



## **2019 Legislative Session Summary**

The National Alliance on Mental Illness, Maryland and our 11 local affiliates across the state represent a statewide network of more than 45,000 families, individuals, community-based organizations and service providers. NAMI Maryland is dedicated to providing education, support and advocacy for persons with mental illnesses, their families and the wider community.

NAMI Maryland proactively pursued a number of legislative advocacy priorities this session, including improvements to the Outpatient Civil Commitment pilot program, creating a division within the state to improve coordinate on Crisis Intervention Teams, opposing a “carve in” of our public behavioral health system, and successfully protecting behavioral health services during the debate about increasing the minimum wage.

The following report outlines the advocacy priorities adopted by the NAMI Maryland Board of Directors in late 2018 and includes the majority of bills NAMI Maryland worked on – whether it was a NAMI Maryland top priority, offering testimony (written and/or verbal) through legislative meetings, or coalition support – we actively engaged on close to 40 individual bills and monitored approximately 80 pieces of legislation this session.

### **NAMI Maryland Priority Issue: Access to Effective Treatment + Support Stronger Parity Laws**

Barriers to effective treatment are especially problematic for individuals with mental illness and their families. NAMI strongly supports the reduction of legal and other barriers that prevent access to timely, effective, and affordable services, including enhanced enforcement of insurance parity requirements. From routine denials of coverage to lack of in-network providers to burdensome authorization processes, accessing mental health care in Maryland is often difficult and expensive. NAMI also supports efforts to reduce barriers and increase access to effective treatment, reaching and treating individuals with mental illness, and inclusion of family members in all of these efforts. We advocate for effective outreach, engagement, treatment and community supports for all those affected by mental illness in Maryland, no matter their race, social, geographical, economic or other status.

#### **Outpatient Civil Commitment Pilot Program Statewide Expansion – SB 403 (Augustine) /HB 427 (Barron) PASSED**

As introduced, this legislation would have expanded the Outpatient Civil Commitment Program (OCC) piloted in Baltimore City around the state. During our bill hearings, both the House and Senate posed fair questions about the small number of individuals served by the pilot and whether the pilot merits expansion statewide. NAMI Maryland worked with our bill sponsors to adopt an amendment that keeps the pilot going in Baltimore City, and most importantly, includes the family member referral process for admission into the Baltimore City OCC pilot. As part of our advocacy on this issue, NAMI MD was invited to brief the Health and Government Operations Public Health Subcommittee on the pilot in early February along with our fellow stakeholders. During the interim, NAMI Maryland will continue working with the stakeholder workgroup, providing oversight of the OCC pilot continuation, working on any regulatory changes, and devising a referral process that empowers families to advocate on behalf of their loved ones.

The positive outcomes from the pilot project tell us that increased services like statewide Assertive Community Treatment (ACT), person centered care, peer support for things like staying in treatment and finding housing, supported employment, and more are successful in reaching individuals with mental

illness who are historically hard to treat. We know there's more work to do to prior to any future expansion and plan to continue working with stakeholders to ensure we're on the right track through the rest of the year.

This legislation was a priority bill for NAMI Maryland and we are proud to report back this victory.

**MCO Carve In – SB 482 (Kelley)/HB 846 (R. Lewis) – WITHDRAWN**

Legislation supported by the Managed Care Organizations (MCOs) in Maryland proposed to “carve in” mental health and substance use disorders among nine for-profit MCOs in Maryland. This legislation would have upended the way mental health and substance use disorder services are delivered to the 300,000 adults and children in the public behavioral health system. Similar efforts in other states have resulted in a devastating loss of services, including premature discharge from crisis facilities and hospitals, struggles accessing medication, and less individualized care. After hearing from a number of affiliate leaders across the state, talking with NAMI partners in other states, NAMI Maryland strongly opposed this legislation at the bill hearing. In addition, we worked with our partners in the Behavioral Health Coalition on grassroots outreach to ensure legislators heard from their constituents, and had meetings with Senators and Delegates to explain our deep concerns about the bill.

While the withdrawn legislation was a relief (and success!), it is clear the MCOs are determined to continue advancing their position on a carve in.

