate consumer protection regulations, requiring OMH and OPWDD to work jointly with Mental Hygiene Legal Services in reviewing the practices related to the handling of benefits, and requiring OMH and OPWDD to submit an annual report detailing how patients' federal benefits are being used.

F. Human Services Cost of Living Adjustment (COLA)

The Governor's budget proposal deferred the COLA for human service providers in the Office of Mental Health, the Office for People with Developmental Disabilities, the Office of Alcoholism and Substance Abuse, the Office of Children and Families (OCFS), and the State Office of the Aging (SOFA). If implemented, the COLA would have actually been a \$61 million cut to providers as the index for the COLA, the Consumer Price Index, was -2.1 percent. The COLA will be deferred one year, and allocated pursuant to statute in the next fiscal year.

2. APPROPRIATIONS

Funding for services offered by the Office of Mental Health and the Office for Persons with Development Disabilities as well as programs certified and licensed by such agencies have deteriorated as the result of the state and national economic recession. Both agencies have immense need to expand services, particularly for certain cultural groups, and to increase housing options. However, staff at programs and facilities had to find ways to provide the same level of care and treatment while finding efficiencies and cost savings in their budgets. This has been done by examining and reforming the way that programs operate. Both agencies were committed to reducing any waste and duplicative functions occurring within the administration of their respective agencies to absorb cuts at the administrative level in order to mitigate the impact on the individuals receiving services. Lastly, cost of living adjustments (COLA) were postponed for direct care staff. Agencies had to find creative ways to retain qualified staff who are desperately in need of a raise.

This Committee fought to alleviate the cuts to programs and services to ensure that individuals have access to the necessary care and treatment regardless of the state's financial circumstances.

III. SIGNIFICANT LEGISLATION

A. OVERSIGHT AND MANAGEMENT

All residents in New York should have access to appropriate services, both for mental health disorders and developmental disabilities. Having access depends upon many factors, including transparency, coordination, and accountability. The committee recognizes the deficiencies in the mental hygiene system and strives to address them and to make the delivery of appropriate quality services a priority in the State.

A. 1116 (Destito)

Assisted Outpatient Treatment (AOT), or 'Kendra's Law', establishes a process by which a person is deemed by a court to be in need of outpatient care in order to live safely in the community. A physician is required to examine the individual and appear during the court process. The court appearances are required by law to be scheduled by the judge within three days of the receipt of the petition. These requirements can be onerous for smaller counties where there are few qualifying physicians. This bill would require that the Office of Mental Health make qualifying physicians available to appear in court for counties with a population under 75,000. This bill has passed the Assembly but was not acted upon by the Senate.

A. 5903 (Titone)

It is important that families are assured that their children are safe and are receiving the best possible care when they are admitted to a facility operated by or a program licensed through the Office of Mental Health. This bill does that by requiring the Commissioner of the Office of Mental Health to promulgate rules and regulations prohibiting the co-mingling of adolescent and adult patients in state-run facilities. This bill passed the Assembly but was not acted upon by the Senate.

A. 9825-A (Weisenberg) – Chapter # 192

While regulations exist regarding how abuse allegations must be handled in OMH and OPWDD facilities and programs licensed by such agencies, there is no statutorily required hotline to ensure complete reporting and appropriate responses to allegations of abuse. This law requires that the Commissioners of OMH and OPWDD establish procedures to receive allegations of abuse or mistreatment of those served by agencies or providers. These procedures must include the establishment of a toll-free hotline to receive allegations or complaints of abuse or mistreatment of patients served by programs licensed or operated by such offices, and to refer the

report to the Statewide Central Register of Child Abuse and Maltreatment when the allegations involve abuse of a child. This law was signed by the Governor and is Chapter number 192.

A. 10405 (Ortiz) – Veto # 6729

The Community Mental Health Support Act was enacted in 1993 to enhance the funding for community programming upon the closure of inpatient beds. The program was repealed in 2001 and was re-enacted in 2002 with amendments requiring any savings generated upon closure of an inpatient bed be used for workforce development. This program was repealed on March 31, 2010. This bill would have extended the program for an additional seven years. This bill passed both houses, but was vetoed by the Governor. The program was ultimately extended for three years in the 2010-2011 enacted budget.

A. 10791 (Ortiz) – Chapter # 198

Traditionally, entities that want to obtain a Certificate of Incorporation from OWPDD must have such certificate reviewed by OWPDD first, then by the Secretary of State, then again by OWPDD. This process is time-consuming and overly burdensome. This law would change the Certificate of Incorporation process by removing the first review process by OWPDD. This law was signed by the Governor and is Chapter number 198.

