

DDAWNY Summer Membership Meeting
Lobby Report
July 12, 2018

2018 SESSION WRAP-UP

The 2018 New York State Legislative Session ended in the early hours of June 21st. With no clear majority in the Senate, resulting from Republican Senator Tom Croci's return to active military duty, leaving the Senate with 31 Republicans (including Simcha Felder, a Democrat who caucuses with the Republicans) and 31 Democrats, fewer bills passed both Houses. The resulting dysfunction came with a silver lining, however, as the bills we opposed were also unable to advance. A number of unfinished items, including: extending the authority for New York City to continue to use speed cameras; authorizing sports betting in New York; reforming teacher evaluations; local tax issues; and others, may require the Legislature to come back to Albany before the end of 2018. There were some COPA priority bills which also did not pass both Houses which we will continue to work on over the summer, to be implemented administratively or if the Legislature is called back and into the next Legislative session. The complete COPA 2018 Session Wrap-Up is available on the DDAWNY Government Affairs Website.

COPA will keep you informed on all issues of importance. We urge you to reach out to us if there is any additional information you need or to make us aware of any issues that you don't see covered. As always, we appreciate your participation and interest in our advocacy efforts and urge you to join our regular Legislative Briefing Calls.

COPA Legislative Briefing Calls

The COPA Legislative Briefing Calls are weekly during session and monthly for non-session months (July through December).

Please join us on 7-23-18 at 11:00am for an update on state and federal issues of interest to people with disabilities, families and staff.

Join from PC, Mac, Linux, iOS or Android: <https://CPofNYS.zoom.us/j/982788122>

or by Telephone: +1 669 900 6833 or +1 408 638 0968

Meeting ID: 982 788 122

Attached is a list of bills of importance to DDAWNY & COPA.

John R Drexelius, Jr.
Government Relations Counsel,
DDAWNY
Law Office of John R. Drexelius, Jr.
PO Box 141
Buffalo, NY 14223
(716) 316- 7552
Fax: 716-875-7552
E-mail: jrdrexelius@gmail.com

The Following Is A Summary Of The Bills Of Interest to COPA/DDAWNY Members that Passed Both Houses And Will Be Sent To The Governor For Action Unless The Governor's Action Is Noted.

SUPPORT

- **OPWDD Gender Neutral Transportation** – S.8592 (Ortt)/A.10708 (Gunther) amends the Mental Hygiene Law so that same gender transporters may be requested within staffing limitations. Current law requires females to be transported only by females, unless accompanied by a father, brother, husband or son, which limits community activities for women receiving services when a female transporter is unavailable.
- **Optional ID Cards for People with I/DD** – S. 2565-C (Helming)/A.249-C (Santabarbara) provides for an ID card, for a fee, upon the request of a person receiving services or their guardian or caregiver, which can be used to educate first responders. In addition to name, address, DOB and emergency contact info, the card will say “I HAVE A DEVELOPMENTAL DISABILITY. I MAY HAVE DIFFICULTY UNDERSTANDING AND FOLLOWING YOUR DIRECTIONS OR MAY BECOME UNABLE TO RESPOND. I MAY BECOME PHYSICALLY AGITATED IF YOU PROMPT ME VERBALLY OR TOUCH ME OR MOVE TOO CLOSE TO ME. A DEVELOPMENTAL DISABILITY IS NOT AN EXCUSE FOR ILLEGAL BEHAVIOR. I AM NOT INTENTIONALLY REFUSING TO COOPERATE. I MAY NEED YOUR ASSISTANCE. PLEASE SEE THE BACK OF THIS CARD.”
- **Small Business Tax Credit for Hiring Individuals with Disabilities** – S.4093-C (Addabbo)/A.1369-A (Cusick) establishes a tax credit of \$5000.00 per person, for the full time employment (at least 35 hours and for 12 months or more) of disabled persons by businesses of 100 employees or less. This would apply to taxable years on or after 1/1/19.
- **Physical Therapy Assistants Home Care Services** – S.8217 (LaValle)/A.10381-A (Pichardo) extends the authority for physical therapy assistants to provide services in home care settings for four years. This bill was signed by the Governor on July 1, 2018 as Chapter 107 of the Laws of 2018.
- **School Psychologists 4410 & EI Multidisciplinary Evaluations** – S.7641 (LaValle)/A.9918 (Glick) extends authority of school psychologists to conduct multidisciplinary evaluations of children in 4410 preschool programs and the Early Intervention I program from June 30, 2018 to June 30, 2020. This bill was signed by the Governor on June 1, 2018 as Chapter 68 of the Laws of 2018.
- **State Conformance with IDEA Three Year Extension** – S.8331 (Marcellino)/A.10472 (Lifton) extends for 3 years provisions of the State Education law to conform with the federal Individuals with Disabilities Education Act of 2004, in order to ensure continued compliance with federal law. Signed as Chapter 90 of the Laws of 2018.

