HANYS' SFY 2023-2024 state budget testimony

Joint legislative hearing of the Senate Finance and Assembly Ways and Means committees

February 28, 2023

Beatrice Grause, RN, JD
President

HANYS®
Always There for Healthcare

Good afternoon Chairs Krueger, Weinstein, Rivera and Paulin, and committee members. I am Bea Grause, president of the Healthcare Association of New York State, representing nonprofit and public hospitals, health systems and post-acute care providers across New York. Thank you for this opportunity to discuss the 2023-2024 executive budget proposal.

The COVID-19 pandemic has left an indelible mark on all New Yorkers and our state's healthcare system. Thankfully, the most damaging impacts from the pandemic continue to lessen. However, another crisis, accelerated by the pandemic, is threatening the sustainability of New York's hospitals and nursing homes.

Uncontrollable expense increases, years of government underpayment for healthcare services, a severe national healthcare worker shortage and other formidable factors have converged to plunge healthcare providers into a structural fiscal crisis, with no end in sight.

This year's executive budget proposal includes important funding investments and policy proposals intended to support our healthcare system and expand our healthcare workforce. Unfortunately, it simply does not go far enough amid the extreme fiscal challenges facing hospitals and nursing homes across the state.

More must be done to stabilize and sustain the state's healthcare system and preserve access to patient care. We stand ready to partner with all of you and the governor to achieve these goals.

As you work to secure a budget agreement for the next fiscal year, please remember that New York hospitals are the heart of our communities, providing critical healthcare and emergency services. New York's hospitals admit and provide care to more than two million people annually, while providing over 60 million outpatient visits.

At the same time, hospitals and health systems across the state play a vital role in improving local economies and communities, contributing substantial resources through jobs, tax revenue and capital improvements. Hospitals and health systems are often the largest employers in their communities — generating 856,000 jobs and ranking among the top 10 private sector employers in every region of New York.

New Yorkers expect — and need — their local hospitals to always be there when they need them, whether it's for routine care or a natural disaster. Unfortunately, the extraordinary fiscal challenges facing hospitals and health systems threaten that expectation.

In December, HANYS and our allied regional healthcare associations issued a report called *Critical Condition*, which is attached to our testimony. This report reflects a survey of our statewide membership.

The report's findings are alarming:

- Severe fiscal and workforce challenges are forcing hospitals to cut patient services and halt modernization projects that advance patient care.

- National healthcare workforce shortages continue to force hospitals to use costly contract labor, driving up expenses alongside substantial increases in drug, supply and energy costs.

- Four out of five hospitals in New York report negative or unsustainable operating margins.

- With pandemic-related government support ending and expenses continuing to escalate, hospitals' dire fiscal crisis is likely to only get worse.

These results show that our hospitals and health systems — and patient access to care — are far from stable. They face a national healthcare worker shortage, uncontrollable expense increases, fewer places to safely discharge patients, concurrent public health crises and aging infrastructure. They also suffer under insurer administrative requirements and marketplace practices that siphon precious resources away from bedside care and add costs to the healthcare system.

It is against this bleak backdrop that we urge you to support three key principles this year to help mitigate the alarming fiscal deterioration of healthcare providers and patients' diminishing access to care.

1. **First, preserve and improve Medicaid payment rates and state supportive funding for hospitals and nursing homes.** Steps must be taken this year to dramatically improve Medicaid payment rates. In addition, we urge you to retain existing levels of supportive funding and go further to help more providers.

2. **Second, advance key healthcare policies that provide relief to hospitals and health systems at no new cost to the state.** The executive budget includes many commonsense proposals in areas such as workforce and managed care where the state can provide meaningful and direct relief and support to providers without incurring new state costs.

3. **Third, do not cut hospital, nursing home and other provider funding; and refrain from layering on new unfunded costs.** Amid a national workforce shortage and escalating expenses, hospitals and nursing homes cannot absorb any new cuts or costs without further impacts to patient access to healthcare services.

Thank you for considering this perspective and our key priorities outlined below as you work to negotiate a final budget agreement.

Increase provider payment rates and supportive funding

The executive budget proposes several investments for hospitals and nursing homes, while simultaneously advancing measures that would result in significant reductions to these same providers. Taken together, the fiscal impact on these providers varies, both positive and negative — depending on facility-specific circumstances. Those variables include factors such as a facility's payer mix, patient volume and the ability to access special funding streams, such as discounts through the federal 340B Drug Pricing Program and the state Vital Access Provider Program, among others.

Although the executive budget includes some modest investments that could prove positive for some providers, it is clear that this budget does not go nearly far enough to make needed structural and long-term investments in *all* hospitals and nursing homes at a time when they need it most. We urge the following:

Increase Medicaid rates 10% for hospitals, nursing homes and the Assisted Living Program

The executive budget would increase the operating component of inpatient hospital, nursing home and Assisted Living Program payment rates by 5% on April 1, 2023. HANYS appreciates and supports any increase to the Medicaid rate, which currently fails to cover the cost of caring for Medicaid patients. However, HANYS has significant concerns about the actual scope of this increase for hospitals and nursing homes, and its limited net impact when juxtaposed against other policy and funding proposals included in the executive budget.

For hospitals, the 5% rate increase would only extend to inpatient services — not outpatient services provided by a hospital, in contrast to the very modest rate increase enacted last year, which increased the Medicaid rate for *all* hospital services. As a result, the total impact of the proposed rate increase in the executive budget is significantly diluted and should not be viewed as a true 5% Medicaid rate increase but rather a much more limited increase.

At the same time, HANYS strongly opposes the executive budget's coupling of the proposed rate increase with the significant expected loss in savings for hospitals participating in the federal 340B Drug Pricing Program. That 340B loss would result from the state's planned carve-out of the pharmacy benefit from the Medicaid managed care program. For many hospitals, the benefit of the governor's proposed Medicaid rate increase would not offset their substantial loss in 340B savings.

For nursing homes, the impact of the proposed 5% rate increase is also diluted because of another budget proposal that would offset the value of this investment. The budget would eliminate $187 million (gross) in appropriated but yet to be released funding that was intended to support compliance with the costs of new nursing home staffing standards. Nursing homes have been anticipating the release of these previously appropriated funds for over a year. Eliminating this pool of available support has the net effect of significantly reducing the value derived from the proposed 5% rate increase for nursing homes.

