



# **Joint Committee on Mental Health and Substance Abuse**

**2007-2008 Biennial Report**

## **COMMITTEE CHAIRS**

**RUTH B. BALSER**  
HOUSE CHAIR

**GALE D. CANDARAS**  
SENATE CHAIR



**Representative Ruth B. Balser and Senator Gale D. Candaras, Co-Chairs of the Joint Committee on Mental Health and Substance Abuse, join Governor Deval Patrick as he signs the Mental Health Parity bill into law. Also joining them are Department of Mental Health Commissioner Barbara Leadholm and Representative Ellen Story. (August 5, 2008)**

**THE COMMONWEALTH OF MASSACHUSETTS  
JOINT COMMITTEE ON MENTAL HEALTH AND  
SUBSTANCE ABUSE**

**2007-2008**

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House: Michael B. Carr, Esq., Chief Counsel for the Committee  
Matthew S. Cohen, Research Analyst for the Committee  
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Senate: Aaron Saunders, Chief of Staff to Senator Candaras  
Sarah Saunders, Legislative Director to Senator Candaras

December 2008

Dear Colleague,

The Joint Committee on Mental Health and Substance Abuse had an extraordinarily successful 2007-2008 Legislative Session. As Committee Chairs, we are pleased to report that the Committee has continued the Legislature's commitment to the important areas of mental health and substance abuse and has continued to educate members of the Legislature and the public about mental health and substance abuse issues.

There were two very significant bills heard before the Joint Committee on Mental Health and Substance Abuse during the 2007-2008 Legislative Session that were signed into law by Governor Deval Patrick. Both pieces of legislation will profoundly affect an individual's access to mental health and substance abuse treatment in the Commonwealth. *An Act Relative to Mental Health Parity* requires insurers to cover mental health and substance abuse conditions to the same extent that they cover other medical conditions. This legislation combined with the federal mental health parity legislation, that also passed this year, will ensure that virtually everyone in Massachusetts will be covered for mental health and substance abuse treatment. *An Act Relative to Children's Mental Health* will improve how the Commonwealth oversees, provides and coordinates children's behavioral health services and will ensure the early identification and screening of behavioral health issues in children. This bill, also signed into law, was spearheaded by a large coalition of families, providers, and advocates from across Massachusetts.

Eighty-three bills were referred to the Joint Committee on Mental Health and Substance Abuse during the 2007-2008 Legislative Session, an increase from forty-eight in the 2005-2006 Legislative Session. Additionally, the Committee held four informational hearings during the 2007-2008 Legislative Session. Two hearings were held by the Committee, one in Boston and the other in Springfield, to learn about the strengths and weaknesses of the mental health and substance abuse system in the Commonwealth. The third hearing was held jointly with the Joint Committee on Public Safety and Homeland Security to take a closer look at the higher than average rate of prison suicides in Massachusetts and the prevalence of mental illness in our prison system. The fourth hearing was held by Representative Ruth B. Balsler, House Chair of the Committee, and Representative Daniel E. Bosley, House Chair of the Joint Committee on Economic Development and Emerging Technologies on addiction and mental health issues related to gambling.

We share our successes with the many consumers, providers, advocates, and coalitions who work with us. We hope that this report will inform you not only of those successes but will also indicate the areas that still need work. Our goal continues to be to make Massachusetts a world class leader of care for those who live with the challenges of mental illness and/or addictions.



RUTH B. BALSER  
House Chair



GALE D. CANDARAS  
Senate Chair

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## **Legislative Accomplishments**

Several bills heard before the Joint Committee on Mental Health and Substance Abuse during the 2007-2008 Legislative Session were signed into law by Governor Deval Patrick. Listed below is a summary of these bills as well as other accomplishments.

### **An Act Relative to Mental Health Parity**

This legislation significantly expands access to mental health and substance abuse treatment. The Mental Health Act of 2000 requires health plans to cover 9 serious mental health conditions to the same extent that other medical conditions are covered but maintained caps on coverage on all other disorders. The 2008 legislation adds 4 major disorders to the list that receive full parity, they are: substance abuse, eating disorders, post-traumatic stress disorders, and autism. The bill also provides the Commissioner of the Department of Mental Health unilateral authority to require unlimited coverage for any additional disorder contained in the Diagnostic and Statistical Manual (DSM). Disorders in the DSM not included in the list, and not authorized by the Commissioner of Mental Health, are still capped at 60 inpatient days and 24 outpatient visits a year. This legislation continues to fight stigma against a vulnerable population and will allow Massachusetts to remain a national leader in protecting access to mental health and substance abuse treatment. It was signed by Governor Patrick on August 5, 2008, and is now Chapter 256 of the Acts of 2008. This legislation represents a historic expansion in access and combined with the federal parity law, and in the context of near-universal coverage in Massachusetts, will ensure that virtually every resident of Massachusetts will have full access to mental health and substance abuse treatment.

### **An Act Relative to Children's Mental Health**

This legislation will improve how Massachusetts oversees, provides and coordinates children's behavioral health services and will ensure the early identification and screening of behavioral health issues in children. This legislation will enable school personnel to receive mental health consultation and guidance; provide behavioral health consultations for very young children in early education and preschool settings; and creates processes to move "stuck kids" with mental health needs who are ready for discharge from acute care facilities to more appropriate community settings. It was signed by Governor Patrick on August 20, 2008, and is now Chapter 321 of the Acts of 2008.

### **An Act to Improve Access to Mental Health Services**

This legislation will prevent the use of non-competition agreements by employers to restrict the practice area of social workers so that they may continue to see their clients upon leaving a particular practice. This new law allows mental health consumers to continue with their therapist if they chose. By statute, Massachusetts bars the use of non-competition agreements to restrict the employment of physicians, nurses, and psychologists; and the Supreme Judicial Court has barred the use of non-competition agreements to restrict the employment of lawyers. The rationale for these prohibitions on

restrictive covenants is that such restrictions on employment interfere with the public's access to legal and medical services. There are no such protections in place for social workers. This legislation will provide this protection to social workers and their clients. It was signed by Governor Patrick on August 25, 2008, and is now Chapter 323 of the Acts of 2008.

### **An Act to Protect the Mentally Ill in Emergency Rooms**

While this bill did not become law, it prompted the Departments of Mental Health and Public Health to convene a working group of stakeholders to discuss the emergency room treatment for people with behavioral health disorders. It included providers and consumers. Out of these discussions came recommendations and policy changes that will improve the way that mentally ill patients are treated in emergency rooms across the state.

**Bills Referred**  
**Joint Committee on Mental Health and Substance Abuse**  
**2007-2008**

Eighty-three (83) bills were referred to the Joint Committee on Mental Health and Substance Abuse during the 2007-2008 Legislative Session, an increase from the forty-eight (48) that were referred during the 2005-2006 Legislative Session. Forty-seven (47) bills were moved favorably by the Committee. Forty-three (43) of these bills, per Joint Rule 1E, were sent by secondary referral to the Joint Committee on Health Care Financing. After review by Health Care Financing, fourteen (14) bills moved forward with favorable reports from that committee. The following three (3) bills were signed into law by Governor Patrick: H.1871, An Act Relative to Mental Health Parity; H.1872/S.1133, An Act Relative to Children's Mental Health; and H.1873, An Act to Improve Access to Mental Health Services.

A review of the bills referred indicates that the Committee focused on the prevention and treatment of mental illness and addictions, diversion of mentally ill and addicted individuals from the criminal justice system, expanding access to treatment, furthering mental health parity, and providing better access to mental health services for children.

Many of the concepts and goals found in the legislation that did not become law were incorporated in the FY08 and FY09 budgets.

**Bill Summaries**  
**Joint Committee on Mental Health and Substance Abuse**  
**2007-2008**

H1871, “An Act Relative to Mental Health Parity”

Sponsor: Representative Ruth B. Balsler

Summary as referred: Requires insurance companies to offer coverage equal to that provided for physical ailments to all illnesses as defined in the Diagnostic and Statistical Manual.

Summary as redrafted by MHSA: Removes arbitrary limits on mental health and substance abuse services so that nondiscriminatory coverage is provided and medically necessary treatment is available for all mental disorders as described in the DSM.