The following bills did not pass both houses.

SUPPORT

- **#bFair2DirectCare** – S.8184-A (Ortt)/A.10712 (Gunther) codifies the future four year commitment to the #bFair2DirectCare living wage funding. (Senate Rules Committee/Assembly Ways & Means Committee.)

- **Interim Plus Rates** – S.8294-A (Marcellino)/A.10439-A (Nolan) would provide 4410, 853 and Special Act schools their interim rate plus growth while they wait for SED to calculate and update their rates. (Senate and Assembly Education Committees.)
- **90 Day Medicaid Billing Delay Code** – S.8905 (Hannon)/A.10814 (Gottfried) adds a delay code under “other” for implementation or upgrade of EMR systems since this may cause errors that aren’t detected in a timely way, so providers have time to correct these errors and bill past the 90 day limit for Medicaid services rendered. (Passed the Senate/ Assembly Ways & Means Committee.)

PASSED ASSEMBLY

OPPOSED

- **OPWDD Required Training** – A.271 (Gunther)/S.1433 (Ritchie) puts the required training, currently in regulation, in statute and broadens the requirement to all staff and volunteers at OPWDD funded or regulated agencies regardless of job duties. (Senate MH/DD Committee.)
- **Public Notice to Call 911** – A.2846 (Abinanti)/S.1400 (Avella) requires notice be posted in a public place, for all programs subject to regulation by OPWDD, informing employees to call 911 during an emergency and directing them to make required reports relating to abuse or neglect to the Justice Center or to law enforcement. Staff are already required to make these calls and reports and posting of a notice can be stigmatizing to people receiving services. (Senate MH/DD Committee.)
- **Requires Prevailing Wage For Public Works Construction Projects** – S.2975 (Murphy)/A.5498 (Bronson) requires prevailing wage for all public works projects undertaken by entities receiving public funding. (Senate Finance Committee.)

Other significant bills that did not pass either house:

OPPOSED

- **Transfer the NYS Medical Indemnity Fund from DOH & DFS to OPWDD** – S.8435 (Hannon)/A.10222 (Gottfried) transfers the administration of the New York State Medical Indemnity Fund, which provides resources to families of children who have suffered from birth injuries, from the Department of Health and the Department of Financial Services to the Office for People With Developmental Disabilities. COPA strongly opposed this proposal for logistical and financial reasons and was pleased that it did not move in either House. (No Action in Senate/No Action in Assembly.)
- **Surveillance Cameras in All OPWDD Residential Common Areas** – A.2221-A (Abinanti)/No Senate bill requires providers of services for people with developmental disabilities to install surveillance cameras with sound capability in all public common areas in residential facilities. Such surveillance is an infringement on peoples’ right to privacy and there are more effective measures that would reduce the incidence of abuse and neglect in residences. (Held for consideration in Assembly MH/DD Committee.)
- **OPWDD Family Bill of Rights** – S.1157 (Ortt)/A.5482 (Abinanti) requires the posting of a bill of rights for family and guardians of people with developmental disabilities that reside in residences certified or approved by the Office for People With Developmental Disabilities. This “Family Bill of Rights” would give blanket access to health and treatment information to non-guardians unless the person receiving services specifically

names the person(s) with whom they don't wanted the information shared. (Senate MH/DD Committee/ Assembly Codes Committee.)

- **911 Bill** – S.4736-D (Lanza)/A.6830-C (Weprin) requires that all suspected abuse and neglect be called in to both 911 and the county district attorney's office, in addition to the Justice Center hotline regardless of whether a first responder is needed and increases the penalty for failure to report to all three entities to a Class E Felony (currently a Class A misdemeanor). (Senate Finance Committee/Assembly MH/DD Committee.)
- **Another 911 Bill** – S.8440 (Lanza)/No Assembly bill requires that all incidents called into the Justice Center's central register must also be called in to 9-1-1. (Senate MH/DD Committee.)
- **Radon Testing and Remediation** – S.5753-B (Lanza)/A.5515-B (Weprin) requires annual radon testing of OPWDD community residences, supervised living facilities and other facilities. (Senate Finance Committee/ Assembly MH/DD Committee)

4410 & 853 STAFFING CRISIS:

The COPA team continues to work with the Legislature, the State Education Department (SED), the Division of Budget (DOB), the Governor's Office and the Legislature to highlight the 4410 and 853 staffing crisis. The Division of Budget has approved the 2018-2019 methodology for 4410, 853 and Special Act Schools. The methodology memo highlights include:

- 3.4% growth for school-age programs
- 2% growth for preschool center-based programs
- "Higher-of" tuition rate calculation flexibility for all center-based programs – school-age & preschool
- \$8 million in Excessive Teacher Turnover Prevention funding (up from \$4 million)
- Special Class in an Integrated Setting Offset of only the revenue received or earned for students without disabilities
- Minimum Wage Funding