Recommendation: HANYS urges the Legislature to go further and increase Medicaid payment rates by at least 10% and re-institute an annual trend factor for Medicaid payment rates.

Reverse the 340B pharmacy carve-out

The executive budget proposal does not reverse the planned April 1, 2023, Medicaid retail pharmacy benefit transition from the managed care program to fee-for-service. This policy, enacted in SFY 2020-2021, will result in at least $500 million in losses in the first year with deeper future year losses for hospitals that participate in the 340B Program. HANYS opposes the carve-out and supports inclusion of a policy to reverse it.

Recommendation: HANYS urges the Legislature to fully reverse this misguided and counterproductive policy.

Increase supportive funding for financially distressed hospitals, nursing homes and other providers

The state has a longstanding history of making supportive funding available to hospitals, nursing homes and other providers. This funding helps offset Medicaid underpayments and provides critical financial support to providers in severe financial distress. While the executive budget maintains about $2 billion (gross) in supportive funding, it reduces total available funds by $700 million (gross).

HANYS estimates that between $600 and $700 million (state share) in supportive funding enacted by the Legislature for the current fiscal year was used to advance the federal share of existing commitments as opposed to supporting new funding needs. HANYS urges the Legislature to protect against reducing state support to hospitals during this extraordinary time.

Recommendation: Given the critical financial condition of the state's hospitals, nursing homes and other providers, HANYS urges the Legislature to restore the $700 million in supportive funding eliminated in the executive budget. HANYS also encourages the Legislature to establish guardrails to ensure the state spends this funding for non-federal purposes in the fiscal year in which it is enacted.

Ensure Essential Plan rate increases boost payment rates to providers

The executive budget would invest $400 million into health plan premiums for payment rates to providers that serve individuals covered under the state's Essential Plan. The investment would increase the payment rates for services provided to EP enrollees in tiers 3 and 4 (immigrants awaiting citizenship with incomes under 138% of the FPL), from 100% of Medicaid to 225% of Medicaid. EP rates for tiers 1 and 2 (those with incomes between 138% and 200% of the FPL) were increased in the SFY 2021-2022 enacted budget.

While this investment is welcome, hospitals have reported that in many cases, health plans have not used the prior investment to actually increase provider payment rates.

Recommendation: HANYS supports these administrative rate increases and urges the Legislature to enact provisions requiring health plans to report how this funding has been used to increase provider payment rates.

Reverse the proposed Indigent Care Pool cuts

The Indigent Care Pool directs funding to hospitals that provide care to patients who are unable to pay for the cost of their care. The executive budget would cut ICP funding to hospitals by $85.4 million (gross). At an extraordinarily challenging time, this action would directly remove $42.7 million in state support from the healthcare system. The effect of this proposed reduction is compounded by the $150 million (gross) cut to the ICP enacted in SFY 2020-2021. As a result, the reduction to ICP funds would total $235.4 million (gross) annually. Notably, hospitals with "Enhanced Safety Net" status would be exempt from the proposed cut.

Recommendation: HANYS urges the Legislature to protect against reducing state support to hospitals during this extraordinary time. HANYS opposes further deterioration of the Indigent Care Pool and urges the Legislature to fully reverse this cut.

Invest in the healthcare system infrastructure

Through prior capital funding support, the state has recognized the tremendous value and importance of providing capital resources to hospitals, health systems and post-acute and continuing care providers to help protect and transform New York's healthcare system. The state's previous multi-year funding commitment has provided critical support to facilitate numerous healthcare transformation activities.

Building off the success of prior investments, the executive budget would establish and implement a new $1 billion capital investment program (Statewide Healthcare Facility Transformation Program V) to support innovative models of care, the financial sustainability of healthcare providers and tech-related transformation projects. This new investment would help infuse the healthcare system with much-needed capital support.

HANYS' *Critical Condition* report identified that 77% of hospitals report delaying or canceling building and improvement projects as a result of fiscal challenges — actions that erode the accessibility of healthcare services.

Recommendation: HANYS urges the Legislature to fully support this capital investment and support actions that move this much-needed funding to providers as expediently as possible.

Support managed care reforms to preserve patient choice, access to care and reduce unnecessary administrative burdens

Preserving access to safe, high-quality and cost-effective patient care is the mission of New York's hospitals and health systems. Accordingly, it is critically important to that mission to ensure New Yorkers have access to affordable, high-quality and comprehensive coverage.

Unfortunately, health plans continue to unilaterally impose and advocate for harmful policies that restrict patient access to care, disrupt a patient's course of treatment, undermine the importance of the patient-provider relationship and add unnecessary administrative burdens and costs to the state's healthcare delivery system.

Recommendation: HANYS urges the Legislature to support the following measures:

Pay and resolve

Health insurers routinely deny payment for medically necessary covered emergency services and emergency inpatient admissions. These are services that have already been provided to their enrollees, most often at hospitals in the insurers' own networks. In response, insurers claim that they need clinical documentation to determine whether the already delivered emergency care, often lifesaving, was medically necessary. This is known as "medical necessity review." In the meantime, the hospital goes unpaid for providing that emergency care.

HANYS strongly supports the executive's proposal requiring health plans to reimburse hospitals promptly at the contracted rate billed for emergency services or inpatient services following an emergency department visit. Health plans would still be allowed to conduct medical necessity reviews following payment.

Site of service

Increasingly, health insurers are imposing new rules and restrictions that dictate where patients may receive certain covered services. These “site of service” policies often force patients to seek care at freestanding ambulatory surgical centers rather than in hospital-based outpatient clinics with preferred in-network providers. Such plan policies, which seek to steer consumers away from in-network services advertised to them, are never appropriate when they diminish consumer access and promised coverage.

HANYS supports the important guardrails the executive budget would place around these policies, protecting patient choice and their relationships with trusted healthcare providers.

Invest in our healthcare workforce

Hospitals, health systems and nursing homes across New York state continue to face a healthcare workforce crisis that places access to critical services at risk. As our *Critical Condition* report demonstrated, in a fall 2022 survey of our members, 100% of respondents reported nursing shortages they could not fill and more than 75% reported they were unable to fill other healthcare positions.