Action by MHSA: Favorable as redrafted. Signed into Law by the Governor on August 5, 2008, and is now Chapter 256 of the Acts of 2008.

H1872, “An Act Relative to Children’s Mental Health”

Sponsor: Representative Ruth B. Balsler

Summary as referred: Addresses numerous issues related to children and mental illness. This bill would require all state agencies to coordinate behavioral health services for children with the Department of Mental Health (DMH). Makes the Mental Health Commission for Children permanent; creates a Children’s Behavioral Health Research and Evaluation Council to assist with the research, evaluation, and reporting needs of DMH; creates an Office of Compliance Coordination that will aid compliance with *Rosie D*; mandates that all state agencies identify children with complex behavioral health needs; requires the Department of Early Education and Care to provide behavioral health consultation services in early education and care programs; establishes a fund to assist DMH in moving children who are “stuck” in an inpatient facility to more appropriate settings; and requires insurers to reimburse mental health professionals for collateral services for children. This legislation would further require that school committees assign a full-time physician, nurse practitioner, or registered nurse to each school in their district. Finally, the bill grants authority to the Division of Insurance to regulate mental health carve-out companies and requires insurance companies to offer coverage equal to that provided for physical ailments to all illnesses as defined in the Diagnostic and Statistical Manual.

Summary as redrafted by MHSA: Establishes a behavioral health task force to address mental health needs in schools. Limits the requirement that insurance companies pay for collateral services. Removes language relating to changing existing insurance law to include full mental health parity (this was addressed by H.1871). Modifies language related to “stuck” children. Lessens some mandates on the Department of Early Education and Care. Made changes to the dispute resolution process in complex care cases.

Action by MHSA: Favorable as redrafted. Signed into law by Governor Patrick on August 20, 2008 and is now Chapter 321 of the Acts of 2008.

H1873, “An Act to Improve Access to Mental Health Services”

Sponsor: Representative Ruth B. Balser

Summary as referred: Renders void the part of a contract or agreement which includes a restriction on the right of a licensed social worker to practice in any geographic area for any period of time after termination of previous employment.

Action by MHSA: Favorable. Signed into law by Governor Patrick on August 25, 2008 and is now Chapter 323 of the Acts of 2008.

H1874, “An Act Improving Access to Rehabilitation Counseling”

Sponsor: Representative Christine E. Canavan

Summary as referred: Requires health insurers to reimburse rehabilitation counselors for outpatient mental health services by recognizing licensed rehabilitation counselors as licensed mental health professionals.

Summary as changed by MHSA: Adds language stating that rehabilitation counselors will be reimbursed only for activities that fall within their scope of practice.

Action by MHSA: Favorable as changed.

H1875, “An Act Relative to the Location of Methadone Clinics”

Sponsor: Representative Cheryl A. Coakley-Rivera

Summary as referred: States that no licensed methadone facility or clinic can be located within a radius of 1,000 feet of the property line of an elementary, secondary, vocational, public, or private school, licensed preschool, or any head start program and/or within one hundred feet of a public park.

Action by MHSA: Study.

H1877, “An Act Relative to Controlled Substances”

Sponsor: Representative Robert A. DeLeo

Summary as referred: Creates a fine for a person who sells a substance that emulates (by taste, appearance, or package) a prohibited substance to a person under 18 years of age. In addition, it changes “3,4-methylenedioxy methamphetamine (MDMA)” from a Class B to a Class A drug.

Action by MHSA: Study.

H1878, “Resolve Providing for a Study by the Executive Office of Health and Human Services Relative to Nonprofit Group Homes”

Sponsor: Representative James H. Fagan

Summary as referred: Directs the Executive Office of Health and Human Services to conduct a study regarding the distribution of nonprofit group homes throughout the state.

Action by MHSA: Study.

H1879, “An Act Relative to Homeless Shelters in the Commonwealth”

Sponsor: Representative Robert F. Fennell

Summary as referred: Prohibits drinking alcohol or using any narcotic on the grounds of shelters, lodging houses, and facilities housing the homeless. Further, this legislation requires that each shelter and lodging house must provide alcohol and drug abuse programs to its residents in consultation with the Department of Public Health.

Action by MHSA: Study.

H1880, “An Act Relative to Regulating OxyCodone”

Sponsor: Representative Robert F. Fennell

Summary as referred: Makes the possession of OxyCodone a Class A drug offense.

Action by MHSA: Incorporated into H1913.

H1881, “An Act Authorizing the Department of Mental Health to Establish Teen Drop-In Centers”

Sponsor: Representative Jennifer L. Flanagan

Summary as referred: Establishes five pilot teen mental health drop-in centers that provide free and confidential access to mental health professionals.

Action by MHSA: Favorable.

H1882, “An Act Establishing a Children’s Mental Health Commission”

Sponsor: Representative Jennifer L. Flanagan

Summary as referred: Establishes a special commission to study the provision of children’s mental health services in public schools. The commission will also identify funding sources for the creation of a children’s mental health services collaborative fund.

Action by MHSA: Incorporated into H4276.

H1883, “An Act Relative to Creating a Difficult to Manage Unit within the Department of Mental Health”

Sponsor: Representative Patricia A. Haddad

Summary as referred: Creates within the Department of Mental Health separate difficult to manage units for men and women which would address and consider issues relative to the difficult to manage populations within the department and consistent to the former difficult to manage unit at Taunton State Hospital.

Action by MHSA: Favorable.

H1884, “An Act Relative to the Youth Alcohol Education Program to Reduce Underage Drinking and Promote Healthy Choices”

Sponsor: Representative Frank M. Hynes

Summary as referred: Anyone who is under the age of 21 and in possession of alcohol will be given the opportunity to avoid criminal penalties by agreeing to enroll in a youth alcohol education program as defined by the Department of Public Health. Upon successful completion of the program there will be no record of conviction, adjudication, or motor vehicle license penalty against the youth.

Summary as changed by MHSA: Removes language requiring persons enrolled in an alcohol education program to pay for the program.

Action by MHSA: Favorable as changed.

H1885, “An Act Relative to Substance Abuse Awareness”

Sponsor: Representative Bradley H. Jones, Jr.

Summary as referred: Allows the Department of Education in consultation with the Department of Public Health and the Department of Mental Health to change the curriculum of drug abuse education programs to reflect emerging trends of abuse of specific drugs.

Action by MHSA: Favorable.

H1886, “An Act Relative to Inpatient Admissions to Psychiatric Hospitals and Facilities Licensed by the Department of Mental Health”

Sponsor: Representative Kay Khan

Summary as referred: Requires that following a patient’s admission to a health care facility operated by, licensed by, or contracting with the Department of Mental Health a release of confidentiality form will be presented to the patient. The form will allow for the involvement of family members and outpatient providers.

Action by MHSA: Favorable.

H1887, “An Act Relative to Mental Health Services in Massachusetts Correctional Institutions, Houses of Correction, and Jails”

Sponsor: Representative Kay Khan

Summary as referred: Requires that mental health services be provided to individuals in county and state correction facilities. Additionally, each facility will comply with the American Psychiatric Task Force Report on Psychiatric Services in Jails and Prisons, or higher standards, for the provision of mental health care.

Action by MHSA: Favorable.

H1888, “An Act Establishing Assisted Outpatient Treatment”

Sponsor: Representative Kay Khan

Summary as referred: Establishes an involuntary outpatient commitment law, allowing the superintendent of a facility or hospital and a licensed physician or psychologist to petition the district court for the outpatient commitment of a patient.

Action by MHSA: Study.

H1889, “An Act Relative to the Civil Commitment of Women for Alcoholism and Substance Abuse to MCI Framingham”

Sponsor: Representative Kay Khan

Summary as referred: Prohibits the correctional facility in Framingham from being a placement option for committed females. In order to meet the resulting demand, the Department of Public Health will be required to establish and maintain the necessary number of secure treatment beds for women.

Summary as changed by MHSA: Changes language referring to psychologists to refer to psychiatrists.

Action by MHSA: Favorable as changed.