**Strengthening the Public Behavioral Health System – SB 975 (Hayes)/HB 938 (Rosenberg) and SB 976 (Hayes) /HB 941 (Rosenberg) – WITHDRAWN**

Supported by the Behavioral Health Coalition (including NAMI Maryland), this pair of bills was introduced as a response to the MCO's proposed carve in. The goal of the legislation was to increase system accountability, enhance quality of care provided, and improve outcomes for individuals in the public behavioral health system.

The strength of our combined opposition to the carve in bills and the alternative solutions offered by the Behavioral Health Coalition means that any future proposed changes to the public behavioral health system will likely require a thorough stakeholder process and extensive discussions about the best approach to service delivery for mental health and substance use.

**Preventing Insurers from Mid-Year Formulary Changes – HB 435 (Kelly)/SB 405 (Hayes) PASSED**

NAMI Maryland supported this legislation to improve access to affordable medication and treatment. Permitting insurers to suddenly decline to cover medication is a barrier to consistent and effective treatment that individuals with mental illness need. As amended, this legislation provides better consumer protections by requiring a 30-day notice about a formulary change. And, the bill expands the current process carriers must have in place to allow a member to receive an off-formulary prescription drug and keep the price affordable.

**Using Telehealth to Support Behavioral Health Services Statewide HB 570 (Sample-Hughes)/SB 178 (Eckardt) PASSED**

The declining pool of psychiatrists working with public sector and insured populations can make it difficult for outpatient mental health centers to meet staffing requirements set by the state. This legislation permits outpatient centers to use telehealth services to help meet their psychiatric medical director requirement. NAMI Maryland supported this legislation.

## **Parity Reforms: Increasing Supports for Behavioral Health Parity, Network Adequacy, and Billing**

An impressive package of legislation to strengthen mental health parity in Maryland was introduced this session, including:

- HB 599 (Kelly)/SB 631 (Augustine) which would have required greater accountability by insurance carriers so that regulators and consumers will know whether private health plans comply with parity protections. This would have leveled the playing field by giving regulators the information they need to make sure the health plan complies with the law and required insurance carriers to fix violations promptly. As amended, the bill requires carriers to use American Society of Addiction Medicine (ASAM) criteria when making medical necessity determinations for substance use disorder treatment – while it's a small change, it represents a step in the right direction.
- HB 837 (Sample-Hughes)/ SB 761 (Klausmeier) which would have required carriers that allow a consumer to get treatment from a non-network provider to pay a set reimbursement to a provider who agrees to treat the patient and get paid directly by the insurer. The consumer would get the benefit of paying for the treatment as if the provider were a network provider and would not be billed for the difference between the provider's bill and the carrier's payment. This legislation failed to pass.

NAMI Maryland strongly supported this legislation. Unfortunately, these bills were met with vocal opposition from the insurance carriers, and the work towards mental health parity will continue within our advocacy community over the interim and into the 2020 legislative session.

## **NAMI Maryland Priority Issue: Criminal Justice**

Improving the criminal justice system's response to individuals with mental illness and their families and increase diversion from criminal justice to community services is a top priority for NAMI. Marylanders with mental illness are increasingly involved with the criminal justice system. The consequences can be costly for communities, law enforcement and corrections and tragic for individuals with mental illness and their families. NAMI strongly supports efforts to divert individuals from the criminal justice system and a greater commitment to identifying and treating those already involved with the criminal justice system, and to prevent individuals with mental illness from interacting with the criminal justice system where at all possible.

### **Crisis Intervention Team Technical Assistance Center – SB 815 (Smith)/HB 1210 (Charkoudian)**

NAMI Maryland led the advocacy efforts on this priority legislation, which would have created a technical assistance center in the Governor's Office of Crime Control and Prevention. There are currently Crisis Intervention Team (CIT) efforts underway as part of programming in the Behavioral Health Administration, the Department of Public Safety and Corrections, and local jurisdictions across the state, including county and municipal law enforcement agencies. Creating a coordinating body would help improve law enforcement response to individuals with mental illness, secure grant funding for training and connection to services, and take CIT efforts in Maryland to the next level.

The benefit of CIT is that it provides law enforcement-based crisis intervention training for helping those individuals with mental illness. In addition, a robust CIT program works in partnership with those in mental health care to provide a system of services that is friendly to the individuals with mental illness, family members, and police officers. Other states like Ohio and New Jersey have created similar technical assistance centers.