Hospitals and health systems are increasingly desperate for staffing solutions to keep pace with the healthcare demands of their communities. The existing healthcare career pipeline isn’t sufficient to support the current demand. Hospitals and continuing care providers employ every available tool to recruit new members to their clinical and non-clinical teams, *and* retain existing personnel. Staffing shortages have led to a significant reliance on temporary staffing agencies, which has increased the ongoing expense of temporary contracted labor to sky-high, unsustainable levels.

We cannot let another year pass without enacting meaningful policy solutions that address both the immediate healthcare workforce challenges and efforts to ensure a robust and quality healthcare workforce for tomorrow.

Recommendation: HANYS supports the following proposals in the executive budget that would invest in the healthcare workforce, provide much-needed practice and oversight modernization and provide critically needed regulation of temporary staffing agencies:

Regulating temporary staffing agencies

Hospitals and nursing homes across the state have been forced to rely on costly temporary staffing agencies to employ temporary/contingent healthcare workers to maintain critical services as healthcare workers have retired, changed careers or, in many cases, become contract employees themselves.

As demand for these contract workers has grown, agencies have imposed exorbitant rates and fees, while providing little transparency around their practices and policies. To help rein in these practices, the executive budget would require temporary healthcare service agencies to register with the Department of Health, establish minimum standards, impose penalties for noncompliance and require quarterly reporting of charges and compensation. HANYS supports this proposal as a first step toward addressing escalating contract labor costs.

Staffing flexibilities

In response to the COVID-19 pandemic and subsequent healthcare workforce crisis, the state has issued executive orders to provide healthcare providers critically needed flexibilities to help address their staffing shortages. These temporary suspensions and modifications have helped providers secure needed staff and increase the efficiency of staff working tirelessly to provide care.

These EOs have also shined a bright spotlight on what we have known for a long time: New York's healthcare workforce is in desperate need of greater flexibility and modernized oversight. Importantly, the governor's budget would codify several of these otherwise temporary flexibilities, including measures to:

- allow physician assistants, nurses and pharmacists to practice at the top of their licenses, including allowing experienced PAs to practice without supervision;
- make permanent and expand the non-patient-specific orders a physician can prescribe and order to a registered nurse;
- recognize qualified non-nursing staff for certain testing procedures, including allowing pharmacists to order and administer tests for COVID-19 and influenza; and
- create a two-year pilot authorizing certified medication assistants to administer routine, pre-filled or prepackaged medications.

Additionally, the proposed budget would modernize the emergency medical services profession by authorizing EMS personnel to treat patients in expanded community settings, enabling them to administer vaccinations and buprenorphine, and adopting performance standards. These flexibilities would improve access to care, especially in rural areas, and potentially incentivize individuals to pursue careers in EMS.

These proposals would begin to address the chronic healthcare workforce challenges facing New York and we strongly encourage the Legislature to include these measures in the final budget agreement.

Temporary practice permits

The executive budget proposes to permit qualified, high-need healthcare professionals who hold a license in good standing from another state to request a temporary practice permit after applying for licensure in New York state.

This measure would have a demonstrably positive impact on the ability of hospitals and health systems to recruit for positions that have been extraordinarily challenging to fill. At the same time, this measure would help address delays in licensure for high-need healthcare professions. HANYS supports this measure and encourages the Legislature to adopt it in the final budget.

Multi-state licensure compacts

The executive budget would authorize New York state to join the Interstate Medical Licensure Compact and Nurse Licensure Compact. In doing so, New York would join 37 other states that are part of the IMLC and 39 other states that have joined the NLC. We believe this would increase access to healthcare, particularly for patients in underserved areas with chronic healthcare professional shortages.

Many healthcare professionals recently left the workforce and the pipeline for new professionals has failed to keep pace. We strongly urge consideration of bold initiatives, including those that have been dismissed previously. We urge the Legislature to support this proposal this year.

Certified medication aides

Nursing homes are a critical component of New York's healthcare continuum. Like hospitals and other healthcare providers, nursing homes have struggled to address the widespread staffing shortages that are plaguing the healthcare sector.

The executive budget would create a two-year pilot program to allow certified medication aides to administer prescriptions in residential healthcare facilities, helping to alleviate chronic staffing shortages in nursing homes. HANYS urges the Legislature to adopt this measure in the final budget agreement.

Conclusion

While the worst of the pandemic appears to be behind us, New York's hospitals and health systems now face extremely difficult fiscal, workforce, infrastructure and marketplace conditions that threaten access to patient care moving forward.

In this fierce environment, the continued viability of hospitals and healthcare systems as healthcare providers and key job creators in their communities is in immediate jeopardy. We appreciate the support of the Legislature and governor and look forward to continuing the progress we have made together.

Attached is HANYS' *Critical Condition* report and a summary chart outlining our positions on key healthcare provisions of the proposed executive budget for 2023-2024.

Issue/topic	Governor's executive budget proposal	HANYS' comments
Global funding provisions		
Global cap extension	Would extend the Medicaid global cap through SFY 2024-2025.	The enacted SFY 2022-2023 budget increased the growth index of the global cap to the five-year rolling average of Medicaid spending projections as estimated by CMS. The SFY 2023-2024 annual global cap growth is 6.3%.
Capital funding	Would establish a new Statewide Health Care Facility Transformation Program V for eligible healthcare providers. The program would provide: • up to $500 million to be awarded without a competitive bid or request for proposal process to build innovative, patient-centered models of care, increase access to care, improve the quality of care and ensure the financial sustainability of healthcare providers; and • up to $500 million in funds for technological and telehealth transformation projects.	HANYS supports the state's commitment to delivering much-needed access to capital for the healthcare sector. However, HANYS recognizes and is concerned about the slow speed at which previous capital funds have been awarded and disbursed. We will continue to advocate for all previously appropriated and yet unspent funds to be expeditiously released to providers in need.
HCRA reauthorization	Would extend the provisions of the Health Care Reform Act for three years, until March 31, 2026. Would also increase the gross amount of the Covered Lives Assessment from $1.045 to $1.085 billion, in compliance with Chapter 820 of the Laws of 2021, which increases CLA collections to provide additional state funding to municipalities for early intervention services.	HANYS supports the extension of HCRA.

