

MAY 1, 2008

HEALTH & HUMAN SERVICES COMMITTEE  
REPORT NO. 7

ALL MEMBERS PRESENT.

1. RESOLVED, the following items are hereby received and filed:
  - a. COMM. 16E-9 (2007)  
**COMPTROLLER:** Audit of ECMCC  
(5-0)
  - b. COMM. 16M-19 (2007)  
**COLUCCI & GALLAHER, PC:** Erie County Medical Center Corporation  
(5-0)
  - c. COMM. 1E-35 (2008)  
**COMPTROLLER:** Audit of the Sale, Purchase and Operation Agreement Between Erie County and ECMCC For The Period 1/1/05 - 6/30/07  
(5-0)
  - d. COMM. 2M-3 (2008)  
**COLUCCI & GALLAHER, PC:** Erie County Medical Center Corporation  
(5-0)
  - e. COMM. 5M-6 (2008)  
**ECMCC:** Letter Concerning Suspension of Participation in WNY Health System  
(5-0)
  - f. COMM. 5M-8 (2008)  
**COLUCCI & GALLAHER, PC:** Items from ECMCC Board of Managers Meeting Held on 2/28/08  
(5-0)
  - g. COMM. 7M-6 (2008)  
**GREATER REFUGE TEMPLE OF CHRIST:** Letter Concerning Non-Secure Detention Services - PINS Contract Termination  
(5-0)

- h. COMM. 8M-6 (2008)  
**COLUCCI & GALLAHER, PC:** Materials Distributed at the April 3, 2008 Regular Meeting of the Board of Directors of Erie County Medical Center Corporation  
(5-0)
  - i. COMM. 8M-19 (2008)  
**ECMCC:** Financial Measures Disclosure Statement Certification for the Year Ended December 31, 2007  
(5-0)
2. INTRO 8-2 (2008)  
**KENNEDY**  
WHEREAS, there are an estimated 28 million Americans who have some form of hearing loss and only 20% take the essential steps needed to correct the situation; and  
  
WHEREAS, one of the major obstacles that prevent people with hearing loss from taking measures to improve their circumstances are the extremely high prices of hearing aids; and  
  
WHEREAS, the cost of hearing aids are high, ranging from \$1,000 to \$4,000; and  
  
WHEREAS, as a result of the high cost, middle class families and senior citizens often cannot afford to pay expenses related to obtaining these hearing devices; and  
  
WHEREAS, even with the cost being so steep, many insurance companies in New York State do not provide coverage for the purchase of hearing aids; and  
  
WHEREAS, insurance companies provide funding for things like discounted gym memberships and acupuncture treatments, yet fail to help a significant percentage of our disabled community in purchasing necessary hearing aids; and  
  
WHEREAS, the New York State Legislature has proposed bills numbered S00171A in the Senate and A04731A in the Assembly, both supporting insurance coverage for the cost of hearing aids; and  
  
WHEREAS, these bills would require health insurance companies in New York State to cover significant portions of the costs related to the acquisition of hearing aids; and  
  
WHEREAS, such hearing aids would be purchased from registered New York State hearing aid dispensers and licensed audiologists; and

WHEREAS, insured hearing impaired consumers, 16 years of age and older, would be able to receive a reimbursement of \$1,000 every three years for the costs associated with the purchase of up to two hearing aids and other related expenses; and

WHEREAS, hearing impaired children, 15 years of age and younger, would be able to have a reimbursement of \$1,000 for services related to the purchase of up to two hearing aids every two years provided that their conditions have severely deteriorated and that their existing hearing aids no longer will be able to assist them.