B. CONSUMER CARE ISSUES

Individuals diagnosed with mental illnesses or developmental disabilities are often reliant on providers and direct-care workers. As residents in a hospital or residential setting, the patient should receive appropriate supports and quality care. The Committee continues its effort to empower consumers and their families to navigate the system, file complaints, or report abuse. Ultimately, the Committee works to ensure that consumers receive the best care in a safe and clinically appropriate environment that enables them to work toward and to sustain recovery or symptomatic improvement, and to enjoy a greater quality of life.

A. 10404 (Ortiz) – Veto # 6728

Community Service Boards were established in statute in 1977. These boards serve to plan, review, and oversee all services to the mentally disabled within its geographic area. More importantly, each county must establish a Community Services Board in order to be eligible for State Aid. In 2003 the statute was amended to enhance each Board's Subcommittee for Mental Health by requiring at least two members who are or were consumers and at least two members who are parents or relatives of a person with mental illness. These amendments were repealed on March 31, 2010. This bill would have extended the program for an additional seven years. This

bill passed both houses but was vetoed by the Governor. The program was ultimately extended for three years in the 2010-2011 enacted budget.

A. 10448 (Gordon) – Chapter # 262

Jonathan's Law was signed into law in 2007. One of the key provisions, among other important provisions, was the ability of the individual receiving services and certain family members to obtain records related to allegations and investigations of abuse and mistreatment. Upon enactment of this law, the state agencies involved interpreted the access to records provision in a prospective manner. Therefore, families who attempted to obtain records related to events prior to the enactment of Jonathan's Law were denied access. In response, a Chapter amendment was passed that afforded individuals and families the right to access the same records retroactively to January 1, 2003. That Chapter amendment was set to expire after two years, thus allowing families enough time to access the relevant records. This law is the second two-year extension of those rights. This bill was signed by the Governor and is Chapter number 262.

A. 10790 (Ortiz) – Chapter # 139

Assisted Outpatient Treatment (AOT), or Kendra's Law, was first enacted in 1999. It was set to sunset in 2005, but was amended, extended for five years and amended to establish new reporting requirements. The Committee heard from many concerned individuals and organizations on the next phase of Kendra's Law during the 2010 Legislative Session. The Commissioner of OMH, as well as the majority of the advocates supported another five-year extension. Therefore, this law extends the program for an additional five years. This law was signed by the Governor and is Chapter number 139.

A. 10824-B (Cusick) – Veto # 6811

The Mental Hygiene Legal Service (MHLS) is a statutorily created entity that provides legal assistance to patients or residents of a facility where services to the mentally disabled are provided: psychiatric center, developmental center, institute, clinic, ward, institution, or building. Because of this definition the New York Court of Appeals ruled in Hirschfeld v Teller 14 N.Y. 3rd 344 (2010) that MHLS lacks jurisdiction to represent mentally ill individuals who have been admitted to nursing homes from psychiatric centers and psychiatric hospital wards. This bill would remedy this situation by authorizing MHLS to provide legal assistance to individuals currently living in a residential health care facility who are admitted directly to such health care facility from one of the facilities listed above and who are receiving services for a serious mental illness. The Office of Court Administration supported this bill recognizing that MHLS is an independent watchdog that provides advocacy and legal services for all institutionalized individuals with mental illness regardless of which state agency provides the license for the institution. This bill was vetoed because of fiscal concerns and a technical issue, it is Veto number 6811.

A. 11197 (Ortiz) – Chapter # 168

This law changes the name of the State agency, the Office of Mental Retardation and Developmental Disabilities, or OMRDD, to the Office for Person with Developmental Disabilities, or OPWDD. The decision to change the name of the agency was reached after two years of deliberation. The Commissioner of the then-named OMRDD met with stakeholders and held community forums with family members and individuals receiving services. There was wide consensus to change the name, but choosing a new name required some time and thoughtful discussion. In the end, both the agency and its stakeholders were supportive of the proposed new name. This law was signed by the Governor and is Chapter number 168.