Issue/topic	Governor's executive budget proposal	HANYS' comments
Hospitals		
5% increase in Medicaid inpatient rates	Would increase the operating component of inpatient hospital payments by 5%, effective April 1, 2023.	HANYS appreciates and supports any increase to the Medicaid rate, which currently fails to cover the cost of caring for patients. However, the coupling of this increase to the pharmacy benefit carve-out of managed care and associated losses in 340B savings is troubling. HANYS will continue to advocate for meaningful, persistent and permanent increases to the Medicaid rate to account for the ever-increasing cost of providing care.
Indigent Care Pool	Would extend the current ICP methodology for three years, until March 31, 2026. Additionally, the proposal would reduce by $85.4 million (gross) the funding available for non-public voluntary hospitals. Including the $150 million reduction enacted in SFY 2020-2021, the aggregate reduction from historic levels would be $235.4 million (gross) annually. The proposed reduction would exclude major public and enhanced safety net hospitals while maintaining the previously enacted $64.6 million (gross) enhanced safety net redistribution.	HANYS opposes the further deterioration of Medicaid Disproportionate Share Hospital funding. The ICP is intended to reimburse providers for the cost of uncompensated care provided to uninsured patients.

Issue/topic	Governor's executive budget proposal	HANYS' comments
Supportive funding for financially distressed hospitals, nursing homes, and other providers	Would appropriate approximately $2 billion in supportive funding for financially distressed facilities, reducing by $700 million the total support available for these facilities in the current fiscal year. The majority of this funding would be directed to hospitals serving a high volume of Medicaid enrollees, Sole Community Hospitals, and Critical Access Hospitals through the state's Directed Payment Template program. Approximately $500 million would be available and allocated as grants under the Vital Access Provider Assurance Program and Vital Access Provider program. The VAPAP program for hospitals and nursing homes would be expanded to include independent practice associations that received value-based payment innovator status from DOH.	Given the critical financial condition of the state's hospitals, nursing homes and other providers, HANYS is disappointed in the drop of discretionary supportive funding available to providers and will advocate to increase the pool of available discretionary funds.
Medical debt affidavits	Would amend the Consumer Credit Fairness Act to increase the burden of proof on third parties that have purchased medical debt from hospitals and other healthcare providers. To seek a judgment, these third-party collectors would be required to obtain: • an affidavit from the hospital containing the facts of the medical debt, default in payment, sale or assignment of the debt and amount due at time of assignment; • an additional affidavit for each subsequent sale or assignment of the debt; and • an affidavit of witness of the plaintiff, which includes a chain of title of the debt.	HANYS is evaluating the administrative burden this would impose on hospitals and healthcare providers.
Hospital Financial Assistance Law	Would amend the HFAL to require all hospitals to use a uniform financial assistance form developed and provided by DOH.	New York's HFAL is one of the strongest financial assistance policies in the nation. As a member of the state's Health Care Administrative Simplification Workgroup, HANYS recognizes the value a uniform application promises to patients.

Issue/topic	Governor's executive budget proposal	HANYS' comments
Rural Emergency Hospital	Would modify the definition of "hospital" in Public Health Law to include a Rural Emergency Hospital. Would require a hospital applying for this designation to hold a public community forum at least 30 days before applying to CMS. The applying hospital would be required to notify the Office of Mental Health and the local director of community services if the hospital has psychiatric inpatient beds and the Office of Addiction Services and Supports if the hospital has inpatient substance use disorder treatment programs or inpatient programs licensed under Article 32 of the Mental Hygiene Law.	HANYS supports expanding the statutory definition of "hospital" to recognize a Rural Emergency Hospital, which is necessary to allow hospitals in New York to apply for federal REH designation if they choose to do so. HANYS also strongly recommends ensuring that any state-required administrative processes for hospitals applying for federal REH designation are as limited as possible.
	Insurance/managed care	
Pay and resolve	Would require health plans to pay hospitals promptly at the contracted rate billed for emergency services or inpatient services following an emergency department visit. Following payment, health plans would be allowed to request clinical documentation to confirm medical necessity. If requested, the claim may be submitted to a joint hospital-health plan committee for a post-payment audit. If the committee cannot reach a joint determination within 90 days, the hospital or health plan may refer the claim to an independent third-party review agent for a binding determination. If services are determined to be not medically necessary, the health plan would be allowed to recover any overpayment. During any claim dispute, the hospital would be required to delay recovering any patient payment responsibility. The proposal would not prohibit health plans and hospitals from establishing their own parameters for referral or review of medical records, but it would not allow either party to negotiate away the requirement that a health plan pay the claim as billed prior to review for medical necessity.	HANYS strongly supports this proposal, which would ensure insurers pay hospitals promptly for emergency services and emergency inpatient admissions provided to an insurers' own enrollees.

Issue/topic	Governor's executive budget proposal	HANYS' comments
Health plan audits	Would prohibit health plans from reopening medical necessity decisions, site of service or level of care determinations during an audit or allowing a claim to be downgraded if the downgrade leads to negating or altering medical necessity or level of care determinations.	HANYS supports this proposal, which recognizes that reviews or audits of claims should not be permitted to override a medical necessity, site of service or level of care decision after the determination and payment have been decided with finality under New York's Prompt Payment Law.
Site of service	Would establish guardrails around insurance policies that deny coverage for services in hospital-based outpatient settings and deem site of service review "utilization review" with all associated protections, including internal and external appeal rights for denials. Such reviews would need to prioritize patient health and safety, patient choice and access to care — and could not be based solely on cost. Health plans would also be required to have an adequate network of freestanding ambulatory surgical centers. Beginning Jan. 1, 2024, health plans would be required to comply with certain notice requirements and other requirements related to approving services at hospital-based outpatient clinics.	HANYS supports this proposal and the inclusion of important notice provisions and other guardrails to protect consumer choice.
State Innovation Health Plan	Would authorize a change in federal authority for the Essential Plan from Section 1331 of the Affordable Care Act to Section 1332, and would establish the 1332 State Innovation Program. Upon receiving federal approval, would expand Essential Plan eligibility by raising the Federal Poverty Level income threshold to 250%, would allow pregnant individuals and their newborns to receive coverage for one year postpartum regardless to any change of income and set premiums at $0 to $15. The proposal would also add covered services including cancer care at certain national cancer institute-designated cancer centers, dental and vision services, and certain community-based services.	HANYS supports coverage expansion but further analysis is needed to better understand the impact of this proposal on consumers and providers.
Medicaid reimbursement in hospital outpatient departments	Would permit Medicaid reimbursement for the provision of services by licensed social workers, licensed mental health counselors and licensed marriage and family therapists in hospital outpatient departments.	HANYS supports this proposal, which would increase access to much-needed behavioral health services.