H1890, “An Act Relative to Mental Health”

Sponsor: Representative Peter J. Koutoujian

Summary as referred: States that the Department of Mental Health shall promulgate rules and regulations to protect the mental health of the people of the commonwealth.

Action by MHSA: Study.

H1891, “An Act Relative to the Treatment of Mentally Ill Patients in Emergency Room Facilities”

Sponsor: Representative Peter J. Koutoujian

Summary as referred: Grants the Department of Mental Health licensing authority over beds in emergency rooms that are designated for psychiatric or substance abuse patients.

Action by MHSA: Moved with H2042.

H1892, “An Act Relative to Department of Mental Health Patients”

Sponsor: Representative James R. Miceli

Summary as referred: Stipulates that when any patient or client of the Department of Mental Health (DMH) is being considered for unescorted privileges in a community with a DMH facility, the chief of police or his designee will be a full voting member of the panel that determines if the privilege will be granted.

Summary as redrafted by MHSA: Changes language and combines with H.1893 to create a more flexible system in which persons committed to a DMH facility are allowed to leave a treatment facility.

Action by MHSA: Favorable as redrafted with H1893, H4281.

H1893, “An Act Relative to the Temporary Release of Persons Under the Care of the Department of Mental Health”

Sponsor: Representative James R. Miceli

Summary as referred: Creates requirements that must be met prior to the release of a person within the care of the Department of Mental Health (DMH) on a furlough while unsupervised by a department employee. These include a review conducted by a group or panel established to review such releases, written notice to the Chief of Police at least 3 days prior to the release when a person with a felony conviction or a serious violent history is going to receive release, and a process for the Chief of Police to appeal the release.

Summary as redrafted by MHSA: Changes language and combines with H.1892 to create a more flexible system in which persons committed to a DMH facility are allowed to leave a treatment facility.

Action by MHSA: Favorable as redrafted with H1892, H4281.

H1894, “An Act Relative to Blood Alcohol Testing”

Sponsor: Representative Karyn E. Polito

Summary as referred: Changes the time when a breath test to determine blood alcohol content may be used from at the time of the alleged offense to within two hours of the alleged offense. Further, the legislation makes it harder to have a license that was suspended for refusing such a test reinstated. It also mandates automatic chemical testing of breath for alcohol when driver is involved in a collision with another motor vehicle or person that results in death.

Summary as redrafted by MHSA: Removes language related to reinstatement of a driving license and mandated breath testing at the scene of a fatal accident.

Action by MHSA: Favorable as redrafted, H4915.

H1895, “An Act Regarding Rights of Persons Receiving Services from Programs or Facilities of the Department of Mental Health”

Sponsor: Representative Denise Provost

Summary as referred: Creates a process for people who seek redress for violations of their rights as clients of the Department of Mental Health.

Summary as changed by MHSA: Changes the time after a hearing the Hearing Officer has to file his report from 30 days to 30 business days.

Action by MHSA: Favorable as changed, S2493.

H1896, “An Act Relative to the Treatment of Prisoners”

Sponsor: Representative Byron Rushing

Summary as referred: Requires that a prisoner who commits self-mutilation or attempts suicide will not be disciplined, segregated, isolated, or punished for the behavior beyond what is authorized by medical staff.

Summary as changed by MHSA: Changes language to allow prisoners who have self-mutilated or attempted suicide to be assessed either a psychiatrist or a psychologist.

Action by MHSA: Favorable as changed.

H1897, “An Act Increasing Public Safety by Increasing Access to Addiction Treatment”

Sponsor: Representative Byron Rushing

Summary as referred: Empowers the director of the Department of Public Health to establish a program for the treatment of substance dependent persons who are not eligible for assistance under any other program and who either lack health insurance or have insurance that does not cover necessary treatment.

Action by MHSA: Favorable.

H1900, “An Act to Require Equitable Payment from the Commonwealth”

Sponsor: Representative Angelo M. Scaccia

Summary as referred: Ensures that network hospitals are compensated at their full negotiated rate for all behavioral health services they provide to MassHealth patients who are clients of agencies within the EOHHS provided that the hospital can document that it engaged in good faith efforts to place clients in a suitable alternative setting.

Action by MHSA: Favorable.

H1901, “An Act Relative to Services for Persons with Mental Illness who are Living with Older Family Members or Primary Caretakers”

Sponsor: Representative Angelo M. Scaccia

Summary as referred: Provides an option to clients of the Department of Mental Health for residential or day services where the patient lives at home and the caretaker is 65 or older or has an extenuating medical condition.

Summary as changed by MHSA: Changes eligibility for the program to include not just persons over 65, but anyone suffering from an extenuating medical or other circumstance which create unreasonable stress or an unsafe or detrimental environment for either the caregiver or the persons with mental illness.

Action by MHSA: Favorable as changed.

H1902, “An Act Relative to Providing Appropriate Medical Care for Persons in Mental Health Facilities”

Sponsor: Representative Angelo M. Scaccia

Summary as referred: Mandates a “comprehensive physical examination” every twelve months for inpatient clients of the Department of Mental Health.

Action by MHSA: Study.

H1903, “An Act to Provide Services for Medically Ill and Mentally Ill Persons”

Sponsor: Representative Angelo M. Scaccia

Summary as referred: Creates 160 community residential placements through the Department of Mental Health that contain medical/nursing care components.

Action by MHSA: Study.

H1905, “An Act Concerning the Rights of Persons Receiving Services from Programs or Facilities of the Department of Mental Health to Daily Access to Fresh Air and the Outdoors”

Sponsor: Representative Frank I. Smizik

Summary as referred: Ensures that all persons receiving services from the Department of Mental Health would have the right to daily access to fresh air and the outdoors.

Summary as redrafted by MHSA: Changes language to allow for greater exercise of clinical judgment in implementing the proposed rules.

Action by MHSA: Favorable as redrafted with S1120, S2493.

H1906, “An Act Relative to Substance Abuse Treatment”

Sponsor: Representative Joyce A. Spiliotis

Summary as referred: Provides that people with an opiate addiction who receive coverage through MassHealth will be eligible for opiate blocker implant treatment.

Action by MHSA: Favorable.

H1907, “An Act Relative to Reimbursement for Drugs to Treat Mental Illness”

Sponsor: Representative Thomas M. Stanley

Summary as referred: States that restrictions on medications used to treat mental illness may not be imposed on Medicaid recipients.

Summary as changed by MHSA: Changes language to increase clarity.

Action by MHSA: Favorable as changed.

H1908, “An Act Relative to the Counting of Homeless Mentally Ill Individuals by Department of Mental Health Area Boards”

Sponsor: Representative Ellen Story

Summary as referred: Requires the Department of Mental Health (DMH) to count the number of homeless persons using DMH services.

Action by MHSA: Favorable.

H1909, “An Act Relative to the Mental Health Commission for Children”

Sponsor: Representative Ellen Story

Summary as referred: Extends the term of the Mental Health Commission for Children until December 31, 2008 for the purpose of advising the Commissioner of Mental Health on implementation of recommendations from the Commission’s report of July 1, 2005.

Action by MHSA: Incorporated into H4276.

H1910, “An Act Relative Establishing Substance Abuse Prevention and Treatment Pilot Programs in Schools”

Sponsor: Representative Brian P. Wallace

Summary as referred: Establishes comprehensive substance abuse prevention and treatment pilot programs in schools.

Action by MHSA: Study.