IV. PUBLIC HEARINGS

A. Services for Veterans

In February, the Committee held a public hearing to examine and evaluate the services for New York State veterans who have been diagnosed with both a substance abuse and mental health disorder in order to ensure that all available resources are marshaled to help returning veterans and their families; to ensure that services are coordinated as well as possible; and to ensure that services are used in the most effective and efficient manner. The hearing was held jointly with the Committee on Veterans' Affairs and the Committee on Alcoholism and Drug Abuse. The Committees heard testimony from the Division of Veteran Affairs, the Office of Alcoholism and Substance Abuse Services, the Office of Mental Health, the Veterans' Mental Health Action Community of New York City, the Mental Health Association of Nassau County, the Veteran's Health Alliance of Long Island, and the National Alliance on Mental Illness of New York City. The witnesses testified that stigma and misinformation regarding mental health and substance abuse treatment is prevalent within the military community. Additionally, the committee heard testimony that veterans and their families often have a difficult time navigating the array of services available. As such, two bills were introduced to address these issues.

The first bill, A.11054 (Ortiz, Magnarelli, Paulin), requires the Commissioner of OMH to develop a public education initiative to eliminate stigma and misinformation about mental illness and chemical dependency among service members, veterans, and their families. This bill was introduced into this committee and was reported to Ways and Means. The second bill, A.11098 (Magnarelli, Ortiz, Paulin) (Veto 6786), would create the Veterans Mental Health and Chemical Dependency Act and would develop a comprehensive plan, with the inclusion of government and stakeholder groups, regarding issues of veterans with psychiatric disabilities and chemical dependency. This bill was introduced in the Committee on Veterans' Affairs; it passed both houses and was vetoed by the Governor.

B. Characteristics of the Individuals Served by the Office of Mental Health and the Office for People With Developmental Disabilities

The individuals served by the New York State Office of Mental Health (OMH) and the Office for People With Developmental Disabilities (OPWDD) are very diverse. Hundreds of voluntary provider organizations provide endless hours of services to thousands of individuals in New York State's counties, cities, towns, villages, and neighborhoods. The individuals served are just

as unique as the communities in which they live. In May, this committee held a joint roundtable with the Committee on Aging to determine the different characteristics of the people served by the Mental Hygiene agencies and how services can be adapted to the special needs of each individual. For example, the needs of an older person will differ from the needs of a child and the needs of a person born outside the United States will differ from the needs of a person born and raised in American culture. The Committees heard from the Office of Mental Health, the Office for Persons with Developmental Disabilities, the State Office for the Aging, the New York City Department of Health and Mental Hygiene, the Mental Health Association of New York State, the Geriatric Mental Health Alliance of the Mental Health Association of New York City, the Federation of Multicultural Programs, Inc., the Self-Advocacy Association of New York State, Inc., and the New York Association of Emerging and Multicultural Providers, Inc. At the roundtable, the need for individualized, person first-centered services was discussed and emphasized. This committee will continue to advocate for personalized services that are linguistically and culturally competent.

C. Family Support Programs Funded in the New York State Budget for Individuals With Disabilities.

On October 26th the Committee held a hearing to review the way that family support services are funded through the New York State Budget. Both the Office of Mental Health and the Office for Persons with Developmental Disabilities provide various supports for families who are caring for a loved one with a disability. The Committee values these programs and recognizes the significance they play in supporting individuals with disabilities and their families, thus enabling them to remain at home and in the community. The Committee heard from countless families who count on these supports to care for their loved one, often a young or adult child. Many families provided heartfelt accounts of what life is like raising and caring for a child with a disability. These stories were an invaluable reminder of the importance of community based and family based support. The Committee also heard from the Office of Mental Health, the Office for Persons with Developmental Disabilities, representatives from the Family Support Services Advisory Council, Families Together in New York and some of their affiliates, the Mental Health Association of New York and some of their affiliates, the Jewish Board of Family and Children's Services, the National Alliance on Mental Illness, the NYS Coalition for Children's Mental Health Services, Parent to Parent of NYS, and NYSARC, INC., as well as a variety of local provider and advocacy groups. Overall, the Committee received over sixty submissions of testimony. The testimony provided to the Committee was important and useful information and introduced ideas to explore further.

V. OUTLOOK 2011

Adult Care Homes

On September 8, 2009, United States District Court Judge Nicholas G. Garaufis, of the Eastern District of New York, ruled that New York State violated the American with Disabilities Act by housing more than 4,300 persons with a psychiatric disability in 28 adult care homes located in New York City. Judge Garaufis held that such housing is segregation and not in the most integrated setting appropriate to the consumers' needs. The Court concluded that this type of segregation is discrimination based on disability. Currently, this case is being appealed to the Federal Appellate Court, Second Circuit. However, the decision is not stayed. The Office of Mental Health must begin to comply with the Court's ruling. This Committee will continue to monitor this action and its effects on the New York psychiatric disability community and will work with the Senate and the Executive to ensure compliance with the Court's order.

