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Testimony to the New York State Joint Legislative Budget Hearing: Health/Medicaid

Executive Summary:

North Country Behavioral Healthcare Network (NCBHN) is comprised of twenty nonprofit member agencies providing mental health (MH) and substance use disorder (SUD) services in New York's seven northernmost counties as well as the Akwesasne Mohawk Reservation, New York State's "North Country."

NCBHN appreciates the opportunity to provide testimony to the Joint Committee on Health and Medicaid with regard to issues salient to the behavioral healthcare (BHC) community at a time of continuing fiscal and professional challenge to the system.

Right now it is essential that New York State make a bold and unprecedented investment in mental health and substance use disorder services, and not only because, as we so often hear, "it's the right thing to do." The State's current DSRIP initiative holds the promise of significantly reducing healthcare costs while providing higher quality service and better outcomes. *One of the most essential components* of that effort is the behavioral healthcare system that has, thus far, been marginalized in the process. In fact, the NYS Department of Health disclosed on 1/31/17 that only 1% of the over $1 billion that has been afforded to 25 primarily hospital-led Performing Provider Systems across New York has been used to contract with local community based organizations to meet the goals of DSRIP. NYS Medicaid Director Jason Helgerson explained that "[Performing provider systems] are not obligated to distribute the funds. They have flexibility." That reluctance to invest in critical services needs to change.

Too many of those afflicted by mental illness and addiction in NYS find themselves in the criminal justice system rather than with appropriate BHC services. That is a far more expensive and less effective alternative to making the necessary investments in mental health and substance use disorder services.

One of the most significant public health problems in NYS is the epidemic of heroin and opiate addiction that is currently overwhelming families, schools, employers, human services providers, the healthcare community and law enforcement in every corner of the State. While NCBHN supports and applauds the work done by the Legislature and the Governor to address this crisis, the epidemic continues seemingly unabated, and must be addressed with commitment and resource investment, not just via administrative changes and program tweaks. Unfortunately, we find it necessary to revisit several of our recommendations from the previous budget cycle.

In light of a projected revenue shortfall in the current budget, and the impending loss of Federal Medicaid dollars due to the repeal of the Affordable Care Act, it seems obvious that the State must be in a "belt tightening" mode of operation. It is, therefore, ever more critical that the heroin/opiate

epidemic and, more generally, the full spectrum of behavioral health conditions, be appropriately and adequately addressed. A true investment in these areas will substantially eliminate the considerable and far-reaching downstream costs of untreated addiction.

NCBHN therefore calls upon the Legislature to initiate the process of prioritizing BHC in the State budget as follows:

- Dramatically increase the funding that is directed specifically at combating New York State's significant public health problem, the heroin and opiate drug addiction epidemic, utilizing the recommendations of the 2015 Assembly Minority Task Force on Heroin, the 2016 Senate Majority Joint Task Force Report on Heroin and Opioid Addiction, and the funding recommendations advanced by ASAP as guidelines. To be clear, this requires significant additional investments in the State's prevention, treatment and recovery workforce and infrastructure. Specifically, make the necessary and appropriate investments in the BHC workforce:

- The investment to support minimum wage increases needs to include the OMH and OASAS workforce. Calculate into the budget funding increases that will allow nonprofit BHC providers to develop a reasonable professional wage structure at and above the minimum wage. Consider the wage structure for State-employed BHC professionals as a model.

- Increase the cost of living adjustment rate, administer it in this budget cycle, and make the COLA widely applicable to all human service workers in the nonprofit sector.

- Allow OASAS and OMH regulated providers to purchase employee benefits in the State employee benefit system and reinvest savings into the service system.

- Dedicate a specific portion of the proposed housing budget funding for use in rural areas including the North Country.

- Retain "provider prevails" language in the budget for mental health medications, and expand the language to include all prescription drug classes.

- Factor enhanced adolescent/youth BHC services into the fiscal equation to reform the juvenile justice system by providing funding at the proposed facility for both OMH and OASAS services, and make additional funding available to community based organizations who will provide the diversion services that are critical to the success of this transition.

- Include new language of clinical (*vs.* medical) necessity in the reimbursement test for services appropriate for Medicaid reimbursement but non-medical in nature.