NOW, THEREFORE, BE IT

RESOLVED, that this Legislature hereby recognizes bills numbered S00171A in the Senate and A04731A in the Assembly, both supporting insurance coverage for the cost of hearing aids, as a step in the right direction; and be it further

RESOLVED, that eventually, with the help of the State Legislature, this honorable body anticipates additional monetary assistance being provided to our deaf and hard of hearing population; and be it further

RESOLVED, that this Legislature hereby supports the New York State Senate and Assembly's bills designed to help our seniors, middle class families and all who are unfortunately either deaf or hard of hearing; and be it further

RESOLVED, that certified copies of this resolution be sent to Governor David Paterson, Attorney General Andrew Cuomo, all members of the New York State Senate and all members of the New York State Assembly.  
(5-0)

3. INTRO 8-7 (2008)

**REYNOLDS**

WHEREAS, in July 2007, at the request of the county administration to take immediate action on an urgent community issue, the Erie County Legislature authorized the county executive to enter into an expanded contract with the Erie County Medical Center for substance abuse prevention and assessment services to Child Protective Services Investigations (CPS) and Persons in Need of Supervision (PINS) Diversion; and

WHEREAS, this forward-thinking initiative represents a process improvement through a three-year, \$4.2 million, 100% state-funded demonstration project titled the Child Welfare-Chemical Dependency Collocation Program; and

WHEREAS, research indicates that a collocation model provides service integration across the child welfare and chemical dependency service systems, thereby improving both the child welfare and chemical dependency outcomes; and

WHEREAS, chemical dependency is implicated in a high percentage of child welfare cases, which greatly increases the risk of recurrence of child abuse and neglect and is a major barrier to reunification of children in foster care with their biological parents, resulting in a very high financial and human cost for society; and

WHEREAS, chemically dependent youth in the PINS population stand a greater chance of becoming involved in the juvenile justice system, which again represents a more costly intervention for a young person; and

WHEREAS, chemically dependent individuals are themselves at a higher risk of being either victims or perpetrators of crimes, thereby putting added strain and additional costs on the law enforcement and criminal justice systems; and

WHEREAS, Erie County was approached by New York State to implement this pilot program utilizing Certified Alcoholism and Substance Abuse Counselors (CASAC) and facilities approved by the New York State Office of Alcoholism and Substance Abuse Services (OASAS); and

WHEREAS, the New York State Offices of Child and Family Services and Alcoholism and Substance Abuse Services subsequently granted \$4.2 million over three years to implement a collocation program that should have been fully ramped up at Erie County Medical Center in April 2008, had the county administration abided by the authorization of the Erie County Legislature responding to an urgent community need; and

WHEREAS, a recent randomized trial of the Illinois Alcohol and Other Drug Demonstration Program showed that the assignment of a Recovery Coach substantially improved the outcomes for families and the larger community by achieving the following goals: 1) increasing timely access to chemical dependence treatment; 2) facilitating engagement with the treatment process and achieving greater completion rates; 3) reducing subsequent reports of child abuse and neglect; and 4) expediting the reunification of children in foster care with their parents; and

WHEREAS, each of the aforementioned goals, when achieved, results in substantial taxpayer savings and an increase in the health and well-being of the entire community; and

WHEREAS, the state collocation project funds are designated for a contract with a current provider of alcoholism and substance abuse outpatient treatment services to provide integrated chemical

dependency assessment, referral, case management and prevention services within the CPS, PINS and multidisciplinary Family Services Team (FST); and

WHEREAS, the magnitude of chemical dependency problems places considerable stress on child welfare agencies, whose staff often lack the time and expertise to identify and treat chemical dependency problems, and the service integration inherent in the collocation model is designed to improve both child welfare and chemical dependency outcomes by increasing problem identification, facilitating access to treatment, increasing engagement and retention and improving coordination between service providers and child welfare workers; and

WHEREAS, there is no negative fiscal impact to Erie County taxpayers as this demonstration project is fully funded by a special NYS award designated for this purpose; and

WHEREAS, indeed, research and collocation program outcomes in other parts of the country actually point to significant taxpayer savings by utilizing a model such as that funded by this \$4.2 million, 100% state funded grant award.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature again goes on record in vehement opposition to the County Executive's shortsighted decision to indefinitely delay this program, and that this Honorable Body further disputes the validity of the reasons the County Executive has given for not accepting the state funds and implementing this urgently needed program; and be it further