- H1911, “An Act Requiring Parental Notice of Treatment of Minors for Drug Overdoses”  
Sponsor: Representative Brian P. Wallace  
Summary as referred: Requires any physician or hospital that treats a person 17 or under for a drug overdoses to notify the child’s guardian and to provide contact information for the Bureau of Substance Abuse Services to the guardian.  
Action by MHSA: Incorporated into S1139, S2557.
- H1912, “An Act to Amend the Commonwealth’s Drug Treatment Program to Allow for the Diversion of Low Level Offenders under Court Supervision”  
Sponsor: Representative Martin J. Walsh  
Summary as referred: Makes it easier for persons charged with possession of an illegal substance to access treatment that will avoid criminal sanctions, while making it harder for a person charged with selling an illegal substance to access such treatment.  
Action by MHSA: Favorable.
- H1913, “An Act Requiring Prescription Drug Abuse Training for Medical Providers”  
Sponsor: Representative Steven M. Walsh  
Summary as referred: Requires that practitioners and physicians complete no less than 10 hours of training on pain management and identification of patients who are at high risk for prescription drug abuse.  
Summary as redrafted by MHSA: Adds language stating that such training will count towards medical professional’s continuing medical education licensing requirements. Further, it directed the Department of Public Health to develop the training program.  
Action by MHSA: Favorable as redrafted, H4529.
- H2042, “An Act to Protect the Mentally Ill in Emergency Rooms”  
Sponsor: Representative Ruth B. Balser  
Summary as referred: Requires the Departments of Public Health and Mental Health, in consultation with industry and consumer groups, to create and enforce regulations that would help ensure safe, effective care to people with mental illnesses in emergency rooms.  
Summary as changed by MHSA: Adds the Massachusetts Psychiatric Society to the list of organizations that would be consulted in drafting new regulations.  
Action by MHSA: Favorable as changed.
- H2144, “An Act Relative to Bridgewater State Hospital”  
Sponsor: Representative Kay Khan  
Summary as referred: Requires the medical director of Bridgewater State Hospital to comply with all applicable federal and state standards, statutes, and regulations. The director is also mandated to seek accreditation by the National Commission on Correctional Health Care and the Joint Commission on Accreditation of Hospitals.  
Action by MHSA: Favorable.

H2150, “An Act Relative to Publicly Funded Beds”

Sponsor: Representative Peter J. Koutoujian

Summary as referred: Requires that a public hearing be held by the Commissioner of the Department of Public Health, or a designee, 60 days before the removal of a publicly funded bed.

Action by MHSA: Favorable.

H3534, “An Act to Further Define Adverse Determinations by Insurers”

Sponsor: Representative Thomas P. Kennedy

Summary as referred: Expands the definition of “adverse determination” to state that, unless there is a preponderance of evidence otherwise, the body determining if care will be terminated must defer to the judgment of the treating clinician.

Action by MHSA: Favorable.

H3881, “An Act Relative to Juvenile Mental Health”

Sponsor: Representative Kay Khan

Summary as referred: Directs the Department of Mental Health, in collaboration with the Department of Youth Services and the Department of Public Health, to conduct a review of mental health and substance abuse needs of adolescents in the care of a juvenile court.

Summary as redrafted by MHSA: Adds language clarifying how the review will be conducted, and mandates the expansion of programs within the criminal justice system designed to assist juveniles in the system deal with mental health and substance abuse problems.

Action by MHSA: Favorable as redrafted, S2407.

S1085, “An Act Governing Removal of Certain Occupants to Clients of the Department of Social Services”

Sponsor: Senator Stephen J. Buoniconti

Summary as referred: Applies existing laws regarding under what conditions a person may be evicted from state operated residential housing to include persons in facilities licensed, funded, or operated by the Departments of Mental Health, Social Services, or Transitional Assistance.

Action by MHSA: Favorable.

S1114, “An Act Relative to Adult Day Health Services”

Sponsor: Senator Harriette L. Chandler

Summary as referred: Addresses the rates paid by the state to both institutional and non-institutional health care providers as determined by the Executive Office of Health and Human Services. This would simplify the system and adjust the rates from previous levels to reflect the current costs of such services.

Action by MHSA: Favorable.

S1115, “An Act Relative to Preventing the Use of the Narcotic Known as Ecstasy or Methylenedioxyamphetamine”

Sponsor: Senator Cynthia Stone Creem

Summary as referred: Requires the Executive Office of Health and Human Services to develop a public service campaign aimed at educating young adults and teenagers on the dangers of using or abusing ecstasy and several perscription drugs.

Action by MHSA: Favorable.

S1116, “An Act to Establish a Public Guardianship Commission”

Sponsor: Senator Cynthia Stone Creem

Summary as referred: Establishes a commission to help determine guardianship rules and regulations. Further, the commission will create a body to help people in need of guardianship find a suitable guardian.

Action by MHSA: Favorable.

S1117, “An Act Requiring Victims to be Notified of Certain Hearings Concerning the Custodial Status of Individuals Adjudged Not Guilty of a Crime by Reason of Mental Illness or After Being Found Not Competent to Stand Trial”

Sponsor: Senator Cynthia Stone Creem

Summary as referred: Requires that upon the release of a person found not guilty by reason of mental illness or incompetency to stand trial, the District Attorney, the victim of the crime, and the victim’s family must be notified. The victim and the family must also be notified when said person is granted any temporary release.

Action by MHSA: Study.

S1118, “An Act to Protect Patient Confidentiality”

Sponsor: Senator Susan C. Fargo

Summary as referred: States that, with limited exceptions, in any court or preliminary proceeding, and in legislative and administrative proceedings, a person has the privilege of refusing to disclose, and of preventing a witness from disclosing, any communication with a licensed mental health counselor relative to the diagnosis or treatment of said person’s mental condition.

Action by MHSA: Study.

S1119, “An Act Regulating the Sitting of Methadone Treatment Facilities”

Sponsor: Senator Jack Heart

Summary as referred: Require all methadone treatment facilities to receive approval from the legislative body of a town or city before the facility is allowed to operate within that city.

Action by MHSA: Study.

S1120, “An Act to Provide Daily Access to Fresh Air for Clients of the Department of Mental Health”

Sponsor: Senator Patricia D. Jehlen

Summary as referred: Ensures that all persons receiving services from the Department of Mental Health have the right to daily access to fresh air and the outdoors.

Summary as redrafted by MHSA: Changes language to allow for greater exercise of clinical judgment in implementing the proposed rules.

Action by MHSA: Favorable as redrafted with H1905, S2493.

S1121, “An Act to Impose a Civil Fine for the Possession of Marijuana”

Sponsor: Senator Patricia D. Jehlen

Summary as referred: Lowers the penalties for possession of marijuana.

Action by MHSA: Favorable.

S1125, “An Act Requiring the Division of Medical Assistance to Reimburse Hospitals for the Costs of Psychiatric Patients on Medical Units”

Sponsor: Senator Richard T. Moore

Summary as referred: Ensures that hospitals are reimbursed at the Division of Medical Assistance’s “standardized payment amount per discharge rate” for services provided to mentally ill patients who are hospitalized on medical units.

Action by MHSA: Favorable.

S1126, “An Act to Preserve Access to Behavioral Health Services”

Sponsor: Senator Richard T. Moore

Summary as referred: Establishes a commission that will recommend legislative or regulatory language that will support access to, and increase providers’ ability to deliver, behavioral health services

Action by MHSA: Favorable.

S1127, “An Act Expanding the ‘Drug and Alcohol’ Exemption from Peer Reporting Requirements to also Exempt Mental Health Conditions”

Sponsor: Senator Richard T. Moore

Summary as referred: Currently, any health care provider must report to an advisory board violations of medical ethical standards. There is a protection from peer reporting for health care providers who are suffering from drug or alcohol addictions. This would expand that protection for providers suffering from mental illnesses.

Action by MHSA: Study.

S1128, “An Act Relative to the Nurses Rehabilitation Program Participant Bill of Rights”

Sponsor: Senator Michael W. Morrissey

Summary as referred: Provides added protection for nurses who elect to participate in the rehabilitation program. It states that all rehabilitation programs operated by the state must follow the Substance Abuse Rehabilitation Program (SARP) Participant Bill of Rights.

Action by MHSA: Study.

S1129, “An Act Making Technical Corrections to Chapter 232 of the Acts of 1998”

Sponsor: Senator Michael W. Morrissey

Summary as referred: Changes the name of the drug “Ketamine Hydrochloride” in Section 31 of Chapter 94C to “Ketamine.”

Action by MHSA: Favorable.

S1130, “An Act Creating a Jail Diversion Program”

Sponsor: Senator Karen E. Spilka

Summary as referred: Directs the Commissioner of DMH to establish a jail diversion program with the goal of diverting persons with mental illness out of the criminal justice system and into community based mental health and substance abuse treatment facilities. Such persons will be diverted only where clinically appropriate and consistent with public safety.