- We have grave concerns regarding the bundling of rural Health and a reduction in funding in the proposed budget. NCBHN strongly recommends that the Legislature return the Rural Health Network Development and Rural Health Access programs to their prior budget lines and restore them to their 2016-2017 budget and appropriation amounts of $7.0M for Rural Health Network Development and $9.8M for Rural Health Care Access.

Testimony:

The Heroin/Opiate Addiction Epidemic: One of NYS's Most Significant Public Health Problems, NYS's "Number One Law Enforcement Problem:"

Resources are urgently required at a level that truly addresses the magnitude of this crisis. While numbers of opiate overdose deaths have continued to rise, Federal and State governments seem to be satisfied with efforts to date to address this alarming national health crisis, and continue to fail to commit to the financial investment that could actually combat addiction. Funding provided in the two previous NYS budgets has been wholly inadequate to address this issue. Exacerbating this inadequacy is the fact that, in many cases, these funds are actually designated for expenditures only tangentially related to the heroin/opiate addiction epidemic, including the behavioral health transition to managed care, residential redesign, community housing for NYC, Suffolk, Albany and Westchester Counties and the Southern Tier, and for synthetic drug testing. While these are all commendable uses of State funds, they do not contribute specifically to combating the heroin/opiate addiction epidemic.

The message to the State's provider community has been loud and clear: find solutions, but do not ask for funding. Consider the frustrating nature of this message when delivered regarding, for example, infrastructure: "Repair roads and build bridges, but don't ask for funding." In either case, the task is impossible.

The 2015 Assembly Minority Task Force Report on Heroin Addiction should serve as an excellent guide in deciding on projects, programs and funding levels. It states, in the Executive Summary, that "In New York alone, in 2014, there were more than 118,000 admissions to in-state treatment programs for heroin and opioid addictions…" and that "The testimony provided at the [Statewide Task Force] forums highlighted the fact that a multi-pronged approach to solving this problem will be needed." It goes on to stress the need for comprehensive programs of education (*i.e.* prevention), detoxification and ongoing treatment, and recovery that are robustly funded, and that a treatment wing should exist in each county and state correctional facility.

In May of 2016, the State Senate released its own Joint Task Force Report on Heroin & Opioid Addiction, with very similar findings. That report speaks to a "four-pronged approach" including prevention, treatment, recovery and enforcement. In the realm of treatment, the report summarizes that there is a critical need for "enhancing access to all forms of effective treatment – including inpatient, outpatient, and Medication Assisted Treatment – in order to help individuals return to stable and productive lives;" While the Governor has adopted many of the Senate Task Force recommendations, funding to support the existing and enhanced workforce has not been included in the plan.

State Police Troop B Major Charles Guess stated at the Assembly Plattsburgh forum that "Given the reality of the world we live in, concerns of terrorism and all the other issues that plague society, heroin is the number one problem facing law enforcement and society today." The report goes on to state that "Heroin and opioid addiction are responsible for the vast majority of property crimes, affect death rates by overdose, and contribute significantly to the violent crime rate." While the investment must be great in order to meet the need, the rewards to society will far outweigh the cost. We ask the legislature to begin the process of making that investment.

In the face of almost overwhelming need, resources have diminished steadily in recent years. The Report states that "Preventing addiction through education was a common theme (at the forums), from health classes, as early as third grade, to middle and high school..." Meanwhile, since 2009, NYS's schools have lost the services of 300 prevention professionals due to funding cuts. The Network asks for a $20M addition to the OASAS budget to fund the return of that same number of prevention professionals to the schools.

Reporting on facilities for detoxification, the first important step in treatment, the Task Force states that "many hospitals are closing their detoxification centers because of substandard Medicaid reimbursement rates. The state must reevaluate the present rates of reimbursements and make funds available to encourage hospitals to (re)open and maintain detoxification facilities." We acknowledge that DSRIP will have some positive impact in developing new detox services, but here as well, ongoing reimbursement will need to be adequate for new programs to be sustainable. To date, the "downstream flow" of DSRIP dollars has been at issue.

In corrections, the Task Force report reveals, many facilities have had to reduce or eliminate addiction services. "According to Broome County Sheriff Harder, the county jail previously had an alcohol and drug addiction recovery program. With the use of this program, recidivism rates were at 17 percent. Due to overcrowding in the facility, this program had to be cut, and recidivism rates have since increased to 44 percent." An investment in addiction services in the State prison system and county jails would be paid back in the resulting reduction in criminal activity and reincarceration.