RESOLVED, that the justification for embarking on this pilot program is even more urgent today, as the need was categorized as "immediate" by the Department of Social Services back in July 2007; and be it further

RESOLVED, that the Erie County Legislature is highly motivated to protect the best interests of the taxpayers, and that this body recognizes the enormous, long-term savings to society in the aggressive, collaborative treatment to be provided by the Child Welfare-Chemical Dependency Collocation Program and to be directed to chemically dependent individuals who are involved with the child protection or PINS systems; and be it further

RESOLVED, that the Erie County Legislature implores the County Executive to reconsider his stance on the implementation of this 100% state-funded collocation program that research has shown produces better outcomes for at-risk families and achieves substantial taxpayer savings pursuant to the recovery of chemically dependent parents, the reunification of families and the diversion of entry into the criminal justice system; and be it further

RESOLVED, that this Honorable Body requests that the County Executive abide by the authorization that accrues from the approved resolution for Communication 12E-27, approved July 12, 2007, amending the Department of Social Services budget to allow for the implementation of this program; and be it further

RESOLVED, that the Erie County Legislature endorses this program for all three years of the state's pilot; and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the County Executive, the Commissioner of the NYS Office of Children and Family Services, the Commissioner of the NYS Office of Alcoholism and Substance Abuse Services, the Commissioner of the Erie County Department of Social Services, the Erie County Comptroller and the Director of the Division of Budget, Management and Finance.

(4-1) Legislator Rath voted in the negative.

4. INTRO 8-19 (2008)

**KOZUB, WHYTE, MAZUR, GRANT,  
MILLER-WILLIAMS, REYNOLDS & RATH**

**AS AMENDED**

WHEREAS, Erie County Medical Center (ECMC) is the Buffalo area's regional trauma center and fulfills a vital role in the provision of trauma and emergency services to the Western New York community; and

WHEREAS, the Erie County Medical Center Corporation has submitted a certificate of need to the New York State Department of Health for an eight-bed expansion of the emergency room/operating room suite; and

WHEREAS, this expansion is critically needed as ambulances sometimes have to wait two hours or more due to the high volume of cases in the ER/OR and the current limited capacity; and

WHEREAS, other hospitals in our region are known to divert patients to ECMC as ECMC turns no one away, further exacerbating the dual problem of insufficient capacity and heightened demand; and

WHEREAS, there is also a certificate of need submitted by the dialysis department at ECMC that requires immediate approval.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature urges the New York State Department of Health to immediately approve the pending certificate of need to expand the emergency room/operating room suite at the Erie County Medical Center (ECMC) by an additional eight beds; and be it further

RESOLVED, that the certificate of need request submitted by the Erie County Medical Center Corporation relative to its dialysis department also requires immediate approval; and be it further

RESOLVED, that certified copies of this resolution be conveyed to the County Executive, the President/CEO of ECMCC, Dr. Richard Daines, Commissioner of the New York State Department of Health, and Mr. James Clyne, Jr., Deputy Commissioner of the New York State Department of Health. (5-0)

5. INTRO 8-21 (2008)

**KENNEDY, WHYTE & LOUGHRAN**

WHEREAS, tobacco use is the number one preventable cause of death and disability; and

WHEREAS, youth ages 12-20 are one-sixth of the population but buy more than a quarter of all movie tickets; and

WHEREAS, half the tobacco shots in the ten top-grossing movies released from May 2002 to May 2003 were in youth-accessible and youth-marketed G, PG and PG 13 films; and

WHEREAS, 80 percent of the ten highest-grossing PG-13 movies and videos released in 1996-1997 and 1999-2000 featured smoking; and 85 percent of the twenty-five top grossing Hollywood films from 1988 to 1997 dramatized the use of tobacco, the highest rate in half a century; and

WHEREAS, exposure to smoking in movies recruits more than half (52%) of new adolescent smokers; and

WHEREAS, every day 1,070 teens light up their first cigarettes because of smoking in movies – and 340 of them will die prematurely as a result; and

