

# NEW JERSEY ASSOCIATION OF COUNTIES

*County Government with a Unified Voice!*

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## STATE HOUSE NEWS

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### COUNTY OPERATED NURSING HOMES

Special thanks to Morris County Administrator John Bonanni, Morris County Freeholder Margaret Nordstrom, and Morris County Freeholder Ann F. Grossi: for taking the time out of their busy schedules this week to meet with Republican Leader Jon Bramnick to discuss Medicaid reimbursement rates for county operated nursing homes.

This meeting went very well; and, the Assemblyman is prepared to introduce legislation that would allow counties, by voter referendum, to establish a dedicated tax to help fund the operation and maintenance of its nursing homes. Senator Joe Vitale, Chair of the Senate Health, Human Services, and Senior Citizens Committee, also expressed support of our efforts during a meeting earlier this week. With this in mind, NJAC has drafted language that it plans to submit to both legislators for their review and introduction shortly.

Additionally, Assembly Majority Leader Lou Greenwald and Senate Majority Leader Loretta Weinberg have proposed for introduction legislation that would restore \$19 million in Medicaid funding for fiscal year 2012 for both privately and publicly owned nursing homes. New Jersey would be eligible for an additional \$19 million in federal funds under the measure, which I should have available for your review shortly. Please note that Governor Christie vetoed an identical supplemental appropriation in July of 2011.

Given the time is of the essence, NJAC plans to simultaneously support both the supplemental appropriation and a dedicated tax as a long term solution. Please let us know if you would like to see a copy of the draft legislation; and, we'll make sure to forward it to you for your review. Please also find copied below our "County Impact Statement" on the matter.

"County operated nursing homes provide a safety net of care for low income patients with medical conditions that typically prevent their admission to privately owned nursing homes. In fact, 79% of the estimated 4,128 patients currently residing in county operated nursing homes across the State are classified as Medicaid patients

without the necessary resources to afford health insurance on their own. Unlike most privately owned nursing homes that carry a much higher percentage of private pay patients, county operated nursing homes maintain an average of 11% of its population in this capacity.

With this in mind, the recent Medicaid rate reductions imposed by the Department of Health and Senior Services hit county governments disproportionately hard. In fact, the new rates released in October of 2011 represent an average daily rate reduction of \$11.72 with projected revenue losses of approximately \$11,898,153.00. Please note that this figure does not include the fact that the Department also eliminated "Bed Hold" payments for fiscal year 2012 in the amount of \$1,542,670.00. As a result of these actions, county operated nursing homes stand to lose approximately \$13,444,823.00 in Medicaid reimbursement revenue with no practical means to make up the difference.

In light of a restrictive property tax cap levy, and a time in which all local governments are struggling to make ends meet, county officials are at a loss to find the resources necessary to maintain a consistent level of quality care residents deserve. As a result of the Department's devastating cuts, several counties have indicated that they will likely reduce critical nursing, housekeeping, and maintenance staff to make ends meet. Other counties plan to slash important capital improvement projects; and, eliminate investments in progressive treatment initiatives and new technologies. At least one county is in the process of selling its nursing home, while several others are considering it as well.

NJAC has several more meetings scheduled with legislative leaders over the next several weeks to discuss developing a solution that will allow county governments to continue providing a high standard of care to a vulnerable population.

#### **PRESCRIPTION MEDICATION FOR INMATES**

On Monday, the Assembly Law and Public Safety Committee favorably reported **ASSEMBLY, NO. 745** (*Barnes D-18*), which requires correctional facilities, including county correctional facilities, to provide inmates with prescription medication that was prescribed for chronic conditions existing prior to incarceration.

NJAC and the NJ County Jail Warden's Association have asked for amendments to A-745 that would authorize county correctional facilities to administer generic prescription drugs at the time of incarceration instead of waiting 30 days as is the

case under the bill; and, to provide these facilities with the continued discretion to administer methadone as a drug detoxifier as is the case under current law. Although difficult to quantify at this point, authorizing the use of generic prescription drugs at the time of incarceration will serve as an effective cost saving measure. Since most county correctional facilities do not recognize prescriptions for methadone as a drug detoxifier unless the prisoner is an expectant mother or it is otherwise medically necessary, NJAC contends that counties should maintain the continued discretion to administer methadone accordingly. We plan to hold a follow up meeting with Assemblyman Barnes shortly and will make sure to keep you posted. A companion version of this legislation does not exist in the General Assembly at this point.

## **PUBLIC EMPLOYEE WHISTLEBLOWER PROTECTIONS**

On Monday, the Senate Labor Committee was once again set to consider **SENATE, NO. 787** (Weinberg D-37), but the Senate Majority Leader Weinberg decided to hold the bill for the time being. In summary, this legislation provides protection against employer retaliation for an employee who makes disclosures, provides testimony, or refuses to participate in any activity, policy or practice of the employer under certain circumstances.