Issue/topic	Governor's executive budget proposal	HANYS' comments
Health Guaranty fund	Would add health insurance plans to New York's existing Guaranty Fund but would not include Essential and Medicaid managed care plans. Would prohibit providers from collecting or attempting to collect from the insured sums owed by the insolvent health plan.	HANYS supports this proposal.
Medical malpractice		
Medical Indemnity Fund	Would provide level funding ($52 million) to support the New York State Medical Indemnity Fund for neurologically impaired infants.	HANYS supports this program and its solvency.
Interest on judgments	Would require the annual rate of interest paid on judgments to be calculated at the one-year U.S. Treasury bill rate.	HANYS supports this more reasonable and commonly used standard.
Excess medical malpractice program	Would extend the Physician Excess Medical Malpractice program through June 20, 2024, and reduce state contributions from $102.1 million to $78.5 million.	HANYS supports fully funding the physician excess medical malpractice program and opposes any reductions.
Post-acute and continuing care		
5% increase in Medicaid nursing home and assisted living program rates	Would increase the operating portion of nursing home and assisted living program rates by 5% effective April 1, 2023.	HANYS appreciates and supports any increase to the Medicaid rate, particularly for the struggling post-acute provider community. At great expense, nursing homes have worked diligently to comply with new staffing standards that took effect amid an ongoing healthcare workforce crisis. Despite these circumstances, this proposal would eliminate the $187 million in appropriated but yet to be released funding, which was intended to support compliance with the costs of new staffing standards. HANYS will continue to advocate for nursing home rates that cover the cost of providing quality care and any mandates imposed upon them.

Issue/topic	Governor's executive budget proposal	HANYS' comments
Managed Long Term Care procurement	Would extend the moratorium on the processing and approval of MLTC plans for an additional five years, until March 31, 2027. The proposal would also require MLTC plans to demonstrate to DOH by Oct. 1, 2024, that they have met certain performance standards. If, after Oct. 1, 2024, DOH determines an insufficient number of MLTC plans have met the performance standards, DOH would be authorized to require MLTCs to submit an application for continuance through a competitive bid process. DOH would be authorized to make certain MLTC plans ineligible to apply through the competitive process if the plan showed a history of poor performance, enforcement actions and other criteria set by DOH. If a competitive bid process is not initiated, MLTC plans that did not meet the performance standards would be required to submit performance improvement plans.	HANYS supports ensuring access to needed long-term care services. However, further analysis of this proposal is needed to better understand its impact on MLTC plan enrollees.
Certified medication aides	Would authorize trained certified medication aides to perform certain medication-related tasks under the supervision of and as assigned by a registered nurse employed by a residential healthcare facility. Medication-related tasks would include the administration of medications that are routine and pre-filled or otherwise packaged in a manner that promotes relative ease of administration but would exclude the administration of medications by injection, sterile procedures and central line maintenance (with some exceptions). RNs would be authorized to revoke any assigned medication-related task from a certified medication aide for any reason.	HANYS supports this proposal, which would help alleviate staffing shortages in nursing homes. A similar model has been adopted in at least 28 other states.
Assisted living residences quality reporting and accreditation	Would require all ALRs to annually report to DOH specified quality measures and publicly post their monthly service rate, staffing complement, residency agreement and summary of all service fees. The proposal would authorize DOH to identify top-performing ALRs and grant them an "advanced standing" classification.	HANYS is reviewing the impact and potential burden this proposal would have on ALRs.

Issue/topic	Governor's executive budget proposal	HANYS' comments
Workforce		
Oversight of healthcare professions	Would transfer oversight of healthcare professions from the State Education Department to DOH.	HANYS strongly supports efforts to ensure oversight and regulation of healthcare professionals in New York is streamlined, adept and well-resourced.
Temporary practice permits	Would authorize qualified, high-need healthcare professionals who hold a license in good standing from another state to request the issuance of a temporary practice permit after applying for licensure in New York state. Such an applicant would need to work under the supervision of a New York state licensee. If granted, the permit would be valid for six months or until ten days after notification that the applicant does not meet the qualifications for licensure. Would authorize SED to grant an additional six-month extension upon a determination that the applicant is expected to qualify for the full license.	HANYS supports this proposal, which would help address delays in licensing high-need healthcare professionals.
Temporary healthcare services agency regulation	Would require temporary healthcare service agencies to register with DOH, establish minimum standards, impose penalties for noncompliance and require quarterly reporting of charges and compensation.	HANYS supports this proposal as a first step toward addressing escalating contract labor costs.
Emergency Medical Service and medical transport reforms	Would expand the definition of EMS to include more settings and adopt performance standards. This proposal would also change processes and reporting for, and to, the State Emergency Medical Services Council (SEMSCO).	HANYS supports added flexibility to allow EMS to treat patients in various settings and appreciates the importance of a strong EMS system for optimal patient outcomes.
Doctors Across New York	Would provide level funding ($15.9 million) for DANY.	HANYS supports this provision and an increase in funding, which would further incentivize individuals to pursue a career in medicine and practice in underserved areas.
Nurses Across New York	Would provide $3 million in funding, a $500,000 increase over last year's funding amount, for the Nurses Across New York program. The program provides loan forgiveness to registered nurses and licensed practical nurses who commit to working for three years in underserved communities.	HANYS supports this provision and other proposals aimed at incentivizing individuals to pursue a career in nursing.