WHEREAS, the tobacco industry has a long, documented history of encouraging smoking in movies and lying about it; and

WHEREAS, the 1999 Federal Trade Commission report documented that cigar industry spending on “celebrity endorsement, and appearances, and payment for product placement in movies and television more than doubled between 1996 and 1997;” and

WHEREAS, smoking in television ads for movies, significantly greater in ads for movies that show a particular tobacco brand, reach the vast majority of children and adolescents; and

WHEREAS, the World Health Organization, American Medical Association, American Academy of Pediatrics, American Legacy Foundation, American Academy of Allergy, Asthma, and Immunology, Society for Adolescent Medicine and others – including the Los Angeles Department of Health Services, US Public Interest Research Group and Interfaith Center for Corporate Responsibility – have endorsed the smoke-free movies solution; and

WHEREAS, twenty-seven state Attorney General have written the Motion Picture Association of America urging Hollywood to play an active role in reducing the number of children who smoke because of smoking in the movies; and

WHEREAS, the University of California San Francisco has been running an educational and advocacy campaign, Smoke Free Movies, designed to reduce the value of American movies as promotional devices for the tobacco industry through four simple, voluntary actions by the motion picture industry:

- Rate New Smoking Movies “R”  
Any film that shows or implies tobacco should be rated “R.” The only exception should be when the presentation of tobacco clearly and unambiguously reflects the dangers and consequences of tobacco use or is necessary to represent smoking of a real historical figure;
- Certify No Pay-Offs  
The producers should post a certificate in the credits at the end of the movie declaring that nobody on the production received anything of value (cash money, free cigarettes or other gifts, free publicity, interest-free loans or anything else) from anyone in exchange for using or displaying tobacco;
- Require Strong Anti-Smoking Ads  
Studios and theaters should require a genuinely strong anti-smoking ad (not one produced by a tobacco company) to run before any film with any tobacco presence, regardless of its MPAA rating;
- Stop Identifying Tobacco Brands  
There should be no tobacco brand identification nor the presence of tobacco brand imagery (such as billboards) in the backgrounds of any movie scene.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature endorses the four objectives of the Smoke Free Movies campaign; and be it further

RESOLVED, that the Clerk of the Erie County Legislature is directed to forward a certified copy of this resolution to Mr. Alan Rubeck (Erie 1 BOCES CYDSS, 355 Harlem Road, West Seneca, NY 14224).

(4-1) Legislator Mazur voted in the negative.

6. INTRO 8-22 (2008)

**KENNEDY, KOZUB, WHYTE, GRANT, WROBLEWSKI & REYNOLDS**

WHEREAS, Occupational Therapy consists of the rehabilitation of individuals with physical, developmental, emotional, and psychological disabilities and injuries that impacts their ability to function independently within their home, work, educational, or leisure environments; and

WHEREAS, Occupational Therapy as a form of rehabilitation medicine has grown in stature, capability and its ability to positively impact the quality of life of individuals over the past century and continues to make strides in all aspects of its conceptual and practical development; and

WHEREAS, the New York State Occupational Therapy Association (NYSOTA) is seeking legislation that would amend the Occupational Therapy Practice Act, thereby updating the charter by which Occupational Therapists provide treatment throughout New York State, originally passed in 1975; and

WHEREAS, when the Occupational Therapy Practice Act was passed in 1975, Occupational Therapy was a profession based mainly in hospitals, nursing homes and psychiatric hospitals. It has since grown dramatically, especially in treatment for the pediatric population, through early intervention focusing more aggressively on children with developmental disabilities and children with special education needs; and

WHEREAS, Occupational Therapy is now a larger rehabilitation profession providing services to all ages and in a wide variety of settings, including private practice; and

WHEREAS, the definition of Occupational Therapy would be amended to include consultation, wellness and prevention services, all of which are provided by occupational therapists already. This change would provide clarification and support for these services; and