Although NJAC is a strong advocate for transparency in local government, we have some concerns with the practical implications of S-787. NJAC is primarily concerned with the overly broad definitions of "Abuse of authority," "Gross mismanagement," and "Substantial waste of public funds," and how these definitions comport with existing laws.

NJAC is also concerned with the fact that the above definitions require employees to demonstrate a clear deviation from the standard of care or competence that a reasonable person would observe in the same situation. Opinions on what constitutes this new standard will undoubtedly vary among jurisdictions and ultimately lead to costly and even frivolous litigation. NJAC has the same concerns with respect to determining what rises to the level of a substantial waste of public funds. We expect that the Senate Labor Committee to reconsider the bill at one of its upcoming meetings, but a companion version of the legislation does not exist in the General Assembly at this time.

## **STATE MEDICAL EXAMINER ACT**

Despite being pulled from the board list in both the Senate and General Assembly during last month's lame-duck voting session, this legislation will likely reappear shortly. However, NJAC has followed up with the sponsors in both houses; and, we're optimistic that the Legislature will reconsider more than just some of our proposed amendments as was the case last session.

NJAC is initially concerned with the fact that this legislation would empower the new Chief State Medical Examiner to directly supervise county operated medical examiner offices in Atlantic, Bergen, Burlington, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Sussex, Union, and Warren counties. The new Medical Examiner would also maintain this authority over Gloucester County, which provides medical examiner services on behalf of Camden and Salem counties. Please note that the Northern Regional Medical Examiner Office operated by the State of New Jersey provides medical examiner services for Essex, Hudson, Passaic, and Somerset counties; and, that the Southern Regional Medical Examiner Office, also operated by the State of New Jersey, provides medical examiner services for Cape May and Cumberland counties.

As counties are responsible for paying for the salaries, equipment, facilities and other expenses incurred by the county medical examiner offices through the collection of the county general purpose tax, counties should retain jurisdiction to oversee the operations of the county medical examiner offices accordingly. Our general concern is that this legislation would implement a dysfunctional operational structure similar to that of the county prosecutors offices, where the Governor appoints all county prosecutors with the advice and consent of the Senate; the State's Attorney General supersedes any actions taken by a county prosecutor in all law enforcement matters; and where county governments exercise little control over the fiscal or administrative functions. If this legislation does in fact require the Chief State Medical Examiner to exercise direct supervisory power over the county medical examiner offices, then the Department of Health and Senior Services should assume the costs associated with the operation and maintenance of the offices accordingly.

NJAC is also concerned that this legislation would impose additional and untimely costs on county governments by requiring them to comply with new standards for funding operations, staffing, and equipment. At a time in which all local governments are struggling to make ends meet by reducing critical staff, essential services, and capital improvement projects, county officials will find it very difficult to allocate the necessary resources to comply with new standards. These unfunded mandates would be similar to the ones imposed by the "Court Securitization Act." Although the Act through regulations and directives attempted to create a uniform standard for security at county judicial and prosecutorial facilities, it significantly increased the costs associated with the operation and maintenance of such facilities.

Finally, NJAC is concerned that this legislation would create an unnecessary level of bureaucracy and barrier to shared services by engaging the Chief State Medical Examiner in the hiring and firing of all county medical examiners, and in the approval of intercounty medical examiner office agreements. County governments have proven to be leaders in regionalization, shared services, and consolidation where feasible, and should retain the autonomy to enter into such

agreements without the imposition of an unnecessary level of bureaucracy. As the only true regional form of government in the State, county governments have led the way in creating innovative shared service initiatives that deliver essential services in a more cost effective manner while saving valuable taxpayer dollars. Moreover, the decision making authority of elected body should not be subject to the approval of an appointed state employee. Finally, in light of the fact that counties are responsible for funding and maintaining county medical examiner offices, they should retain the discretion to hire and fire county medical examiners.

### **VETERAN ID CARDS**

On Monday, the Senate Military and Veteran's Affairs Committee will consider **SENATE, NO. 323** (*Whelan D-2/Oroho R-24*), which would permit county clerks to create an identification card for veterans who are residents of that county and do not hold an identification card issued by the federal government that identifies the person as a veteran. The bill defines veteran to mean a person who has served in the Army, Navy, Air Force, Marines or Coast Guard of the United States or a Reserve component thereof or the State National Guard and who has been honorably discharged or released under conditions other than dishonorable. The cards will not serve as sufficient valid proof for official government business or to secure veterans' benefits. The cards are designed to help veterans to receive discounts or other courtesies extended to military veterans. NJAC supports this legislation because it's permissive and may benefit those that served our Country in the armed forces.

### **ACTING DCA COMMISSIONER RICHARD E. CONSTABLE III**

NJAC has a meeting scheduled with the new Acting Commissioner of the Department of Community Affairs Richard E. Constable at 3:00 p.m. on February 13<sup>th</sup> in Trenton. Board members are welcome and encouraged to join us at this meeting.

*The best executive is the one who has sense enough to pick good men to do what he wants, and the self restraint to keep from meddling with them while they do it." Theodore Roosevelt*

