



**JOINT LEGISLATIVE PUBLIC HEARING ON
2020-2021 EXECUTIVE BUDGET
PROPOSAL: MENTAL HYGIENE**

FEBRUARY 3, 2020

**TESTIMONY BY:
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EXECUTIVE DIRECTOR**

Good afternoon. Thank you to the chairs and members of the committees for this opportunity to provide testimony on behalf of mental health and substance use disorder/addiction prevention, treatment and recovery providers across New York. I am Lauri Cole, Executive Director of the NYS Council for Community Behavioral Healthcare (NYS Council). We are a statewide membership association representing approximately 100 behavioral health organizations that provide mental health and substance use disorder/addiction prevention, treatment, recovery and harm reductions programs and services for tens of thousands of New Yorkers each day. Our membership includes community-based agencies, hospitals, and counties providing a broad array of behavioral health services.

The NYS Council's primary mission is to ensure access to and continuity of care for children, youth, single individuals, and families seeking services from the public mental hygiene system. We appreciate your significant efforts over the years to support the behavioral health community and to ensure that the role of community-based organizations (including our behavioral health care members) is recognized within the State's health care delivery system and payment reform efforts.

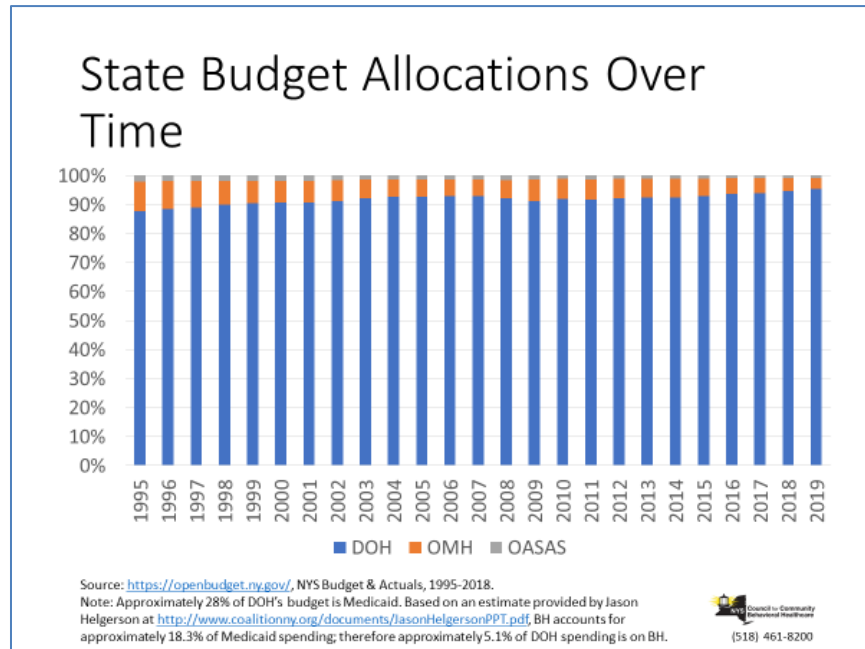
We come to you again this year with an urgent request that is essential if we are to stabilize our system of care and get out in front of two devastating public health crises—the Opioid Epidemic and the increasing rate of completed suicides in certain populations that we serve. An historical lack of investment to community-based providers is jeopardizing the entire human services sector where access to and continuity of care is now questionable in many communities across the state. We urge you to make a significant and ongoing investment in the human services sector so that we, as a state, can continue to address the myriad health care issues our patients face each and every day.

Our testimony today highlights various high priority areas but all of our concerns relate to the historical lack of funding in our sector and the negative consequences this is having. Our core belief is that New York must do everything within its power to protect and enhance access to care for vulnerable children and adults who rely on mental health and substance use disorder/addiction providers as their primary connection to treatment and recovery as they address these complex challenges that continue to ravage families across the state.