WHEREAS, in non-medical situations such as special education, community based day programs for the elderly, prevention and wellness services in the community, and work based ergonomics consultations, Occupational Therapists may not begin providing treatment without prescriptions, creating an undue cost and burden to the client, and an obstacle or delay of services, and

WHEREAS, amendments would reflect changes to Occupational Therapy treatment programs allowing services to be initiated without a referral from a physician or nurse practitioner when the service delivery would be non-medical in nature, and

WHEREAS, the current practice of Occupational Therapy Assistants is provided through an exemption to the practice act, making it difficult for the State Education Department to regulate the practice of an Occupational Therapy Assistant, and

WHEREAS, amendments would clearly define an Occupational Therapy Assistant and the services provided by an Occupational Therapy Assistant, as well as strengthen the requirements for a license as an Occupational Therapy Assistant. This will include ensuring that potential Occupational Therapy Assistants pass a State licensure examination, a practice not presently followed, and

WHEREAS, the amendments would authorize the State Commissioner of Education to set regulations regarding the level of supervision required for a practitioner with a limited permit, and

WHEREAS, the composition of the State Board for Occupational Therapy would be changed to add a public member and an Occupational Therapy Assistant to the board, offering a more diverse board with an increasingly accurate reflection of the makeup of the Occupational Therapy profession.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature goes on record in support of S.3942 and A.6796, the measure that amends the Occupational Therapy Act of 1975, which updates and strengthens the professional standards and requirements of the profession of Occupational Therapy in New York State; and be it further

RESOLVED, that the Erie County Legislature requests that Governor David Paterson sign this measure into law; and be it further

RESOLVED, that the Erie County Legislature goes on record in support of continued monitoring, updating and modifying of all professional standards and requirements to reflect the current state of the various professions, particularly those in the health care field; and be it further

RESOLVED, that certified copies of this resolution be forwarded to Governor David Paterson, Commissioner of the New York State Department of Education Richard Mills, Commissioner of the New York State Department of Health Richard Daines, MD, New York State Assembly Speaker Sheldon Silver, New York State Senate Majority Leader Joseph Bruno, New York State Assemblymember Canestrari, New York State Senator LaValle, Western New York State Senate Delegation, Western New

York State Assembly Delegation, New York State Occupational Therapy Association President Izel Obermeyer OTR/L.  
(5-0)

7. COMM. 8E-13 (2008)

**COUNTY EXECUTIVE**

WHEREAS, the New York State Office for the Aging notified the Department of Senior Services (Department) of continued funding for the Operation Restore Trust (ORT) grant for the period June 1, 2007 to May 31, 2008; and

WHEREAS, the Department, as the designated Area Agency on Aging in Erie County, is responsible to oversee the provision of the ombudsman services required by the grant, via contract with the American Red Cross, the designated Ombudsman for Erie County; and

WHEREAS, the designated Ombudsman is required to provide information and education on Medicare and Medicaid waste, abuse and fraud to elderly residents of Erie County; and

WHEREAS, the American Red Cross will provide the required \$3,401 in local match for the \$9,917 in federal ORT funding for the period June 1, 2007 to May 31, 2008; and

WHEREAS, the Erie County Legislature has already appropriated funds for the Retired Senior Volunteer Program (RSVP) grant for the period July 1, 2007 to June 30, 2008; and

WHEREAS, the Department has received an additional \$1,000 from public donations for RSVP Volunteer recognition expenses; and

WHEREAS, the Erie County Legislature has already authorized the County Executive to contract with various home care providers; and

WHEREAS, the Department contracts with various licensed home care agencies to provide personal care, homemaker, and housekeeper services to frail elderly persons under various grant programs; and

WHEREAS, the Department wishes to add Sibley Nursing Personnel Service, Inc. to the list of authorized home care providers; and

WHEREAS, there are no County funds associated with the ORT grant, and there is no impact on County funds associated with the RSVP grant.