The Minority Task Force Report also notes correctly that "long-term recovery (also referred to as after-care) is an equally vital component in the successful treatment of addiction." In other states, recovery centers have been shown to be valuable towards this end, and New York State has begun to make an investment in this area. The New York State Association of Alcoholism and Substance Abuse Providers (ASAP) calls for recovery community centers and youth club houses in every County. We concur with this request, and further advocate for the State to work rapidly towards having recovery-center availability for every community.

In summary, the Executive budget's proposed funding is wholly inadequate to address New York's heroin/opiate addiction epidemic, and insufficient to provide the potentially considerable rewards that exist in both human and economic terms. The Assembly Minority Task Force on Heroin Addiction and the Senate Majority Joint Task Force on Heroin & Opioid Addiction have issued comprehensive reports that should serve as guides for funding the initiative to stem this epidemic.

Some sources for the required funding have been identified. ASAP notes that funds that they have requested are available in the asset forfeiture Substance Abuse Services Fund, DOH funding (workforce monies already exist in the DOH budget) and from savings generated by diversion from expensive hospital and criminal justice services.

The Minority Task Force also recommends that a higher percentage of asset forfeiture funds be made available for addiction services, and also recommends that a portion of the State's $2.1B in unbudgeted reserves for monetary settlements be dedicated to increased services and beds. The Task Force also identifies casino gambling fees, DSRIP funding and federal grant monies as potential funding sources

for addiction services. Finally, it recommends that hospitals be offered a credit on their Gross Receipts Tax if they run a detox program in the facility.

NCBHN believes that any monies wisely invested in effective prevention, treatment and recovery services will provide a greater return not only financially, but in terms of human lives.

Recommendation: Dramatically increase the funding that is directed specifically at combating New York State's number one health problem, the heroin and opiate drug addiction epidemic, utilizing the recommendations of the 2015 Assembly Minority Task Force on Heroin, the 2016 Senate Majority Joint Task Force on Heroin & Opioid Addiction, and further recommendations made by ASAP.

Workforce:

Workforce, and the funding to support an adequately-sized, skilled professional workforce, is the most pressing need for the BHC provider community in New York State. In the words of Glenn Liebman, CEO of the Mental Health Association in New York State, "You can create the greatest evidence-based programs and systems in the world, but if you don't have a well-trained and well compensated workforce, the system design will fail."

- **"Raise the Wage"**
  While NCBHN strongly supports the effort to provide a living wage for all workers, there are some serious considerations in the nonprofit BHC community that are integral to the viability of that effort:

  1) Revenues for nonprofit BHC providers are set, for the most part, by Medicaid and insurance rates and State government funding. Simply put, organizations that are currently working with limited revenue streams have no method by which they can increase those revenues in order to increase wages. An increase in government funding is the only mechanism by which those employers would be able to keep up with the increased minimum wage;

  2) The Executive budget, as we understand it, provides $4M to OASAS providers and $17M in total for BHC providers to help offset the impact of minimum wage increases. While the Network appreciates that budget preparation has taken these costs into consideration, it only provides for a portion of the increases that will accrue to those currently being paid less than the new minimum wage levels. It does not account for the ***compression*** of wages that occurs within provider agencies by raising wages at the lowest level only. Without increase compensation at all levels, the resulting wage structure would be skewed against more senior staff whose wages would not see a proportionate increase.

- **Additional Workforce Issues:**
  1) The competitive disadvantage that nonprofits experience relative to State hiring has already had a negative impact as a result of the approved increase in the minimum wage for State worker;

2) There will be a disincentive for potential professionals to pursue the education and training necessary to enter a very difficult and stressful profession when they can earn the same wage working at the local convenience store, fast food outlet or literally any other relatively unskilled position;

3) Funding for new projects within the OASAS system routinely includes salary lines that are higher than can be paid to staff operating existing services, creating inequities in reimbursement that are extremely difficult to resolve. This is an apparent recognition by the State of the need for an improved salary structure for nonprofit providers, a salary structure that must apply to all staff in new and existing programs and services;

4) The concern has been raised this year by treatment executives across the State that skilled staff are being lost to managed care organizations that have the capability to pay significantly higher salaries with better benefit packages than can the service provider community. There has been discussion of giving OASAS-regulated programs the opportunity to purchase employee benefits in the State employee benefit system, and to reinvest the savings into the service system. This would not only benefit service providers, but would also provide enhanced benefit packages over those currently covering staff members in almost every case, and;

5) As the science behind addiction treatment has evolved, it has become apparent that medication assistance is a crucial component, especially in the case of opiate addiction. Yet the addiction treatment community does not receive the reimbursement and/or funding to be able to attract and retain skilled medical staff to function in this regard.