Action by MHSA: Favorable.

S1131, “An Act Relative to the Civil Commitment for Alcoholism or Substance Abuse at Certain Facilities”

Sponsor: Senator Karen E. Spilka

Summary as referred: States that no person may be committed for rehabilitative purposes to the correctional facilities at Bridgewater or Framingham. Further, it directs the Department of Mental Health and the Department of Public Health to study and report on the budgetary needs required to provide enough secure treatment beds required due to the changes this bill creates.

Action by MHSA: Favorable.

S1132, “An Act Criminalizing the Possession of Anabolic Steroids”

Sponsor: Senator Richard R. Tisei

Summary as referred: Makes possession of anabolic steroids a Class C criminal offense.

Action by MHSA: Study.

S1133, “An Act Improving and Expanding Behavioral Health Services for Children in the Commonwealth”

Sponsor: Senator Steven A. Tolman

Summary as referred: Addresses numerous issues related to children and mental illness. This bill would require all state agencies to coordinate behavioral health services for children with the Department of Mental Health (DMH). Makes the Mental Health Commission for Children permanent; creates a Children’s Behavioral Health Research and Evaluation Council to assist with the research, evaluation, and reporting needs of DMH; creates an Office of Compliance Coordination that will aid compliance with *Rosie D*; mandates that all state agencies identify children with complex behavioral health needs; requires the Department of Early Education and Care to provide behavioral health consultation services in early education and care programs; establishes a fund to assist DMH in moving children who are “stuck” in an inpatient facility to more appropriate settings; and requires insurers to reimburse mental health professionals for collateral services for children. This legislation would further require that school committees assign a full-time physician, nurse practitioner, or registered nurse to each school in their district. Finally, the bill grants authority to the Division of Insurance to regulate mental health carve-out companies and requires insurance companies to offer coverage equal to that provided for physical ailments to all illnesses as defined in the Diagnostic and Statistical Manual.

Action by MHPA: Moved with H1872, S2804.

S1134, “An Act Amending the Duration of Commitment of Alcoholics and Substance Abusers”

Sponsor: Senator Steven A. Tolman

Summary as referred: Changes the length of a civil commitment to not less than 30 days and not more than 90 days with a review of the necessity of continued commitment conducted on the 45<sup>th</sup>, 60<sup>th</sup>, and 75<sup>th</sup> day as long as commitment is warranted.

Summary as redrafted by MHPA: Adds language requiring the Department of Public Health (DPH) in conjunction with County Sheriffs’ offices to establish 5 secure substance abuse treatment facilities, each with 60 beds. Such beds would be used to treat people who are not currently facing criminal charges and at the conclusion of treatment each individual will be referred to a voluntary treatment program in the DPH. Finally, the State would be required to create a jail diversion program for persons suffering from substance abuse disorders to be used when clinically appropriate and consistent with maintaining public safety.

Action by MHPA: Favorable as changed, S2494.

- S1135, “An Act to Eliminate the Abuse of Controlled-Release Oxycodone”  
Sponsor: Senator Steven A. Tolman  
Summary as referred: Criminalizes any preparation which contains Oxycodone (excluding ones containing at least one active non-narcotic ingredient in a recognized therapeutic amount) which has been manufactured to delay absorption as a Class A drug and further classifies it as a schedule I substance.  
Action by MHSA: Incorporated into H1913.
- S1136, “An Act to Eliminate the Abuse of Controlled-Release Hydromorphone”  
Sponsor: Senator Steven A. Tolman  
Summary as referred: Criminalizes any preparation which contains oxy Hydromorphone (excluding ones containing at least one active non-narcotic ingredient in a recognized therapeutic amount) which has been manufactured to delay absorption as a Class A drug and further classifies it as a schedule I substance.  
Action by MHSA: Incorporated into H1913.
- S1137, “An Act to Reduce the Abuse of OxyContin”  
Sponsor: Senator Steven A. Tolman  
Summary as referred: States that no practitioner shall be allowed to prescribe OxyContin unless he undergoes 8 hours of pain management training.  
Action by MHSA: Incorporated into H1913.
- S1138, “An Act Providing for a Study of the Central Intake for the Placement of Substance Abusers in Treatment Facilities”  
Sponsor: Senator Steven A. Tolman  
Summary as referred: The Executive Office of Health and Human Services shall conduct a study to determine if the utilization of the central intake to place people with addictions in treatment facilities is adequate and necessary.  
Action by MHSA: Favorable.
- S1139, “An Act Requiring the Parental Notice of the Treatment of Minors for Drug Overdoses”  
Sponsor: Senator Steven A. Tolman  
Summary as referred: Requires any physician or hospital that treats a person 17 or under for a drug overdose to notify the child’s guardian and to provide contact information for the Bureau of Substance Abuse Services to the guardian.  
Summary as redrafted by MHSA: Adds language directing the Department of Public Health to design and distribute a pamphlet to parents of persons under 18 years old who entered an emergency room for a non-fatal drug overdose.  
Action by MHSA: Favorable as redrafted, S2557.

S1140, “An Act Establishing the Children’s Behavioral Health Research and Evaluation Institute”

Sponsor: Senator Steven A. Tolman

Summary as referred: Creates a Children’s Behavioral Health Research and Evaluation Institute in the Executive Office of Health and Human Services (EOHHS) which will be responsible for creating and sustaining the capacity in the EOHHS to annually determine the demand, delivery, cost, and effectiveness of behavioral health services for children and adolescents in state agencies. The goal will be to promote high-quality, safe, effective, timely, efficient, equitable, family-centered care.

Action by MHSA: Incorporated in H4276.

S1141, “An Act Providing for a Study of Sober Homes”

Sponsor: Senator Steven A. Tolman

Summary as referred: Directs the Executive Office of Health and Human Services to conduct a study relative to sober houses. The study shall determine if sober houses are effective at preventing the victimization and abuse of persons with substance abuse disorders and if sober houses should be regulated and licensed. The study shall also make recommendations for taking action to reduce the victimization and abuse of persons with mental illness in sober homes.

Summary as redrafted by MHSA: Directs the Department of Public Health to regulate and license sober homes and prevent the abuse of individuals in the programs.

Action by MHSA: Favorable as redrafted, S2276, S2839.

S1142, “An Act to Ensure Adequate Adult Day Health Services”

Sponsor: Senator Marian Walsh

Summary as referred: Establishes two Medicaid reimbursement rates for providers of adult day health services.

Action by MHSA: Favorable.

S1144, “An Act Relative to Substance Addiction Treatment”

Sponsor: Senator Marian Walsh

Summary as referred: Creates a special fund called the Substance Abuse Health Protection Fund (modeled on the now-repealed Tobacco Settlement Fund). The funds will come from a 5% sales tax on vendors for each sale of alcoholic beverages for off-site consumption. The fund will provide comprehensive substance abuse treatment for individuals addicted to alcohol or controlled substances (or both) and who have no private or public health insurance; substance abuse treatment programs; comprehensive school health education programs; workplace-based and community substance abuse prevention and drinking cessation programs; substance abuse-related public service advertising; and for other drug and alcohol education programs.

Action by MHSA: Favorable.

## **Informational Hearings**

The Joint Committee on Mental Health and Substance Abuse held four informational hearings during the 2007-2008 Legislative Session. Two hearings were held by the Committee, one in Boston and the other in Springfield, to educate the Committee members, legislators, and members of the public about the challenges facing mentally ill and addicted persons in Massachusetts. The third hearing was held jointly with the Joint Committee on Public Safety and Homeland Security to take a closer look at the higher than average rate of prison suicides in Massachusetts, the prevalence of mental illness in the prison system, and the treatment of mental illness in our prison system. The fourth hearing was held by Representative Ruth B. Balsler, House Chair of the Committee, and Representative Daniel E. Bosley, House Chair of the Joint Committee on Economic Development and Emerging Technologies on addiction and mental health issues related to gambling.

### **Mental Health and Substance Abuse, Boston – March 26, 2007**

The Joint Committee on Mental Health and Substance Abuse held an informational hearing on March 26, 2007 in Boston at the State House. The Committee invited witnesses from the administration, consumer groups, providers, and advocates to provide legislators and members of the public an opportunity to hear testimony on the range of issues involved in providing mental health and substance abuse services to the residents of the Commonwealth.