Issue/topic	Governor's executive budget proposal	HANYS' comments
Diversity in Medicine	Would provide $3.6 million in funding for the Diversity in Medicine program. These funds support post-baccalaureate and other programs that provide a pathway to medical school for students from underrepresented backgrounds in medicine.	HANYS supports this program.
Area Health Education Centers	Would provide level funding ($2.2 million) for AHECs, which address healthcare workforce needs of medically disadvantaged communities and populations through partnerships with institutions that train health professionals.	HANYS supports continued funding for AHECs.
Empire Clinical Research Investigator Program	Would provide level funding ($3.45 million) to support the ECRIP program. These funds support teaching hospitals that promote training of physicians in clinical research to advance biomedical research in New York state.	HANYS supports continued funding for ECRIP.
Rural Healthcare Access and Network Development program	Would provide level funding ($9.41 million) to support the Rural Healthcare Access and Network Development program, which increases access to care and improves coordination of services and resources for patients and providers.	HANYS supports fully funding this program.
Workforce Innovation Center	Would provide level funding ($10 million) for the DOH Workforce Innovation Center, which was created as part of the SFY 2023-2024 enacted state budget.	HANYS supports fully funding this program.
Pre-exposure prophylaxis (PrEP) standing orders	Would authorize physicians and nurse practitioners to issue a non patient-specific order to a pharmacist for a 30- to 60-day supply of HIV PrEP. Pharmacists would also be required to notify at-risk patients of the availability of HIV PrEP and meet certain conditions (e.g., completed training program) before dispensing PrEP.	HANYS supports this proposal and others aimed at preventing the spread of preventable diseases.
Ordering and administering tests	Would allow pharmacists to order and administer any tests waived under the federal Clinical Laboratory Improvement Amendments, including tests for COVID-19 and influenza.	HANYS is reviewing this proposal.

Issue/topic	Governor's executive budget proposal	HANYS' comments
COVID-19 testing	Would make permanent the authority of: • pharmacists to direct limited-service laboratories and perform COVID-19 and influenza tests; and • physicians and nurse practitioners to order non patient-specific regimen to registered professional nurses for tests to determine the presence of COVID-19 or its antibodies or influenza virus.	HANYS supports this proposal, which would streamline COVID-19 testing.
Collaborative Drug Therapy Management	Would expand the CDTM program to include nurse practitioners and make other changes to the program.	HANYS supports the addition of NPs to the CDTM program, but is evaluating the impact of other proposed changes.
Dentistry: Ordering and administering tests	Would authorize dentists to order and administer HIV and hepatitis C screening tests or diagnostic tests subject to CLIA certificate of waiver requirements.	HANYS supports this flexibility.
Nurse-initiated non patient-specific orders	Would expand non patient-specific regimens a physician and NP can prescribe and order to a registered professional nurse to include: • the ordering of asthma self-management education and home-based asthma services; • the urgent or emergency treatment of asthma; • providing stool tests to screen for colorectal cancer; and • the ordering of diabetes self-management education and support.	HANYS supports this reasonable expansion of nurse-initiated NPSOs and will advocate for the addition of other signs and symptoms that present in an emergency setting.
Pharmacist scope of practice	Would authorize pharmacists to order diabetes self-management education and support and asthma self-management education and home-based asthma services for patients, and any other services authorized in regulation by SED. Such services would be eligible for Medicaid reimbursement.	HANYS supports this proposal.

Issue/topic	Governor's executive budget proposal	HANYS' comments
Physician assistant	Would authorize PAs to practice without the supervision of a physician under the following circumstances: • the PA has practiced for more than 8,000 hours and is practicing in primary care or is employed by a health system or hospital; or • the PA has completed a program approved by DOH. The proposal would also remove the limitation on the number of PAs a physician can supervise (currently four) in their practice and clarify prescribing privileges, including allowing PAs to write non patient-specific orders and order durable medical equipment.	Physician assistants are critical providers of healthcare services and HANYS supports efforts to appropriately streamline barriers to such care.
Interstate Medical and Nurse Licensure Compacts	Would authorize New York to join the Interstate Medical Licensure Compact and Nurse Licensure Compact. These provisions would expand the number of physicians and nurses who are authorized to practice in New York state.	HANYS supports these proposals, which would help hospitals, nursing homes and other providers recruit nurses and physicians in shortage.
Public Health		
Medicaid reimbursement for community health workers	Would establish Medicaid reimbursement for community health workers to treat more populations including high-risk populations, maternity and children (under age 21).	HANYS supports this proposal.
Over-the-counter contraceptives	Would allow licensed pharmacists to prescribe and order self-administered hormonal and emergency contraceptives in accordance with standardized procedures and protocols developed by the board of pharmacy in consultation with DOH.	HANYS supports this proposal.
Hepatitis C and syphilis testing	Would require Hepatitis C virus screening to be offered to anyone who receives inpatient or outpatient care at Article 28 facilities and would require other healthcare providers to offer testing to individuals 18 years of age and over. Additionally, this proposal would require HCV testing during pregnancy and require syphilis testing of all pregnant persons in the third trimester.	These changes are largely in line with CDC recommendations.
Cancer services program	Would provide level funding ($19.8 million) for the New York State Cancer Services Program, which delivers free cancer screenings for low-income and under-insured individuals.	HANYS supports this proposal.

Issue/topic	Governor's executive budget proposal	HANYS' comments
Medicaid coverage of preventive care	Would expand Medicaid coverage to include nutrition and dietary services and arthritis self-management training services.	HANYS supports this proposal.
Tobacco use reduction efforts	Would expand the ban on flavored vapor products to now include all tobacco products and would make technical changes to definitions to improve compliance and enforcement efforts. Additionally, would increase the cigarette tax by $1 to $5.35 per pack effective Sept. 1, 2023.	HANYS supports this proposal.
Nicotine and opioid dependence	Would allow pharmacists to prescribe and order FDA-approved medications to treat nicotine dependence and opioid antagonists, limited to naloxone and other medications approved by DOH.	HANYS supports this proposal.
Mental Health		
Medicaid reimbursement for hospital outpatient departments	Would permit Medicaid reimbursement for the provision of services by licensed social workers, licensed mental health counselors and licensed marriage and family therapists in hospital outpatient departments.	HANYS supports this proposal, which would increase access to much-needed behavioral health services.
Mental hygiene operating certificate violations	Would authorize the Office of Mental Health to reinforce terms of Article 31 operating certificates. Would increase the maximum penalty from $1,000 daily or $15,000 per violation to $2,000 per violation, and penalties may be considered at the individual bed level for beds closed without authorization in inpatient settings.	HANYS strongly opposes this punitive proposal that does not address the underlying issues negatively impacting capacity. These include chronic healthcare workforce shortages, uncontrollable expense increases and limited settings to safely discharge patients.
Certified Community Behavioral Health Clinics	Authorizes the OASAS and OMH to jointly certify community behavioral health clinics and updates program requirements. The proposal would also establish a $33.8 million state-share indigent care program, which would provide state funds to certain providers that suffer losses due to uncompensated care.	HANYS supports this proposal and the establishment of a funding mechanism to cover uncompensated care.