Recommendation: Calculate into the budget funding increases that will allow nonprofit BHC providers to develop a reasonable professional wage structure at and above the minimum wage for all necessary and appropriate services to address NYS's BHC conditions. Consider the wage structure for NYS-employed BHC professionals as a model. Allow OASAS and OMH regulated providers to purchase employee benefits in the State employee benefit system and reinvest savings into the service system.

COLA:

NCBHN notes a human services workforce COLA deferment in the Executive budget to 2018-19. We are nearing a decade of unfulfilled promises regarding the selectively–applied human services COLA, and find it completely unacceptable that the Executive budget for 2017-18 defers that small increase to the next budget. This only serves to further stress a grossly underpaid workforce, and provides an indication that there is no consideration being given to the previously outlined workforce issues. It is past time to develop and administer a reasonable cost of living adjustment for not-for-profit human services workers in conjunction with other measures that can bring not-for-profit BHC workforce compensation to a viable level.

Recommendation: Increase the cost of living adjustment rate, administer it in this budget cycle, and make the COLA widely applicable to all human service workers in the nonprofit sector.

Housing:

Supportive housing is an essential ingredient for the successful transition of multi-diagnosed "high-end users" from inpatient care to the community. Safe and secure housing is, in fact, acknowledged to be an indispensable component of comprehensive healthcare, and needs to be available statewide. NCBHN, therefore, supports the housing initiatives contained in the proposed budget. We also support the Governor's approach to channeling dollars through the existing housing Continuum of Care (CoC) structure. Our concern in the North Country is that homelessness is frequently perceived by policy makers as a "downstate" or "urban" problem. It is unclear how much funding and how many units will be made available outside of the NYC area and the State's other large cities.

Recommendation: Dedicate a specific portion of the proposed budget funding for use in rural areas including the North Country.

Medication Access:

NCBHN appreciates the inclusion in the Executive budget of "provider prevails" language for mental health medications in State formularies for Medicaid patients. However, for the most effective treatment, it is essential that medications that are physician prescribed and patient preferred, that provide the greatest opportunity for effective treatment, are available without obstacle for all prescription drug classes.

Recommendation: Retain "provider prevails" language in the budget for mental health medications and expand the language to include all prescription drug classes.

Juvenile Justice Reform ("Raise the Age"):

NCBHN applauds the Governor's call again this year to reform the juvenile justice system in order to provide opportunities for habilitation and rehabilitation in lieu of prison for 16 and 17 year-olds, and calls upon the Legislature to support this long-overdue change. It is troubling and inappropriate that New York remains one of only two states that process 16- and 17-year-old offenders through the adult criminal justice system. Essential in the shift from punishment to support is the existence of a robust behavioral healthcare system to address the substance use and mental health issues that contribute to a significant majority of juvenile criminal activity. The Final Report of the Governor's Commission on Youth, Public Safety and Justice reveals that 57.3% of youths admitted to OCFS facilities in 2013 had mental health issues, and 86.1% had substance use issues.

We anticipate that the $1M dedicated to OMH services at the proposed Hudson juvenile corrections facility will be included, but funding needs to follow this population from corrections to the community, and we note that no funding is being proposed for OASAS services in spite of 86.1% of cases in need of those services as noted above. Nor is funding included for community based OMH services across the State. The movement of this population from corrections into a full array of prevention, treatment and recovery support services will dramatically reduce costs for corrections, and

that funding must be calculated and reallocated to cover the these habilitative and rehabilitative services.

Recommendation: Factor enhanced adolescent/youth BHC services into the fiscal equation to reform the juvenile justice system by providing funding at the proposed facility for both OMH and OASAS services, and make additional funding available to community based organizations who will provide the diversion services that are critical to the success of this transition.