Lt. Governor Timothy Murray was the first to testify at the hearing. He stated that the current system for treating people with mental health and substance abuse problems works in most cases, but when it fails, it creates major disruptions in people's lives. He called for a more integrated approach between agencies.

Secretary Bigby, MD, of the Executive Office of Health and Human Services (EOHHS) echoed Lt. Governor Murray's concerns regarding interagency cooperation. Secretary Bigby noted that mental health and substance abuse problems impact people of all backgrounds, including children. The Secretary called for a focus on a number of areas, including: strengthening purchasing efforts, better understanding and study of outcomes, improved resource allocation, better understandings of what programs work, expanded health care reform to increase access to services, greater collaboration between state agencies, greater integration of mental health and substance abuse in primary care and health care agreements, a greater focus on prevention and early intervention, and on improving a framework to help gather data.

The then Commissioner of the Department of Mental Health, Elizabeth Childs, MD, began by discussing what services currently exist within the Department of Mental Health (DMH). Commissioner Childs noted that the principles that drive DMH are to provide simple, accessible, flexible care, in the least restrictive environment. DMH has a focus on rehabilitation and offers a holistic approach to care, including mental and physical care, housing assistance, job training, and help with relationships.

Commissioner Childs also voiced support for the ideals discussed by Secretary Bigby regarding how to improve services.

Assistant Commissioner Michael Botticelli from the Bureau of Substance Abuse Services (BSAS) spoke about the challenges facing substance abuse treatment in Massachusetts. He stated that substance abuse treatment in the Commonwealth has shifted from episodic care to a realization that substance abuse cannot be cured, but can be managed. The current programs are evidenced based and continual. Assistant Commissioner Botticelli stated that the issues facing BSAS include ensuring access to treatment, improving treatment effectiveness, realizing that for many people treatment requires at least 90 days of inpatient care, offering appropriate support that addresses issues such as job and housing issues and physical illness. Further, the state must examine how people with substance abuse are treated in the criminal justice system. He also noted the need for better data collection and discussed steps that BSAS has taken to improve data collection.

The Executive Director of the Governor's Interagency Council on Substance Abuse, Greg Hughes, testified before the Committee on how money is being used by the Executive Branch to support substance abuse treatment. He noted that there has been progress in keeping children from becoming involved in the criminal justice system. Mr. Hughes also discussed the success of the Sobriety High School program in the Commonwealth.

District Court Judge Rosemary Minehan discussed the current situation regarding the criminal justice system and persons suffering from substance abuse issues. Judge Minehan noted that there has been progress in securing funding for those in need, but also discussed the fact that there is still more need for treatment beds and services. She praised a program called the Court Clinic which is run by the Department of Mental Health and sends clinicians to the courts to assess persons accused of crimes who may be suffering from substance abuse. Judge Minehan stated that this program also needed more funding.

The President and Chief Executive Officer of the Massachusetts Society for the Prevention of Cruelty to Children, Marylou Sudders, testified on the impact mental illness has on children. She stressed the need to coordinate services for children across state agencies and noted that the Rosie D. case could present both troubles and opportunities to the Commonwealth.

The Massachusetts Chapter of the National Alliance for the Mentally Ill sent two representatives, former Executive Director Toby Fisher and Sidney Gelb. They expressed support for jail diversion programs that would assist individuals with mental illness accused of non-violent offenses receive treatment instead of being incarcerated. They also stressed the need for police training programs to help officers deal with individuals with mental illness.

Lisa Lambert of the Parent Advocacy League expressed a number of concerns. She noted that many programs do not make adequate efforts to keep children with their parents while undergoing treatment and that stigma associated with such illnesses further

the problem. Ms. Lambert noted that Rosie D represents a huge opportunity for the Commonwealth, but the current time-lines associated with it are unrealistic. She also noted support for H.1871, An Act Relative to Mental Health Parity, and H1872/S.1133, An Act Relative to Children's Mental Health. Ms. Lambert stated that Massachusetts has the 9<sup>th</sup> highest rate of preschool expulsion and argued that this needed to be addressed.

Maryanne Frangules, the Executive Director of the Massachusetts Organization for Addiction Recovery (MOAR), stressed the need for more funding, treatment on demand, and increased family support services.

Cathy Levin, representing M-POWER (a mental health consumer advocacy group), noted her group's support for specific pieces of legislation, two bills related to the rights of patients in emergency rooms, and two bills related to the rights of persons in Department of Mental Health facilities to have access to fresh air. Ms. Levin also stated that a program should be created that would train mental health consumers to be peer councilors to others with mental illness.

The Vice President of the Mental Health and Substance Abuse Corporation, Connie Peters, stressed the need for funding. She argued that health care reform has cost her hospitals significant money, so the state needed to ensure that hospitals have adequate funds to pay salaries that attract and retain top clinicians and staff and to help ensure crucial programs can continue to operate.

Tim O'Leary, Deputy Director of the Massachusetts Association of Mental Health, stressed the importance of funding. He noted that the Committee had done well in increasing funding for mental health services and hoped that would continue.

David Matteodo, the Executive Director of the Massachusetts Association of Behavioral Health Systems, made note of a number of concerns that hospitals have regarding mental health and substance abuse issues. Mr. Matteodo requested that reimbursement rates paid to hospitals be increased to accurately reflect their costs; as a result he wanted to see increased funding and passage of the mental health and substance abuse parity bill. He did not approve of the Department of Mental Health reducing the number of beds as a way to save money, because too many people are already having trouble finding beds. He expressed his concern that the nurse staffing bill would harm psychiatric hospitals because none currently have the ratios that would be required and the cost would be prohibitive. Finally, he praised the Office of Patient Protection as having leveled the playing field for the private sector so that all hospitals get a fair hearing with an impartial judge.

Scott Taberner, the Chief Executive Officer of the Massachusetts Behavioral Health Partnership noted that the state deserves credit for maintaining funding for mental health and substance abuse treatment despite budget problems, but the state should give careful consideration to how to implement Rosie D.

## **Mental Health and Substance Abuse, Springfield – June 11, 2007**

The Joint Committee on Mental Health and Substance Abuse held an informational hearing in Springfield at the Western New England College on June 11, 2007 relative to issues of mental health and substance abuse as they pertain to western Massachusetts.

The Committee heard testimony into the specific needs and concerns of residents in the western part of the Commonwealth, including the transportation issues faced by consumers and providers of mental health and substance abuse services, the scarcity of long-term substance abuse rehabilitation services and mental health facilities, and the financial difficulties faced by Holyoke's Providence Behavioral Health Hospital.

The Committee also heard testimony on the region's accomplishments, including the newly constructed women's correctional facility in Chicopee, the success of programs such as the Phoenix House, Springfield's new recovery high school, and jail diversion programs for substance abuse offenders.

The Committee heard testimony from two Massachusetts Sheriffs, Sheriff Michael Ashe of Hampden County and Sheriff Robert Garvey of Hampshire County, and from District Attorney William Bennett of Hampden County. They noted that roughly 15 to 25 percent of people in a correctional facility suffer from a mental illness, while roughly 85 percent suffer from some form of substance abuse and that this is a growing problem. In the last six years, the number of people entering the justice system needing services has quadrupled. This has meant that the criminal justice system is now the largest providers of such services and this is a role for which it is not prepared. They noted that jails and prisons are dangerous for people with such problems who frequently cannot conform to the system.

The Sheriffs and DA Bennett also noted that when a person suffers from a mental health or substance abuse crisis, segregation is often used, but this often exacerbates the problem. They expressed support for creating more evaluation and stabilization units (first established in 2004). Before such units existed, correctional facilities had to send roughly fifty-five people each year to Bridgewater. Since the creation of the program, an average of twelve a year have been sent. Finally, they expressed concerns over the costs of providing mental health and substance abuse services in correctional facilities. They noted that the Department of Corrections does not currently have proper training or adequate staff.