Issue/topic	Governor's executive budget proposal	HANYS' comments
Mental and behavioral health network adequacy	Would require the Department of Financial Services, DOH, OMH and OASAS to issue regulations setting standards for network adequacy for mental health and substance use disorder treatment, including appointment availability standards, time and distance standards, and responsibility to cover out-of-network care when in-network providers are not available within the timely and proximate access standards.	HANYS supports adequate plan networks and is reviewing the impact of appointment availability standards.
Human services COLA	Would provide a one-time 2.5% human services cost of living adjustment, beginning April 1, 2023, for all eligible programs and services under the Office for People With Developmental Disabilities, Office of Temporary and Disability Assistance, Office of Children and Family Services, OMH and OASAS.	HANYS supports this provision and much-needed reimbursement increases for all healthcare providers. Medicaid reimbursement regularly fails to cover the cost of care, including labor costs.
Expanded behavioral and mental health coverage	Would require health plans to provide coverage for services provided by mobile crisis intervention services providers (no prior authorization requirement regardless of network participation; subject to independent dispute resolution process), medically monitored crisis residential treatment, certain critical time intervention services, assertive community treatment services, and school-based mental health clinics. Coverage for SBMH services would be reimbursed at no less than the Medicaid rate if there is no negotiated rate.	HANYS supports this proposal.
Preauthorization and concurrent reviews for mental health treatment	Would prohibit health plans from performing preauthorization or concurrent reviews within the first 30 days of mental health treatment, including admission to an in-network inpatient or residential facility licensed or operated by OMH. The provider must first meet certain requirements, including: • notifying the health plan of the admission and treatment plan within two days of admission; • performing daily clinical reviews; and • participating in regular consultations with the health plan. Exemptions to this proposal would include individuals who meet clinical criteria specific by OMH and/or admission to a facility designated by OMH for concurrent review.	HANYS supports this proposal and will advocate to ensure that notification and treatment plan requirements do not create new administrative burdens.

Issue/topic	Governor's executive budget proposal	HANYS' comments
OMH, OASAS and OPWDD telehealth payment parity	Would require health plans to reimburse telehealth services provided by OMH, OASAS and OPWDD-authorized providers at the same rate as in-person services.	HANYS supports adequate reimbursement for telehealth services.
Prior authorization for detox	Would prohibit prior authorization for an initial or renewal prescription for detoxification or maintenance treatment of a substance use disorder and requires coverage for treatment of SUDs, including opioid overdose reversal medications.	HANYS supports this proposal, which removes barriers to SUD treatment.
	Pharmacy	
Prescriber prevails	Would eliminate the prescriber's ability to make final determinations for atypical antipsychotic, anti-depressants, anti-retrovirals, anti-rejection, seizure, epilepsy, endocrine, hematologic, immunologic therapeutic classes and for drugs not on the Medicaid preferred drug list.	HANYS opposes this proposal.
Pharmacy benefit carve-out and loss of Medicaid 340B savings	The executive budget proposal does not reverse the planned April 1, 2023, Medicaid retail pharmacy benefit transition from the managed care program to fee-for-service. This policy, enacted in SFY 2020-2021, will result in significant losses of savings for hospitals participating in the 340B program.	HANYS opposes the omission of a policy reversing the carve-out. Also troubling is the executive's linking of this issue with a proposal to modestly increase inadequate Medicaid rates. We will continue to advocate for both the reversal of the pharmacy benefit carve-out and meaningful improvements to Medicaid rates for all providers.
Prescription Drug Price and Supply Chain Transparency Act	Would create a new section of insurance law meant to increase regulation and oversight of companies responsible for the distribution of prescription drugs. Among many other provisions, this proposal would: • grant DFS the power to approve drug price increases; • place fees on manufacturers' reporting processes; • allow civil monetary penalties for violations; and • require pharmacy service administrative organizations, rate aggregators and pharmacy switch companies to register with DFS, pay filing fees and disclose new information, including rebates and discounts.	Hospitals and health systems have witnessed firsthand the immense increase in drug costs. HANYS is reviewing this proposal to assess its impact.

Issue/topic	Governor's executive budget proposal	HANYS' comments
	Additional provisions	
Certificate of Need reforms	Would revise the "look-back" period from 10 to seven years for character and competence reviews and expand the scope of activities reviewed. Additionally, would expand the type of ownership transfers that need PHHPC review (even if less than 10%). Approval would not apply to persons, members or stockholders previously approved by PHHPC. Would also create new DOH oversight over investor-backed entity transactions including mergers, acquisitions, sales, transfer of assets and others for physician practices and management services organizations. Would increase various CON fees for construction projects. According to the budget briefing book, the administration also plans to raise the cost threshold from projects that need to file a CON.	HANYS supports the reduction of the look-back period, cost threshold and other proposals aimed at streamlining the CON process. However, HANYS opposes any increase to CON fees. Additionally, increased oversight of private equity transactions is an important step to leveling the healthcare playing field.
Metropolitan Commuter Transportation Mobility Tax increase	Would increase the MCTMT from 0.34% to 0.50% of payroll expenses.	HANYS recognizes the need for a functional and adequately funded MTA. However, given the immense fiscal pressures facing hospitals and the billions in community benefit they provide to the communities they serve, HANYS recommends that hospitals join educational institutions and libraries in being exempt from this tax on employers.