The Language of "Medical Necessity"

While it is becoming clear in the transition to the value based payment model that addressing the social determinants of health plays a significant role in the long-term reduction of Medicaid costs, insurers continue to apply the test of "medical necessity" to non-medical services that are appropriate for Medicaid reimbursement (*e.g.* long-term recovery services, housing). NCBHN believes that an appropriate response to this "round-hole, square-peg" dilemma is to introduce into the reimbursement test the language of "clinical necessity" for all associated non-medical services.

Recommendation: Include new language of clinical (*vs.* medical) necessity in the reimbursement test for services appropriate for Medicaid reimbursement but non-medical in nature.

Rural Health Network Development and Rural Health Care Access

The NYS 2017-18 Executive Budget will harm rural health as it proposes to cut two important programs. The Rural Health Network Development and Rural Health Care Access programs provide essential tools to rural communities to participate in important health reform initiatives including DSRIP, the State Health Innovation Plan (SHIP), the Population Health Improvement Plan (PHIP) and the Department of Health's Prevention Agenda. This year's budget proposal inappropriately bundles these two uniquely rural health programs with a number of otherwise unrelated Health Workforce Development initiatives. **Collectively the new bundle is proposed to be cut approximately 20%.**

Recommendation: The Northern New York Rural Behavioral Health Institute vigorously opposes the bundling of rural health programs with health workforce development and we urge the legislature to return these two rural health programs to their prior budget lines and restore them to their 2014-15 budget and appropriation amounts of $7.0 million for Rural Health Network Development and $9.8 million for Rural Health Care Access. It is our position that the two rural health programs totaling $16.8 million are not related to the health workforce development programs and the **rural programs should be maintained on their own budget lines** as is the current practice. The budget briefing discussing this bundle does not even mention the rural programs and concentrates only on the workforce initiatives. It is our position that **funding should be restored to prior levels as indicated in the rural health program's current contracts.**

To summarize, NCBHN, representing twenty nonprofit BHC agencies across New York's North Country, makes the following recommendations in order to address the BHC needs of the citizens and communities of New York:

- Dramatically increase the funding that is directed specifically at combatting New York State's significant public health problem, the heroin and opiate drug addiction epidemic, utilizing the recommendations of the 2015 Assembly Minority Task Force on Heroin, the 2016 Senate Majority Joint Task Force Report on Heroin and Opioid Addiction, and the funding recommendations advanced by ASAP as guidelines. To be clear, this requires additional investments in the State's prevention, treatment and recovery workforce and infrastructure. Specifically, make the necessary and appropriate investments in the BHC workforce:

- We are nearing a decade of unfulfilled promises regarding the human services COLA, and find it unacceptable that the Executive budget for 2017-18 defers that small increase to the next budget. Additionally, the investment to support minimum wage increases needs to include the OMH and OASAS workforce. Calculate into the budget funding increases that will allow nonprofit BHC providers to develop a reasonable professional wage structure at and above the minimum wage. Consider the wage structure for State-employed BHC professionals as a model.

- Increase the cost of living adjustment rate, administer it in this budget cycle, and make the COLA widely applicable to all human service workers in the nonprofit sector.

- Dedicate a specific portion of the proposed housing budget funding for use in rural areas including the North Country.

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- Retain "provider prevails" language in the budget for mental health medications, and expand the language to include all prescription drug classes.

- Factor enhanced adolescent/youth BHC services into the fiscal equation to reform the juvenile justice system by providing funding at the proposed facility for both OMH and OASAS services, and make additional funding available to community based organizations who will provide the diversion services that are critical to the success of this transition. "Raise the Age" will significantly reduce costs in the criminal justice (CJ) system, and the funding must follow the population served from CJ to BHC to assure a successful transition of this service model.

- Include new language of clinical (*vs.* medical) necessity in the reimbursement test for services appropriate for Medicaid reimbursement but non-medical in nature.

- Finally, we have grave concerns regarding the bundling of rural Health and a reduction in funding in the proposed budget. NCBHN strongly recommends that the Legislature return the Rural Health Network Development and Rural Health Access programs to their prior budget lines and restore them to their 2016-2017 budget and appropriation amounts of $7.0M for Rural Health Network Development and $9.8M for Rural Health Care Access.

Thank you very much for your consideration of these issues as they pertain to the development of a State budget,

Barry Brogan, Executive Director
North Country Behavioral Healthcare Network.