Sandi Whiteman a LICSW and Clinic Director of the Massachusetts Society for the Prevention of Cruelty to Children in Greenfield, Massachusetts offered testimony on how services have changed for women in Western Massachusetts. She made three main points. First, effective reentry planning that targets the root causes of criminal activity is crucial. This should include substance abuse and mental health treatment, training to reduce incidences of domestic violence, economic assistance and training, how to deal with stresses caused by being a single mother, and help to ensure the woman does not have to go back to the same situation in which she found herself in trouble. Second,

Hampden County has created a program that has been nationally recognized for its success. This is due to the combined local and state efforts to support such programs in recent years. Third, such services have to be offered in partnership with the community. In the past, people in Western Massachusetts had to go east to find services which created problems because people were so far from their homes and families. These new programs have helped more people receive the treatment they need.

Jack Fitzgerald, with the Western Massachusetts Correctional Health Center, expressed a number of concerns related to access to mental health and substance abuse treatment. He noted that insurance coverage for such illnesses is too little to provide adequate services and assistance. He recommended focusing on community programs and stated that it is better clinically for people to be treated at a local facility and that such treatment has a higher rate of success. He discussed his facility and noted that after people leave his facility, they will often suffer reoccurrences of illness and will often find themselves back in prison. Mr. Fitzgerald would like to see more money put into making community services more accessible so that this problem can be addressed.

Elizabeth Sullivan, from the Department of Mental Health (DMH) Western Massachusetts Area Director, Jose Tosado, the DMH Site Director for Springfield, and Ruth Jacobson-Hardy, the Western Massachusetts Regional Manager for the Bureau of Substance Abuse Services appeared before the Committee to discuss the provision of state services in Western Massachusetts. They stated that Western Massachusetts has one district office, six regional offices, and twenty-five licensed providers, all dedicated to providing services in the community. They noted a number of achievements including an expansion of services for transitioning youth; increased services for the homeless; an expansion of access to facilities; an array of new culturally relevant services; and the creation of new pre-release programs and reentry programs for those in correctional facilities. They did argue that many challenges still remain including funding problems and that Western Massachusetts presents geographic challenges due to a more disperse population.

The Committee also heard testimony from a number of parents who described their struggles getting treatment for their children in the western part of the state.

## **Prison Suicides and Mental Illness in Prisons – May 1, 2007**

The Joint Committee on Mental Health and Substance Abuse held a joint hearing with the Joint Committee on Public Safety and Homeland Security on May 1, 2007 to take a closer look at the higher than average rate of prison suicides in Massachusetts, the prevalence of mental illness in our prison system, and treatment programs for the mentally ill in prison.

*The Technical Assistance Report on Suicide Prevention Practices Within the Massachusetts Department of Corrections, February, 2007* reports that "...the suicide rate within the Massachusetts Department of Correction (DOC) during the past 10 years was 26.9 deaths per 100,000 inmates. According to the most recent national data, the suicide rate in federal, state, and private prisons throughout the country during 2002 was 14 deaths per 100,000 prison inmates. As such, the suicide rate within the DOC was almost double the national average during this 10-year period and several times greater than the national average in 2006." Following the release of this report, there have been additional suicides in Massachusetts prison facilities. These statistics raise concerns about our prisons, about the treatment of inmates, and about mental health services in the correctional system. The author of the report, Lindsay Hayes, testified at the hearing.

The Committees invited witnesses from the administration, law enforcement, providers, and advocacy groups to provide members of the Committees, the Legislature, and public an opportunity to hear testimony on issues surrounding prison suicides and the prevalence of mental illness in the state's prison system.

Mary Beth Heffernan, the Undersecretary for Criminal Justice in the Executive Office of Public Safety, testified regarding the Harshbarger Commission which was established to address the issue of prison suicide and mental health care and has been used in formulating Department of Corrections (DOC) policy. The report called for treatment for inmates before they are released, and in response, the governor called for \$34 million dollars in funding to improve mental health services for inmates. It has been a challenge to keep inmates safe from assault and from themselves, but the DOC has taken action.

Veronica Madden, the Associate Commissioner of the Massachusetts Department of Corrections (DOC), began by stating that 75 percent of inmates suffer from addictions, and this number is increasing. When individuals are arrested it is often the first time most are diagnosed or treated. The DOC currently provides services through a contract held by the University of Massachusetts which is being renegotiated. The new contract will have a behavioral management unit for inmates with a history of violence in the community and prison who suffer from mental illness. There will also be increased access to group therapy and treatment.

Patti Onorato, the Executive Director of the University of Massachusetts Correctional Health Program, addressed issues related to the UMass contract. She noted the DOC and thus UMass are now the main providers of mental health detox and services in the state and noted that the state's closure of detox beds has simply exacerbated this problem. Ms. Onorato also argued that mental health watches need to be redesigned to make them less

restrictive. Currently segregation is the only main tool that can be used to deal with individuals having a mental health crisis. DOC personnel have been working with UMass to get the training necessary to help them prevent suicides. Ms. Onorato called for an increase in funding to suicide prevention and also requested that the Hayes Report be fully implemented.

Dr. David Powers, of the Mental Health Services Subgroup within the Governor's Commission on Correction Reform, described struggles that face inmates with mental illness. He made particular mention of incidents of victimization by fellow prisoners and administrative punishment for misbehavior caused by mental illness. Dr. Powers argued that more residential treatment units will be needed which can help move individuals with mental health problems to safer environments.

Lindsay M. Hayes, the Project Director for the National Center on Institutions and Alternatives, and the author of the Hayes Report, described how the system could be improved. He started by noting that the suicide rate in Massachusetts was far higher than the national average, and that current suicide watches have failed to adequately address the problem. Mr. Hayes made note of six specific policy areas that needed to be addressed.

- Staff training: Mr. Hayes stated that the training that had been developed at UMass was good, but did not require quite enough training. He recommended increasing training from two to eight hours for all new employees and requiring a two hour training session for all existing staff.
- Intake assessment: Mr. Hayes again praised the DOC and UMass for their work in this area; however he recommended increased access to mental health records for staff, and informing personnel if the inmate had been on watch before.
- Communication: Mr. Hayes noted that there are inconsistent practices in regards to communication between the guards, the inmate, family members, and lawyers. He recommended a quality assurance process to audit documents on a regular basis.
- Housing: Mr. Hayes noted a number of concerns in this area. He stated that inmates who are suicidal are housed in watch cells, but that these cells sometimes are not adequately designed to prevent suicide. Further, most inmates on watch could not get any out of cell time, including meetings with lawyers, showers, treatment, and family visits. This can make it hard to determine why the inmate is considering suicide. Mr. Hayes also expressed concerns over that lack of step down or transitional housing and argued that before discharge, an inmate should get treatment out of the cell. He said that a step down process is needed.
- Levels of observation: Mr. Hayes complimented the DOC and UMass and stated that they have developed effective policies in this regard. He nevertheless called for better documentation, better checks of inmate's mental health, and recommended that all inmates get follow up assessments.
- Intervention: Mr. Hayes noted that when intervention is needed, both the DOC and UMass have demonstrated good policies, but both have employed bad practices after intervention failures have led to suicides. He recommended mock

drill training to ensure everyone knows what to do, first aid training for all staff, and a requirement that all facilities have kits to help them respond with aid.

Sheriff Michael J. Ashe, Jr., of the Hampden County Sheriff's Department, addressed three areas of concern. First, Sheriff Ashe noted that many mentally ill offenders commit minor, non-violent, offenses. He argued that these individuals should be treated instead of placed into prisons that are not equipped to deal with them. Second, he noted that the prison system does a good job of identifying individuals at risk for suicide. The prison will keep a record of any suicidal thoughts, and officers are trained to look for any signs of suicidal thoughts. Third, he expressed concern over the use of restraint in cases of suicidal behavior. Sheriff Ashe argued that restraint only prevents harm for a moment, but makes the situation worse overall. Further, he said that segregation without treatment can actually lead to an increased risk of suicide.