Brooklyn Children's Center

The Office of Mental Health has announced that it intends to close the Brooklyn Children's Center Psychiatric Hospital, use the facility as a residential treatment facility for juvenile justice offenders, and reinvest funds saved from the closing for outpatient services for children in Brooklyn. This plan would expand community based mental health treatment for children in Brooklyn and create the first of its kind OMH-licensed Residential Treatment facility for adolescents who are referred from the Office of Children and Family Services because of juvenile justice issues. This Committee will monitor this proposal and continue to advocate for adequate treatment and care for the children of our state.

System Reforms

This Committee is currently engaging in discussions with relevant stakeholders about important reforms with the goal of enhancing quality services and quality of life and increasing efficiency. Chapter 551 of the Laws of 2002 calls for the "development and implementation of a plan to reasonably accommodate the desire of people of all ages with disabilities to avoid institutionalization and be appropriately placed in the most integrated setting possible." This plan is established by the Most Integrated Setting Coordinating Council (MISCC). In late 2010, MISCC implemented its plan that tackles issues such as housing, employment, transportation, long term care, and community based treatment. Similarly, OMH has undertaken the massive task of restructuring the way clinics, continuing day treatment programs, and day treatment programs are reimbursed. At the same time, federal health care reform will enhance behavioral health insurance parity, increase Medicaid eligibility levels, create health insurance exchanges, build medical homes, develop Accountable Care Organizations and change the way we use technology to work with and for individuals with disabilities. These on-going, vital transformations will re-shape the way that services are being provided. This Committee will

continue to engage in discussions and weigh in on key elements of the future of the mental health and developmental disabilities service system.

APPENDIX A

2010 SUMMARY OF ACTION ON ALL BILLS REFERRED TO THE COMMITTEE ON MENTAL HEALTH

<u>FINAL ACTION</u>	<u>ASSEMBLY BILLS</u>	<u>SENATE BILLS</u>	<u>TOTAL BILLS</u>
<u>Bills Reported With or Without Amendment</u>			
To Floor; Not Returning to Committee	2	0	2
To Floor; Recommitted and Died	0	0	0
To Ways & Means	13	0	13
To Codes	2	0	2
To Rules	1	0	1
To Judiciary	0	0	0
TOTAL	18	0	18
<u>Bills Having Committee Reference Changed</u>			
To Committee on Insurance	0	0	0
To Committee on Education	0	0	0
TOTAL	0	0	0
<u>Senate Bills Substituted or Recalled</u>			
Substituted		2	2
Recalled		0	0
Total		2	2
<u>Bills Defeated in Committee</u>			
Bills Held For Consideration With A Roll-Call Vote	8	0	8
Bills Never Reported, Held in Committee	53	3	56
Bills Having Enacting Clauses Stricken	0	0	0

APPENDIX B

**FINAL ACTION ON BILLS REPORTED BY THE COMMITTEE ON MENTAL HEALTH,
MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES IN 2010**