PRIORITY: “3For5 Campaign” – Investment in the Human Services Sector

The NYS Council joins more than 40 organizations that are representing statewide, non-profit agencies that serve thousands of people who access life-saving and life-changing addiction and mental health treatment from those agencies. Our agencies offer supports and services for mental health, substance use, developmental disabilities, child welfare, foster care, aging, domestic violence, homelessness, food pantries and others. The individuals, children and families in need of services deserve quality, integrated, and accessible care. We are asking State decision makers to provide a long term – and long overdue – investment to the human services sector. We are requesting a three-percent funding increase every year for the next five years that will help to stabilize these organizations that have already reached a dangerous tipping point due to severe workforce shortages, ever increasing operating expenses, and an inability to recruit and retain qualified staff at all levels of the organization.

The importance of these agencies cannot be overstated. But, despite the increasing need for the services, and our continued plea that financially they are at a breaking point, the Governor’s executive budget does not include funding necessary for the financial health of human services providers and the millions of people we serve. We recognize previous programmatic and workforce investment, notably the salary increases for direct care workers in the developmental disabilities, mental health, and addiction recovery fields and we are grateful for these increases, but more is needed to combat a decade (and in the case of the mental health and substance use disorder community) two-decade long divestment. Our requested 3For5 funding is designed to increase rates and funding such that our members can begin to address the operational challenges they face, as well as the critical workforce shortages they contend with.



Existing statute includes an annual COLA increase for these providers however, over the last decade, only some of the human services sector has received these increases sporadically. This has resulted in a loss of close to \$1 billion in promised financial support for the human services sector as a whole. Timely access to care, which is the foundation for being able to address a myriad of issues that without intervention become acute care emergencies, is in jeopardy. Many agencies have waiting lists for care, facilities are deteriorating, and agencies are unable to offer competitive, living wages to attract and retain the skilled staff necessary to deliver quality care and support.

These fiscal realities, unfortunately, are now contributing to increased homelessness, increased hospitalizations, and ultimately greater cost to taxpayers. Our agencies are the safety net for New Yorkers in greatest need. Many of our providers are now fiscally unstable if not in financial crisis, and in danger of closing due to inadequate funding.

We are asking that vital investments be made in our sector during the 2020-21 session. Specifically, we ask the legislature to commit to a three percent increase across rates and contracts each year for the next five years.

PRIORITY: Children's Behavioral Health

The children's behavioral health system is severely under-funded, and because of this, New York's children and teens are suffering with suicide being the second-leading cause of death for children ages 15 to 19, and the third-leading cause of death for children 5 to 15. Despite the State's efforts to increase mental health and substance use disorder services to children and families and improve access to care, inadequate funding for services and staffing has led to debilitating consumer costs, long waiting lists and a bottleneck of children unable to access care. Children are New York's future, and it is the responsibility of all of us to ensure that all children can access the vital, lifesaving care they need.

We must prioritize children's behavioral health across the state's investments and systems. The current behavioral health system for children is under-developed and unable to respond to the mental health crisis facing New York's children and youth. It is no longer enough for the state to assert that managed care and health insurance coverage are sufficient to meet the access and continuity of care needs of the children's behavioral health system.

Joining with other organizations as part of the Campaign for Healthy Minds Healthy Kids, the NYS Council asks that the State ensure timely access to necessary clinical services; make available a range of evidence-based interventions that have proven effective; and hold accountable the health plans and insurance carriers charged with and paid to deliver behavioral health services to New York's children. We also ask for a moratorium on funding cuts to children's behavioral health care as well as an increase in access to services through continued Medicaid redesign that recognizes changes that have taken place across the children's system since the children's redesign began almost eight years ago.

PRIORITY: Behavioral Health Parity Compliance Fund

The NYS Council has worked for many years to educate state leaders and lawmakers and to provide concrete evidence of the many barriers that prevent or delay access to and continuity of care for mental health and substance use disorder/addictions care recipients. We have also described in detail the consequences associated with delayed/denied care as well as delayed/denied reimbursement as they impact consumers and the agencies that provide services. A lack of compliance with behavioral health parity laws is a prime and ongoing example of this.

We wholeheartedly support proposals that strengthen efforts to ensure compliance with behavioral health parity laws so New Yorkers are guaranteed the same access to services as they would be in the physical health space. The Governor's proposal to establish the Behavioral Health Parity Compliance Fund demonstrates his support for New Yorkers with substance use disorder/addictions or mental health conditions, their right to access the services and coverage they are legally entitled to, and the complexities associated with utilizing mental health and substance use disorder insurance coverage.

