



**NEW YORK STATE SENATE FINANCE AND
ASSEMBLY WAYS AND MEANS COMMITTEES
HEALTH and MEDICAID BUDGET HEARING**

FEBRUARY 12, 2018

**TESTIMONY BY:
LAURI COLE
EXECUTIVE DIRECTOR**

Good afternoon. Thank you to Chairs Senator Young and Assemblymember Weinstein, and members of the Senate and Assembly committees, for this opportunity to provide testimony. I'm Lauri Cole, Executive Director of the NYS Council for Community Behavioral Healthcare (NYS Council). We are a statewide membership association representing 100 community organizations that provide mental health and substance abuse prevention, treatment and recovery services to tens of thousands of New Yorkers each day. Our membership includes community-based agencies, hospitals, and counties providing direct service.

On behalf of our members, and specifically our dedicated workforce, I extend our sincere thanks for your support last year in securing a COLA for our direct care and clinical staff. As you know, we currently face incredible workforce shortages at many levels of responsibility with no end in sight. These shortages are forcing our members to re-think their current commitment to local communities in which they are trusted and recognized for their life-sustaining ability to respond to the mental health and addiction needs of local children, families, and adults. As we strive to remain compliant with a multitude of federal and state licensing and regulatory requirements, we are also battling an Opioid/Heroin epidemic that is having a significant impact on our current staff as well as our ability to recruit and retain new staff. Now more than ever we must send a message to our workforce that they are valued. Our frontline workers are doing incredibly challenging work and our members are now reporting that staff are experiencing trauma resulting from the number of deaths they see from day to day. Unfortunately, this stress is not abating making our workforce needs more complex. Thank you for your concern for their needs and the complex challenges we face. A large group of mental health and substance use/addiction associations representing our workforce will be requesting a continuation of the COLA during the Mental Hygiene hearing tomorrow. We urge you to support our request for a continuation of the COLA you provided in last year's budget.

Opioid Surcharge Proposal

With regards to the executive proposal that would impose a surcharge on opioid manufacturers, we strongly support this initiative. It is time for manufacturers to do their fair share to help stem the tide of this epidemic. As you are all too well aware, New York communities continue to be ravaged by the opioid and heroin epidemic, and the demands for treatment in many regions of our state exceed available capacity. Data from the Centers for Disease Control show that New York has experienced a sharper increase of fatal poisoning by all opioids from 2013 to 2015 that has outpaced the national average (*Centers for Disease Control and Prevention, CDC Wonder – Multiple Cause of Death Data*). As the crisis continues the behavioral healthcare system continues to be seriously underfunded and overworked. Western NY in particular struggles with inadequate access to residential treatment to meet community demand. As such, it should come as no surprise that in WNY and other areas of the state where demand exceeds supply these communities are seen as the epicenters of the epidemic. For years providers have been dealing with significant workforce shortages and rates that do not support actual cost of care. The substance use and addiction system of care requires an immediate and substantial infusion of new funds to expand their services and grow their multi-disciplinary teams.

The NYS Council is taking action. We are not relying on state government to meet all of the many needs we have or to find all of the solutions for this complex problem. Right now, access to evidence-based tools to combat the crisis such as Medication Assisted Treatment (MAT) is hampered by overly restrictive federal regulations that arbitrarily cap the number of patients qualified prescribers can provide with certain medications. This major barrier to a proven effective treatment is unacceptable as the crisis continues here in New York. As such, the NYS Council is leading a national effort at the federal level to fix this problem by advancing language on the Hill that would lift arbitrary caps on prescribers. We know that when it comes to addictive disorders the ability to provide timely, effective care on demand and at the moment the client is ready to accept it is everything. The bravery and courage required to overcome the stigma associated with addiction and ask for help must never be met by barriers that delay that care.

The NYS Council is concerned that the current opioid surcharge language, while it alludes to utilization of some of the funds to stem the tide of the crisis, **does not make explicit that OASAS will receive the majority of the Surcharge funds.**

RECOMMENDATION: The NYS Council recommends that the Senate support and/or champion the inclusion of language in the Opioid Surcharge proposal that explicitly states that 85% of the funds received from the Surcharge will be directed to the State Office of Alcoholism and Substance Abuse Providers, (OASAS) and that 50% of those funds be used for purposes of adding new services and new initiatives beginning with an investment in our Workforce.

Children’s Behavioral Healthcare System Transformation

As you may know, children’s behavioral health system stakeholders were recently informed the State is implementing a two-year delay of the children’s transition to Medicaid Managed Care and the implementation of 6 new State Plan Amendment (SPA) services. The transition is one of many Medicaid Redesign Team Initiatives that was applauded for its’ objectives to re-envision the children’s service system, address longstanding access to care issues and make available a new set of services to enhance our ability to address the complex needs of our children and families. (Confirmation of the delay and information regarding the savings associated with the delay is listed on the Medicaid Scorecard where there are savings claimed in the current year budget as well as the budget you are negotiating now.)

In addition to the transition of the children’s system to Medicaid Managed Care, the delay puts “on hold” the long-anticipated implementation of six new SPA services, and the integration of Home and Community Based Services (HCBS) currently approved under the state’s 1115 waiver. Child serving agencies have spent the past several years re-organizing their agencies and digging deep to find the financial resources required to make the operational and clinical changes necessary for what was to be a systemic shift in how they provided care to some of New York’s most vulnerable children and their families. The transition was designed by the state with input from a stakeholder workgroup process that occurred over a 5-year period which included two implementation delays. The redesign was intended to put more responsive programs and

services on the ground for the new generation of children we serve who require (in many cases) more intensive care.