As amended by the House and with the support of the Governor's Office of Crime Control and Prevention, the Technical Assistance Center would be based in GOCCP. Currently, GOCCP is working on other law

enforcement led mental health diversion programs, would provide support for local and statewide grants to facilitate broader CIT programming and serve as an intra-agency coordinating body at the state level.

Following a great bill hearing, HB 1210 passed the House 133-6, and unfortunately, the Senate Judicial Proceedings Committee failed to vote on either bill before the Maryland General Assembly adjourned for the year. We are very proud of the progress made on this front and will continue to work on this issue through the interim. NAMI Maryland is grateful for the support on this bill from local CIT coordinators, the Vera Center for Justice, the CIT Subcommittee of the Behavioral Health Criminal Justice Partnership, Behavioral Health Services Baltimore, Marian House, and others.

### **Fairer Treatment and State Accountability for Inmates with Mental Illness – HB 306 (Sydnor)/ SB 402 (Carter) FAILED TO PASS**

Supported by SARDA, the Maryland Association of Counties, NAMI Maryland and others, this legislation would have required involuntary psychiatric hospital admission of inmates with mental illness under certificates by two mental health professionals as needing inpatient treatment for the protection of the individual or another. The goal of the bill was to prompt the state into increasing hospital beds and improve outcomes for inmates by ensuring they receive treatment rather than risk declining health or crisis in jail. Although the bill was amended and passed the Senate, it failed to pass the House.

### **Decriminalizing Suicide – HB 77 (Moon)/SB 395 (Waldstreicher) PASSED**

This bill decriminalizes suicide in Maryland and prohibits criminal charges for attempted suicide. Although individuals are rarely charged with attempted suicide in Maryland, in 2018, a Caroline County man was charged with attempted suicide in an effort to get him into medical treatment. Criminalizing mental illness contributes to stigma, is discriminatory, and locking individuals up for being sick may contribute to prolonged mental health crisis. There are many positive, proven ways to reduce suicide and NAMI Maryland is proud to share in this victory.

### **Medication Assisted Treatment – HB 116 (Barron)/SB 846 (West) PASSED**

As amended, this legislation establishes a medication assisted treatment program (MAT) in Howard, Montgomery, Prince George's, and St. Mary's Counties, requires correctional facilities to assess individuals for an opioid use disorder (OUD) and ensure medication assisted treatment (MAT) is available. During incarceration and prior to release, the correctional facility will provide connections to ensure medication continuity, access to peer recovery specialists, and a reentry plan for individuals with OUD. NAMI Maryland supported this legislation.

### **Strengthening Maryland's Response to Bullying – SB 103 (Zirkin) /HB 181 (Cardin) PASSED**

Grace's Law is an anti-bullying measure that creates and increases criminal penalties for cyberbullying of children – especially when social media is used to induce a minor to die by suicide. Named for a Maryland teenager who committed suicide after prolonged harassment on social media and elsewhere on the internet, NAMI Maryland supports efforts to reduce bullying and suicide prevention and was proud to testify in favor of this life saving legislation.

### **Diverting Individuals with Mental Illness in the Courts – HB 693 (Barron)/SB 746 (Lam) FAILED TO PASS**

This legislation would have created uniform, statewide, best practice screening procedures for Maryland courts to implement. The goal of the bill is to help the courts identify and either divert or provide treatment for individuals with mental illness.

## **NAMI Maryland Priority Issue: Protect and Increase Funding for Behavioral Health Services**

Maryland's mental health service delivery system is fragmented and remains underfunded. Many with mental illness still experience disparities in the quality, timeliness, and availability of mental health services based on where they live. In 2017, we successfully passed the HOPE Act, legislation that requires funding for increased services and reimbursement rates for behavioral health providers. In 2018, we successfully passed the Behavioral Health Crisis Response Grant Program, legislation that provides \$12 million in funding spread out over three years for local community crisis services support. Advocating in support of funding is an important part of our advocacy work.