ASSEMBLY BILL # SPONSOR	SENATE BILL # SPONSOR	FINAL ACTION	DESCRIPTION
A. 1116 Destito	N/A	Passed Assembly	This bill requires a NYS OMH physician to provide services related to AOT for certain counties.
A. 5901 Rivera, P.	S. 1914 Morahan	Referred to Ways and Means	This bill would require the Commissioner of OPWDD to take certain actions when significant service reductions are anticipated at state-operated facilities or at the state-operated research institute.
A. 5903 Titone	S. 3013 Lanza	Passed Assembly	This bill would require the Commissioner of OMH to promulgate rules and regulations prohibiting the comingling of adolescent with adult patients.
A. 7027-C Rivera, P.	S. 3341-C Diaz	Referred to Ways and Means	This bill would require the Commissioner of OMH to develop and monitor the implementation of a behavioral health and long-term care plan.
A. 7647 Rivera, P.	N/A	Referred to Ways and Means	This bill would require OMH, OPWDD, OASAS to establish rules and regulations requiring board of directors of voluntary not-for-profit agencies to adopt policies and guidelines for emergency situations affecting the health or safety of individuals served, or the fiscal viability or integrity of the agency and minimum training requirements for board members.
A. 9825-A Weisenberg	S. 6772-A Morahan	Chapter # 192	This law requires that OMH and OPWDD establish procedures to receive allegations or complaints of abuse or mistreatment of patients served by programs licensed or operated by such offices.
A. 9833 Rivera, P.	S.7023 Huntley	Referred to Ways and Means	This bill would establish a new Division of Minority Mental Health within OMH and would establish a Minority Mental Health Council within such Division.
A. 10404 Ortiz	S. 6682 Huntley	Veto # 6728	This bill would extend for seven years amendments made to the Community Service Boards.
A. 10405 Ortiz	S. 6683 Huntley	Veto # 6729	This bill would extend the Community Mental Health Support and Workforce Reinvestment Act for seven years.
A. 10448 Gordon	S. 7649 Huntley	Chapter # 262	This Law extends the ability of certain persons to obtain records dating back to 2003 regarding abuse or mistreatment in OMH, OPWDD, or OASAS facilities.
A. 10790 Ortiz	S. 7254 Morahan	Chapter # 139	This Law extends the Assisted Outpatient Treatment program until June 30, 2015.
A. 10791 Ortiz	S. 7253 Morahan	Chapter # 198	The Law removes the requirement that entities would have to file an application with OPWDD before filing an application with the Secretary of State.

ASSEMBLY BILL # SPONSOR	SENATE BILL # SPONSOR	FINAL ACTION	DESCRIPTION
A. 10113 Weisenberg	S. 6880 McDonald	Referred to Ways and Means	This bill would create the New York Autism Spectrum Disorders Treatment, Training and Research Council.
A. 10824-B Cusick	S. 7432-A Morahan	Veto # 6811	This bill would authorize Mental Hygiene Legal Services to provide legal assistance to certain patients or residents in a residential healthcare facilities or nursing home.
A. 11054 Ortiz	S. 8062 Adams	Referred to Ways and Means	This bill would require the commissioner of OMH to develop a public education initiative to eliminate stigma and misinformation about mental illness and chemical dependency among service members, veterans, and their families.
A. 11197 Ortiz	S. 7889 Huntley	Chapter # 168	This Law changes the name of the Office of Mental Retardation and Developmental Disabilities (OMRDD) to the Office for Persons with Developmental Disabilities (OPWDD).
A. 11403 Rules (Ortiz)	N/A	Referred to Codes	This bill would authorize OMH to conduct criminal background checks for anyone over the age of eighteen who resides in a Family Care Home or Family Based Treatment Program.

APPENDIX C

LAWS ENACTED IN 2010

ASSEMBLY BILL # SPONSOR	SENATE BILL # SPONSOR	FINAL ACTION	DESCRIPTION
A. 9825-A Weisenberg	S. 6772-A Morahan	Chapter # 192	This Law requires that OMH and OPWDD establish procedures to receive allegations or complaints of abuse or mistreatment of patients served by programs licensed or operated by such offices.
A. 10448 Gordon	S. 7649 Huntley	Chapter # 262	This Law extends the ability of certain persons to obtain records dating back to 2003 regarding abuse or mistreatment in OMH, OPWDD, or OASAS facilities.
A. 10790 Ortiz	S. 7254 Morahan	Chapter # 139	This Law extends the Assisted Outpatient Treatment program until June 30, 2015.
A. 10791 Ortiz	S. 7253 Morahan	Chapter # 198	The Law removes the requirement that entities would have to file an application with OPWDD before filing an application with the Secretary of State.
A. 11197 Ortiz	S. 7889 Huntley	Chapter # 168	This Law changes the name of the Office of Mental Retardation and Developmental Disabilities (OMRDD) to the Office for Persons with Developmental Disabilities (OPWDD).

APPENDIX D

LEGISLATION VETOED IN 2010

ASSEMBLY BILL # SPONSOR	SENATE BILL # SPONSOR	FINAL ACTION	DESCRIPTION
A. 10404 Ortiz	S. 6682 Huntley	Veto # 6728	This bill would extend for seven years amendments made to the Community Services Boards.
A. 10405 Ortiz	S. 6683 Huntley	Veto # 6729	This bill would extend the Community Mental Health Support and Workforce Reinvestment Act for seven years.
A. 10824-B Cusick	S. 7432-A Morahan	Veto # 6811	This bill authorizes Mental Hygiene Legal Services to provide legal assistance to certain patients or residents in a residential healthcare facilities or nursing home.