As a result of the delay, we are left with a fractured system that does not serve families and children with the immediacy and intensity they require. Many of our child serving member agencies have made significant staffing additions/changes in anticipation of the transition including significant financial investments in new records systems and other operational changes. Many of them now have to fire staff and make difficult decisions about the care they can afford to provide. They are forced to explain to client families that the new grouping of services they might have been eligible for is no longer available. And, they are left holding the bag in terms of funds they've spent hiring staff and preparing for the transition. Most importantly, we are left with a service delivery system in which far too many children and their families who are very often in crisis are unable to access the services they need when they need them.

RECOMMENDATION: The NYS Council proposes that at least \$15 million of the previously booked funds in the state's fiscal plan for the children's system that remains unspent be included in the FY19 budget agreement specifically to support and bolster the children's behavioral healthcare sector at this critical juncture. These funds should be used to address the immediate need to enhance access to and continuity of care for New York's children to include the following services/investments:

- Skill Building
- Respite Care
- Family and Youth Peer Supports
- Flexible Funding (to help providers bridge the gap left as result of their having expended scarce resources to staff up and operationally ready the agency for the transition now delayed).
- Staff Retention & Training

Several years ago, I came before this body and discussed a survey conducted by the Office of Mental Health that revealed over 50% of the state's community-based mental health outpatient clinics were in a state of financial crisis. The providers impacted by the delay of the children's system transition are some of these same providers. Some are on the brink of financial catastrophe. They need our immediate assistance.

Finally, we ask that the delay of the children's system transition be kept as brief as is possible and that a bottom-up, regionally based planning process to overhaul the children's transition plan be developed and implemented.

Licensure and the Scope of Practice

For many years the behavioral health and human services fields have fought to protect our diverse and talented workforce against the unintended consequences of the licensure scope of practice statute by prolonging the sunset of exemptions. Nevertheless, community-based mental health and substance use programs and their services are now at risk with the sunset of the exemption later this year.

Over the past several years there has been persistent mischaracterizations of our system of care and the tasks performed/not performed by various staff. This misinformation has been promulgated by several professional associations that represent clinicians who have an interest in protecting their scope of practice or “turf”. Scare tactics are being used to discredit high quality programs and services on the ground throughout the community mental health and addiction service systems.

Respectfully, we find the FY19 Article VII language on this issue to be a (proposed) solution in search of a problem. Our agencies are using licensed professional staff as permitted by scope and described by regulation. We have a unique advantage over other mental health care models including the private practice model in that we use multi-disciplinary teams to provide the best quality care available.

Our programs make use of the talents of a broad range of qualified professionals with varying education levels and qualifications including Licensed Mental Health Counselors, Credentialed Alcoholism and Substance Abuse Counselors, Licensed Marriage and Family Therapists, Peer Recovery Coaches and others. These individuals are practicing within their scope.

Over the next week, leaders from a large coalition of membership associations representing the vast majority of community-based mental health, substance use, and developmental disability providers will be meeting with you and / or your staff to discuss in greater detail the concerns we have with the proposed Article VII language. We urge you to review the information we have prepared. We know you appreciate the magnitude of the issues before you now. As you do, please remember that our programs are highly regulated, monitored, and overseen by several layers of State and other governmental oversight agencies. They use a multi-disciplinary approach to care and they follow all applicable regulations. If these programs cannot continue to operate, as many have successfully done for decades, it is not an exaggeration to say that the impact on the most vulnerable among us will be catastrophic.

Healthcare Facility Transformation Grants

The NYS Council is pleased that there will be a second round of Statewide Healthcare Facility Transformation Grants available to providers across the state. Behavioral healthcare providers in particular stand to benefit from access to such funds as they seek to upgrade, enhance, and grow their operations 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.

Community-based behavioral health care 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 – all allowable costs in round two of the transformation grants. We have historically received a fraction of the grants provides an important opportunity to ensure these providers have appropriate access to funding.

Our members are doing their part to identify alternative funding. Over the past two years, the NYS Council has introduced many of our members to representatives from a well reputed social impact fund that wants to assist mental health and substance use organizations with their capital needs by offering them low interest loans. Some of our members have taken advantage of these opportunities to address anything from replacing windows in old buildings where programs and services are located to assisting with technology purchases and putting money in place to build new facilities to house integrated services requiring special spaces where primary care services can be made available. While we continue to work to identify private sources to meet pent up demand for capital dollars, we must still rely on the state to prioritize our needs since initiatives designed to assist our sector are limited and financially fragile organizations are often reluctant to or will not qualify for these loans.

RECOMMENDATION: The NYS Council joins with our colleagues across the community-based healthcare continuum in requesting that the Legislature allocate a minimum of \$60M of the \$425M in funding for the Statewide Health Care Facility Transformation solely to community healthcare providers, including FQHCs, mental health, substance use disorder, and home health providers, while maintaining the proposed \$20M set aside for Assisted Living Program providers from the remaining \$365M to support their ongoing participation in transformation efforts.

In addition to the issues discussed above the NYS Council urges the members of the NYS Legislature to support the following Health/Medicaid budget proposals:

Mental Health/Primary Care Integration Proposal (Regulatory Modernization Initiative)

Community Paramedicine Program Proposal that includes behavioral health provider partnerships with emergency personnel

Telehealth Program Proposal (Regulatory Modernization Initiative)

Funding for Increased Wages for Direct Care Workers

Behavioral Health VAP Funding

Hospital Indigent Care Pool proposal

Critical Access and Enhanced Safety Net Hospitals

We urge members of the NYS Legislature to reject the following proposals:

Elimination of Prescriber Prevails language