This new proposal requires DOH, DFS, in consultation with OMH and OASAS to promulgate regulations to ensure compliance with State and Federal behavioral health parity statutes by October 1, 2020. The regulations would require health insurance providers to provide mental

health and SUD coverage consistent with State and Federal behavioral health parity statutes. In the absence of compliance, the proposal supports levying fines for enforcement.

The proposal also includes continued funding of \$1.5 million to support the Behavioral Health Ombudsman program, along with authority to utilize up to \$1.5 million in funds received from levying fines on the plans in the newly established Behavioral Health Parity Compliance Fund. As one of the partner organizations working on the State's first of its kind Mental Health and SUD Ombudsman Program, we can tell you that there is a tremendous need for assistance for New Yorkers who are unable to access care, stay in care, or receive the proper after care due to the incredible barriers some insurers will put up to skirt their responsibility to provide comparable coverage for mental health and substance use disorder/addictions care as they do for physical health.

The NYS Council vigorously supports this proposal and encourages the NYS Legislature to do the same.

PRIORITY: Support CCBHC Extension Demos

Certified Community Behavioral Health Clinics (CCBHCs) were created as part of a federal demonstration program – the Excellence in Mental Health Act – to expand Americans' access to mental health and addiction care in community-based settings. There are currently 113 CCBHCs operating in 21 states, with 13 of them being in New York.

The CCBHC demo enhances coordinated care for some of the most seriously ill New Yorkers seeking mental health and substance use/addiction care. These individuals utilizing care might not ordinarily have been able to access this care as a result of the fiscal environment our providers face around the state.

CCBHCs receive an enhanced Medicaid reimbursement rate based on their anticipated costs of care and they are responsible for directly providing (or contracting with partner organizations to provide) nine required types of services. This rate is much better than managed care rates because it is a cost-based rate and therefore has improved the stability for the 13 agencies in our state at a time of paramount importance, given the opioid crisis and suicide rates.

Early results demonstrate a transformation of access to care in their communities. CCBHCs are:

- Increasing access to mental health and addiction treatment – patient caseloads have increased an average of 24.8% even while 68% of clinics have seen a decrease in patient wait times.
- Expanding capacity to address the opioid crisis - after an initial call or referral, 78% of CCBHCs can offer an appointment within a week or less, compared to the national average of up to 48 days.
- Collaborating with partners in hospitals, jails, prisons and schools - 100% of CCBHCs have integrated mental health, addiction, and primary care by leveraging their payment rate to support staff hiring, training, care coordination and/or establishing referral relationships with other providers.

- Attracting and retaining qualified staff who offer science-based, trauma-informed services – often on the same day patients present for care. CCBHCs report an average of 46 new staff hired, including adult and child psychiatrists.

The NYS Council asks lawmakers to continue to support this federal extension demo and to also support state-enhanced expansion grants of the CCBHC model.

PRIORITY: Disparity in Commercial Rates

Mental health and substance use disorder providers are on the front lines every day providing treatment, and support to over one million New Yorkers. In order to decrease the profound impacts of the opioid epidemic, the increase in suicide completions, and the increase in homelessness and incarceration, we need a robust, healthy, community-based sector. But our sector faces a fiscal crisis due to inadequate rates across the board as well as the disparity that continues to exist between rates paid to providers serving New Yorkers with private health insurance as opposed to those with Medicaid insurance coverage.

We have come before the body for close to a decade now, requesting that lawmakers ensure that the Department of Financial Services (DFS) require the insurers it regulates to pay rates that are on par with the Medicaid Managed Care and Medicaid Fee for Service rates. DFS maintains it does not have the authority to require the insurers it regulates to pay rates that are on par with Medicaid rates that the Department of Health has stated are actuarially sound. Unfortunately, this results in a two-tiered system. Clients with commercial insurance may be denied care by a provider that cannot afford to accept rates from health plans for beneficiaries covered by private health insurance that are often 1/3-1/2 the amount paid for the same service delivered by the same individual at the same agency, the only difference being the insurance card in the pocket of the client seeking care.