NOW, THEREFORE, BE IT

RESOLVED, that the County Executive be and is hereby authorized to accept the ORT grant funds and enter into a contract with the American Red Cross for the remainder of the ORT grant period at the amount authorized herein, and be it further

RESOLVED, that the County Executive be and is hereby authorized to contract with Sibley Nursing Personnel Service, Inc, as an additional authorized home care provider as of the date of this resolution, and be it further

RESOLVED, that the ORT grant (163ORT0708) for the period June 1, 2007 to May 31, 2008, be established as follows:

		INITIAL BUDGET
<b>REVENUES</b>		
Account	Description	
414000	Federal Aid	\$9,917
466320	Subcontractor Match	<u>\$3,401</u>
	<b>TOTAL REVENUE</b>	<u><u>\$13,318</u></u>
<b>APPROPRIATIONS</b>		
516010	American Red Cross	<u>\$13,318</u>
	<b>TOTAL APPROPRIATIONS</b>	<u><u>\$13,318</u></u>

and be it further

RESOLVED, that the budget for the RSVP grant, 163RSVP0708, be revised as follows:

		CURRENT BUDGET	CHANGES	AMENDED BUDGET
<b>REVENUES</b>				
Account	Description			
466330	Other Local Match	\$2,500	<u>\$1,000</u>	\$3,500
	<b>TOTAL CHANGE</b>		<u><u>\$1,000</u></u>	
<b>APPROPRIATIONS</b>				
530000	Other Expenses (Vol Recognition)	\$10,472	<u>\$1,000</u>	\$11,472

TOTAL CHANGE

\$1,000

and be it further

RESOLVED, that certified copies of this resolution be forwarded to the County Executive's Office, the Division of Budget and Management, the Comptroller's Office, the Department of Law and the Department of Senior Services.

(5-0)

8. COMM. 8E-20 (2008)

**COUNTY EXECUTIVE**

WHEREAS, the Department of Social Services will receive a \$12,500 cash donation from the United Way of Buffalo and Erie County for preventive services aimed at supplementing the successful Full Service Schools initiative; and

WHEREAS, the donated funds will be used to draw down additional State share funding in the amount of \$23,215, and this resolution requests authorization to increase the current year budget and contract amount by \$35,715; and

WHEREAS, these funds will be used to supplement an existing contract with Western New York United Against Drug and Alcohol Abuse as the lead agency for this program; and

WHEREAS, the Full Services Schools initiative places casework staff in school buildings to provide an outreach specialist function to assist students as needed in assessment, counseling, referral and intervention; and

WHEREAS, staff assigned focus on the unique needs of individual students and bridge the gap between students, teachers, administrators, support staff and community service providers; and

WHEREAS, there is no fiscal impact to this resolution.

NOW, THEREFORE, BE IT

RESOLVED, that the following budget amendments are hereby authorized in the 2008 Adopted Budget:

Department of Social Services Fund Center 120, Fund 110

APPROPRIATION  
ACCOUNT

DESCRIPTION

CURRENT  
BUDGET

CHANGE

AMENDED  
BUDGET

516010

WNY United Against Drug/Alcohol

\$202,054

\$35,715

\$237,769

Total Change

\$35,715

REVENUE  
ACCOUNT

DESCRIPTION

CURRENT  
BUDGET

CHANGE

AMENDED  
BUDGET

418430

Donated Funds

\$70,719

\$12,500

\$83,219

407680

State Aid Services for Recipients

\$131,335

\$23,215

\$154,550

Total Change

\$35,715

and, be it further

RESOLVED, that the County Executive and/or the Commissioner of Social Services be authorized to accept a \$12,500 donation from the United Way of Buffalo and Erie County and to execute necessary contracts and agreements including contracts with United Way and with Western New York United Against Drug and Alcohol Abuse and, be it further

RESOLVED, that due to the immediate need to expand this program with the established lead provider agency, the requirement for Request for Proposals is hereby waived and, be it further

RESOLVED, that certified copies of this resolution shall be forwarded to the County Executive, the Commissioner of Social Services, the Erie County Comptroller and the Director of the Division of Budget and Management.

(5-0)

**THOMAS J. MAZUR**  
**CHAIR**