## **Gambling Addiction – October 31, 2007**

Representative Ruth B. Balsler, House Chair of the Committee and Representative Daniel E. Bosley, House Chair of the Joint Committee on Economic Development and Emerging Technologies co-chaired an informational hearing to take a closer look at addiction and mental health issues related to gambling. The hearing was held in Gardner Auditorium, at the State House on October 31, 2007. The hearing was an opportunity to educate members of the Legislature and the public on gambling addiction and the risk posed to a number of vulnerable populations such as the elderly, the young, the poor, and the mentally ill. Invited witnesses included academic researchers, treatment professionals, members of the administration and individuals who suffer from gambling addiction.

The hearing was scheduled after Governor Patrick had announced plans to license casinos in Massachusetts. Although the governor's bill was not before either committee and the focus was informational in nature about gambling addiction, some of the witnesses did include in their remarks comments about the governor's proposal.

Natasha Schull, Ph.D., is an Assistant Professor at MIT in social anthropology and an expert in the social implications of emerging trends in Neuroscience, focusing on neuroeconomics, neuromarketing, and addiction pharmacology. She began her testimony by noting that there is not really confusion about the addictive properties of gambling and the only studies that suggest otherwise were commissioned by the American Gaming Association (AGA), a pro-gambling lobby. Dr. Schull addressed concerns related specifically to solo gaming (slot machines and video poker), which according to the AGA, drive the gambling industry. She argued that the problem with such machines comes at the intersection of technology and the reason why people gamble and that the machines are designed to make people play faster and longer by exploiting vulnerabilities in people's senses. According to Dr. Schull, these machines are far more addictive than any other type of gambling.

Robert Breen, Ph.D., the Director of the Rhode Island Gambling Treatment Program at Rhode Island Hospital, expressed support for Dr. Schull's description of machine gambling. The bulk of Dr. Breen's comments focused on the impact of proximity to a casino has on a community. Dr. Breen noted that within a 50 mile radius of a casino, the prevalence of gambling addiction increases by a factor of two. More importantly, he stated that this rate takes into account the whole population around the casino, and does not focus on just gamblers. Thus among those who gamble, the increase in addiction is even higher.

Hans Breiter, M.D., who is the Director of both the Massachusetts Phenotype Genotype Project in Addictions and Mood Disorders and the Motivation and Emotion Neuroscience Collaboration at Massachusetts General Hospital and Harvard Medical School, noted that for individuals with gambling problems, gambling releases the same chemicals that other drugs and alcohol do. Dr. Breiter stated that the research is not yet clear exactly how gambling does this, but it appears to function similarly to addictive drugs. He presented photographs demonstrating that cocaine use impacts the brains of individuals suffering

from drug addiction virtually identically to how gambling impacts the brain of those suffering from gambling addiction.

Kathleen M. Scanlan, the Executive Director of the Massachusetts Council on Compulsive Gambling, discussed statistics related to gambling addiction. Ms. Scanlan began her testimony by stating that the council does not support or oppose legalizing gambling. She stated that 4 percent of gamblers will experience some level of adverse consequence due to gambling in their lifetimes, and two-point-five percent suffer severe adverse consequences including pathological and compulsive gambling. These numbers represent the total population. She stated that 19 percent of adolescents who gamble will experience some level of problem during adolescence, and sixteen percent of college students who gamble will do the same. Additionally, 33 percent of individuals who suffer a gambling problem will develop another mental health or substance abuse problem or end up in prison.

Michael Furstenberg, Ed.D., the Director of Substance Abuse Services at Human Relations Service (a treatment facility) in Wellesley, Massachusetts provides treatment to compulsive gamblers. He shared case examples and noted that over 250,000 people in Massachusetts suffer from gambling problems today. He also stated that casinos prey on the poor, who need to continue to gamble once they lose money to try to win it back.

Rachel Shiffrin, with the Massachusetts Association of Older Americans, noted that older persons can be heavily impacted by gambling, including Bingo nights and bus trips to casinos. Ms. Shiffrin noted that on the one hand it helps reduce isolation, but on the other hand gambling can be very dangerous to older persons. Casinos target older persons with non-strategic games such as slots. Further, people who have just suffered a loss of a family member or friend or entered retirement tend to gamble more and experience more problems. In fact, 11 percent of older Americans admitted they had a gambling problem with more than 14,000 in Massachusetts alone (twice the national average). She also made the point that older adults have trouble acknowledging problems and accepting help.

The Administration was also invited to present testimony. Representing the Administration were JudyAnn Bigby MD, the Secretary of the Executive Office of Health and Human Services, John Auerbach, the Commissioner of the Department of Public Health, and Michael Botticelli, the Assistant Commissioner at the Department of Public Health, Bureau of Substance Abuse Services. Much of their testimony focused on mitigation for problem gamblers that was included in the Governor's proposal to license casinos.

## **Additional Activities**

### **Governor's Interagency Council on Substance Abuse and Prevention**

Representative Ruth B. Balsler and Senator Gale D. Candaras represented the Joint Committee on Mental Health and Substance Abuse on the Governor's Interagency Council on Substance Abuse, which was established by Executive Order No. 467 (05-05) as part of the Governor's Strategic Plan for Substance Abuse Services in the Commonwealth. Governor Patrick signed Executive Order No. 496 on January 11, 2008 that re-established the Massachusetts Interagency Council on Substance Abuse and Prevention

The Interagency Council is chaired by the Lieutenant Governor, staffed by an Executive Director appointed by the Lieutenant Governor, and consists of the following members or their designees: the Secretary of Health and Human Services; the Secretary of Public Safety; the Secretary of Elder Affairs; the Secretary of Veterans Affairs; the Commissioner of Education; the Commissioner of Correction; the Chair of the Parole Board; the Commissioner of Probation; the Commissioner of Public Health; the Commissioner of Youth Services; the Commissioner of Mental Health; the Commissioner of Mental Retardation; the Commissioner of the Massachusetts Rehabilitation Commission; the Commissioner of Transitional Assistance; the Commissioner of Social Services; the Commissioner of Health Care Finance and Policy; the Commissioner for the Deaf and Hard of Hearing; the Commissioner for Early Education and Care; the Assistant Commissioner of Public Health for Substance Abuse Services; the Medicaid Director; a representative of the Juvenile Court; a representative of the Superior Court; a representative of the District Court; a representative of the Governor's Office; one private citizen who is recovering from substance abuse problems, appointed by the Governor; one member appointed by the President of the Senate; one member appointed by the Speaker of the House; one member appointed by the Senate Minority Leader; one member appointed by the House Minority Leader; and other appropriate representatives as determined by the Governor.

The Council was created to maximize and align available resources, and to develop unified statewide strategies to drive changes in substance abuse prevention and treatment systems. The mission of the Council is to maximize coordination between the Department of Public Health and a number of other state agencies that have programs or departments that deal with the issue of substance abuse and/or prevention. The Department of Public Health and the Council establish standards for the operation of substance abuse prevention and treatment services. Currently, the Council is working on ensuring the success of the state's three recovery high schools, reducing the rate of drug overdoses, and curbing underage drinking.

## **Special Commission to Study and Investigate the Hidden Wounds of War on Massachusetts Service Members**

The Special Commission to Study and Investigate the Hidden Wounds of War on Massachusetts Service Members (Chapter 1 of the Resolves of 2008) was established on April 10, 2008. The 15 member Commission is charged with examining the mental health effects of war on Massachusetts service members returning from active duty. Both Representative Ruth B. Balser and Senator Gale D. Candaras serve on the Commission.

In addition to studying the effects of war, the Commission will establish a mandatory mental health treatment program for Massachusetts National Guard members who engage in combat, a state military family leave policy for caregivers, and a statewide education training program to assist first responders in recognizing the early warning signs of post-traumatic stress disorder.

Since September, 11, 2001, nearly 29,000 service members have returned home to Massachusetts. A recent report from the Institute of Medicine finds that a quarter of returning Iraq and Afghanistan combat veterans will face mental health problems. Yet of those needing care, it is estimated that only 27 percent will seek treatment at a VA medical center. The suicide rate of Army soldiers in 2007 has more than doubled since 2001.

At the request of the Commission, Representative Balser prepared a report that outlined what mental health and substance abuse services currently exist for veterans in Massachusetts at both the federal and state levels as well as identifying gaps in the system of care.