The NYS Council urges you to assist us to ensure that, regardless of the type of insurance benefits the individual has, he or she has the same likelihood of being served by all providers, and that the provider is reimbursed the same amount for a service regardless of who is paying.

PRIORITY: Opioid Epidemic and Opioid Settlement Funds

As the state continues to face an Opioid Epidemic of historic proportions, we need to ensure that OASAS and its providers have the resources and funding to meet the demands for prevention, treatment, recovery and harm reduction services in every corner of the state. While we support the Governor's proposal banning fentanyl analogs, this is not nearly enough. There needs to be an infusion of new funds to support the OASAS and OMH workforces that are hemorrhaging staff due to an inability to recruit or retain qualified employees.

It is very likely there will be funds available when the Opioid lawsuit brought by the Attorney General's Office is settled. *We ask that this money must be used to enhance the availability of prevention, treatment, recovery and harm reduction services for providers that clients with substance use/addiction issues as well as those who are struggling with co-occurring disorders.*

This will require significant investments in the programs and services that today are desperate for rate increases and other investments to include:

- Loan Forgiveness for OASAS Workforce;
- Scholarships to attract and retain mission-focused peers, direct care workers, and others to the field; and
- Funding to assist OASAS providers as they struggle to pay costs associated with marketing and advertising for qualified employees

Transformation and New Funding

During such a critical time of health care transformation across the state – a time of DSRIP projects and Triple Aim commitments – we believe that no portion of the health care sector should be left out of any funding that may come into the State. But yet, again we must appeal to you and request specific set asides of new funding for our sector.

We propose that there be statutory language enacted that ensures all portions of the health care sector can benefit from new funding such as the Centene funding, business affiliations, agreements, and DSRIP 2.0 proposals.

We are grateful to have received Statewide Healthcare Restructuring grants in the past that have been helpful with capital projects and other initiatives. But we need a policy and a commitment that all providers caring for the citizens of New York will have access to any type of future funding.

PRIORITY: Healthcare Transformation Fund

As we have mentioned throughout this testimony, there is an overwhelming need for an immediate infusion of additional resources in the community-based provider sector and compelling evidence that shows New York is not adequately investing in the community sector which is the sector most relied on to keep vulnerable New Yorkers out of more costly acute care settings, and to assist them once they are discharged so that they do not return to the hospital.

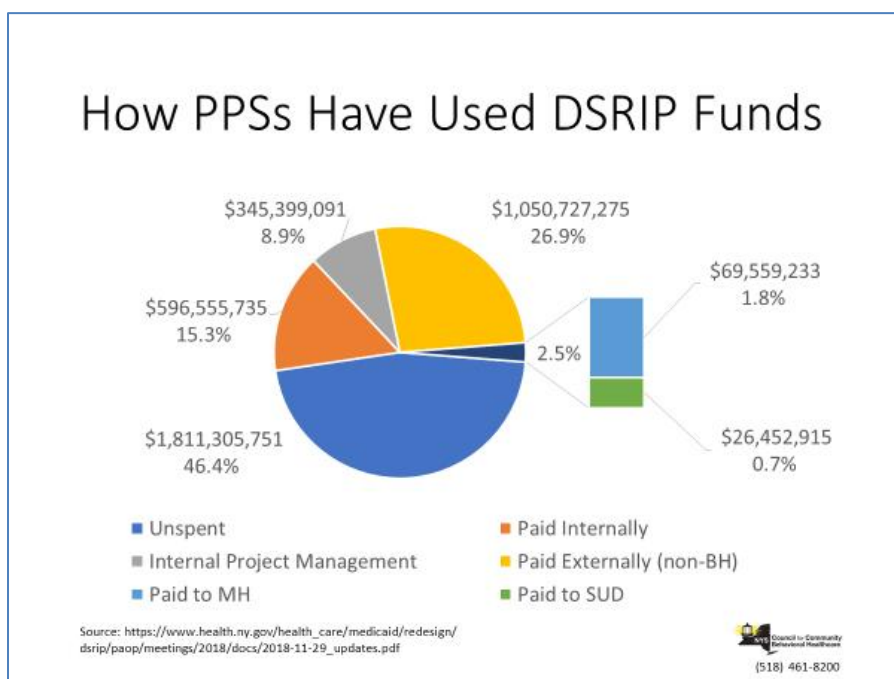
Yet another example of this is the State’s Health Care Transformation Fund (HCTF) which was established “for transfer to any other fund of the state as authorized and directed by the director of the budget to support health care delivery, including for capital investment, debt retirement or restructuring, housing and other social determinants of health, or transitional operating support to health care providers.” There is no specific language in the statute that delineates which type of provider this applies to, however, **the funds to date have been disproportionately distributed across the health care sectors. Specifically, funds from the acquisition of Fidelis Care by Centene Corp. were disbursed to hospitals and nursing homes with no similar state plan to assist the rest of the healthcare delivery system.**