### **Protecting Behavioral Health Providers in the Minimum Wage – Fight for Fifteen – Minimum Wage Increase - HB 166 (Fennell)/SB 280 (McCray) PASSED**

As introduced, the bill would have increased the minimum wage gradually to \$15 per hour and provided reimbursement rates for developmental disabilities workers, but failed to include the same protections for behavioral health providers. In 2014, the last minimum wage increase passed and included a similar exclusion of the behavioral health provider community. In the years since, it's been an uphill battle to adequately fund our public behavioral health program, like supporting community-based programs offering mental health and addiction treatment, residential services, and psychiatric rehabilitation.

NAMI Maryland also viewed this exclusion as a stigmatizing issue – if the state is going to increase the minimum wage, then Maryland should commit to paying behavioral health providers fairly – like the accommodations made for developmental disabilities providers. Otherwise, we send the message that behavioral health services are not equal to other health conditions and jeopardize the workforce caring for the nearly 300,000 Marylanders using Maryland's public behavioral health system. In the middle of an opioid epidemic, with suicide rates on the rise, and at a time when the Kirwan Commission is considering school based behavioral health services, provision of these expanded services (which we strongly support) requires fair compensation.

With our partners in the behavioral health coalition, NAMI Maryland worked to amend the bill to ensure the workers in the public behavioral health system would be fairly reimbursed by the state. This legislation will protect behavioral health and developmental disabilities providers and raise the minimum wage to \$15 per hour through a 6-year phase in period. The legislation passed the House and Senate, was vetoed by the Governor, and then the veto was overridden – all before the end of session! This was an important issue for NAMI Maryland family members and we're thankful to our grassroots members who contacted their legislators in support of our position.

### **Defending Behavioral Health Budget Priorities – Fiscal Year 2020 Budget**

With the introduction of his FY 2020 budget, NAMI Maryland was very pleased that Governor Hogan supported Marylanders with behavioral health needs by fully funding prior budget commitments for mental health and substance use disorder services provided for in the HOPE Act and Keep the Door Open funding.

Over the past two years, the General Assembly approved legislation to provide a long overdue 3.5% increase in funding for community behavioral health services, \$3 million in crisis response funding for local jurisdictions and other initiatives to improve the delivery of behavioral health care in primary care settings.

As passed, the budget includes these priorities, and NAMI Maryland worked through the session to defend their inclusion. Executive Director Kate Farinholt's testimony and expertise on the budget was especially important this year.

## General Legislation

NAMI Maryland supported a number of other bills brought to us by members, coalition partners, and legislators. Raising awareness through notices, public commemoration, or creating additional funding for important services are all efforts NAMI Maryland supports and we appreciated the opportunity to weigh in on the following bills:

### **Behavioral Health Services Matching Grant Program for Service Members and Veterans – HB 1170 (Young)/SB 528 (Smith) FAILED TO PASS**

This legislation would have established the Behavioral Health Services Matching Grant Program for Service Members and Veterans to ensure that behavioral health providers who serve the 400,000 veterans and service members in Maryland have adequate resources to provide these critical services. We worked with the Easter Seals on this legislation and were joined by a NAMI Maryland member and NAMI Homefront trainer in support of this important program.

### **Post-Traumatic Stress Injury Awareness – SB 504 (Peters) FAILED TO PASS**

Supported by NAMI Maryland, this legislation would have designated June 27 as Post-Traumatic Stress Injury Awareness Day and would have required the Governor to proclaim the month of June as Post-Traumatic Stress Injury Awareness Month.

### **Health Crisis Hotline – HB 1109 (Ivey) FAILED TO PASS**

Supported by the NAACP, NAMI Maryland, and others this legislation would have required employers to conspicuously post a printed notice of the state's health crisis hotline in an effort to connect individuals to services and reduce opioid dependence and suicide.

### **Commission to Study Mental Health and Behavioral Health in Maryland**

Although this wasn't a legislative measure, Governor Hogan took noteworthy action on mental health this session too. Building on his work to reduce substance use disorders and combat the opioid crisis in Maryland, Governor Hogan created the Commission to Study Mental Health and Behavioral Health through executive order in January.

He appointed Lieutenant Governor Rutherford as Chairman and charged the commission with "advising and assisting the Governor in improving access to a continuum of mental health services across the state." The first commission meeting was in late March, and during the meeting the commission shared organizing information, including opportunity for public participation at a series of regional meetings across the state, with the goal of a full report due in December.