The NYS Council has been leading a group of 23 regional and statewide associations that represent all areas of the community-based health and behavioral healthcare continuum of care. *We have been working to secure a set aside of 25% from any future disbursements from this or*

any other account/s holding funds realized from settlements or business transactions in the healthcare sector, or from any other sources where the intent of the funds is to support the health care infrastructure or health care improvement. We are desperate for your support as we continue to elevate the lack of parity in the distribution of such funds which continue to come in to the state.

PRIORITY: DSRIP Set Aside for Community-Based Providers

Community-based organizations have significant and growing needs to add new sites, renovate, and modernize existing physical plants, hire consultants for new construction and renovation projects, restructure debt and access start-up funds. We seek to upgrade, enhance, and grow our programs and services in order to provide integrated care that is in line with the state’s focus on value-based payment models and the integration of primary and behavioral healthcare. However, we have historically received a tiny fraction of any funding from the State, as described above, as well as a fraction of the PPS DSRIP funds – 2.5% of the total funding.



The NYS Council is working with our partners at CHCANYS, as well as a group of other associations representing community-based providers, to ensure that 40% of any incoming DSRIP 2.0 funds be set aside and allocated for the community-based sector. We urge you to join us in this fight as we again seek parity in the distribution of new resources that may become available under the DSRIP 2.0 Initiative.

PRIORITY: Legalization of Marijuana

Before New York legalizes the adult use of marijuana, there should be serious and thoughtful investigation of the consequences of adult marijuana use on mental health and addiction issues. According the Substance Abuse and Mental Health Services Administration (SAMHSA), "Approximately 1 in 10 people who use marijuana will become addicted. When they start before

age 18, the rate of addiction rises to 1 in 6." Given the already serious addiction issues we face across the state, the potential impact this legalization could have on already fragile New Yorkers, as well as our behavioral health providers struggling to provide access to care, is staggering.

We encourage lawmakers to seriously consider the impact this may have and instead of passing the bill this session request further investigation to ensure this is the right thing to do for New Yorkers.

If a thoughtful discussion is held and it is determined that legalization should occur, there should be a methodology identified for disbursement of revenues when they begin to flow. We believe that the majority of taxes placed on marijuana and marijuana product sales, wholesale and retail, should be devoted to public education about addiction; prevention of addiction; addiction treatment; health effects of cannabis and synthetic cannabinoid use; prevention of initiation of cannabis and cannabinoid use by youth; and research on the health risks and potential benefits of marijuana, "natural" cannabinoids, and synthetic cannabinoids. Specifically, our suggestions for the taxes are as follows:

- 50% of taxes collected should be used to strengthen prevention, treatment, recovery, and harm reduction services with emphasis on addressing substance use disorders related to marijuana;
- 25% of taxes should go to assist law enforcement efforts to address impaired driving and other public safety issues arising from marijuana use; and
- 25% of taxes should go to create state infrastructure to regulate marijuana and support expanded SUD and law enforcement efforts.

Conclusion

In conclusion, we are asking for your assistance to stabilize the entire human services sector, and particularly the behavioral health providers. Our priority areas seek to emphasize the historical lack of funding in our sector and the negative consequences this is having. We strongly believe that we must do everything within our power to protect and enhance access to care for vulnerable children and adults who rely on mental health and substance use disorder/addiction treatment providers as their primary connection to treatment and recovery from living with these complex challenges.

Thank you for your time and the opportunity to comment. And, thank you for your public service and your commitment to the behavioral health field. We look forward to working with you throughout the remainder of the legislative process.