Issue/topic	Governor's executive budget proposal	HANYS' comments
Minimum wage indexing to inflation	Would index the minimum wage to inflation, capped at the lesser of 3% or the consumer price index for the Northeast. Would begin in New York City, Westchester and Long Island in 2024 and will apply to the rest of the state the year after the minimum wage reaches $15 per hour. The scheduled home care aide minimum wage increases included in the SFY 2022-2023 budget, totaling an additional $3 per hour, would be tied to this new indexed benchmark and would be capped at $18 per hour until the regional standard minimum wage also reaches $18 per hour.	HANYS wishes to ensure that these increases are accompanied by a corresponding increase to the Medicaid minimum wage reimbursement.
Public Health and Social Services law extenders	Would extend multiple provisions due to expire soon and make permanent provisions allowing the use of DOH Office of Professional Medical Conduct funds for physician profiles and make permanent the statutory authority for the Statewide Health Information Network for New York and Statewide Planning and Research Cooperative System.	HANYS supports this proposal.
Abortion data privacy protections	Would prevent in-state entities from sharing data related to individuals seeking abortion care with out-of-state law enforcement, except in limited situations. Would also prevent digital advertisements from targeting healthcare facilities via geofencing.	HANYS supports protecting abortion seekers from criminal and civil action.

CRITICAL CONDITION:

New Yorkers are losing access to care as a fiscal crisis hammers hospitals statewide

December 2022 | Joint hospital association survey results

HANYS Always There for Healthcare

Healthcare Association of Western and Central New York

Suburban Hospital Alliance of New York State, LLC

IROQUOIS Healthcare Association

GNYHA Greater New York Hospital Association

Executive summary

The COVID-19 pandemic placed extraordinary stress on the nation's and New York's healthcare system. Today, New York's hospitals remain in crisis. They face a national healthcare worker shortage, uncontrollable expense increases, fewer places to safely discharge patients, concurrent public health crises, stagnant infrastructure and market changes that leave hospitals increasingly serving only the sickest and most vulnerable patients.

As a result of circumstances beyond their control, **hospitals statewide need urgent help to sustain their services**. According to a fall 2022 survey by New York's state and allied regional hospital associations, New Yorkers are losing access to healthcare services amid escalating care delivery costs and persistent workforce shortages — and providers expect access to medical services to further deteriorate.

The survey's findings are alarming:

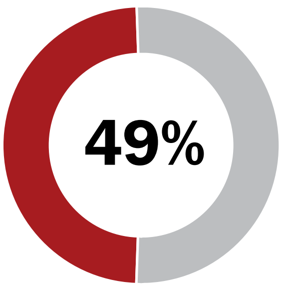
1. Severe fiscal and workforce challenges are forcing hospitals to cut patient services and halt modernization projects that advance patient care.
2. National healthcare workforce shortages continue to force hospitals to use costly contract labor, driving up expenses alongside substantial increases in drug, supply and energy costs.
3. **Four out of five hospitals in New York report negative or unsustainable operating margins.**
4. With pandemic-related government support ending and expenses continuing to escalate, hospitals' dire fiscal crisis is likely to only get worse.

Already-strained hospitals cannot absorb their escalating expenses. New York's hospitals cannot simply increase their prices. Most hospital care is paid for based on prices set by Medicare and Medicaid, and negotiations with commercial insurers leave little room for hospitals to address escalating expenses in a timely or meaningful way, particularly when healthcare prices are under heavy public scrutiny.

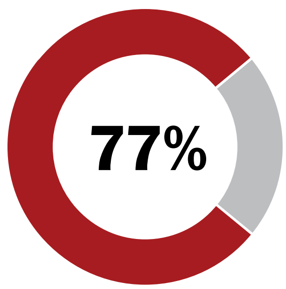
Action is needed now.

> **"Three out of five hospitals are underwater, and the fourth is on thin ice. We face a very real danger of hospitals closing, patients losing care, healthcare workers losing their jobs and communities losing their lifeblood.**
>
> **The state and federal governments must immediately provide new funding, enact common sense policy changes and make no cuts to existing vital healthcare funding."**
>
> *— Bea Grause, RN, JD, president, Healthcare Association of New York State*

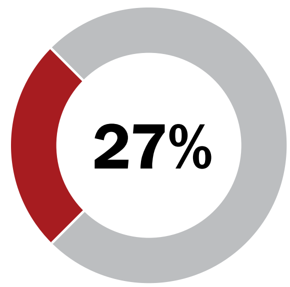
1 Severe fiscal and workforce challenges are forcing hospitals to cut patient services and halt modernization projects that advance patient care.



49% of New York's hospitals report reducing and/or eliminating services to mitigate staffing challenges while ensuring their most critical services remain available.



77% report delaying or canceling building and improvement projects as a result of fiscal challenges — actions that erode the accessibility of healthcare services.



27% report being at risk of defaulting on existing loans, which can decrease financial resources available for patient care.

Cutting patient services is always the last resort; hospitals are taking significant measures to keep services online. For instance:

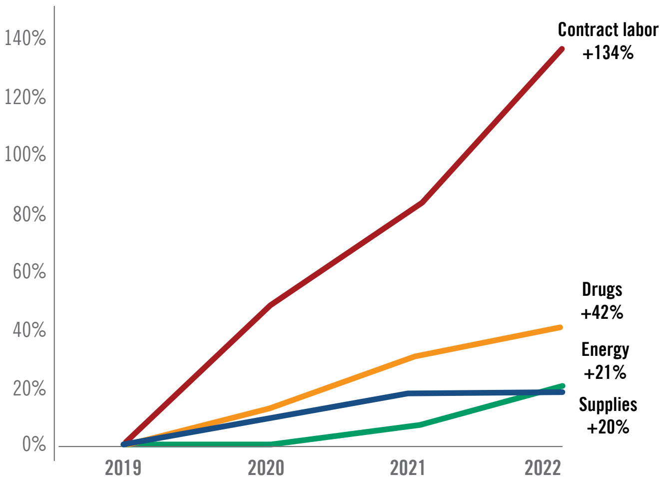
- **96%** have offered financial incentives to retain/attract employees.
- **64%** have up-trained and/or retrained staff to accommodate higher-level care needs.
- **47%** have requested staff postpone elective time off.

MISSION CRITICAL: New York's not-for-profit hospitals are driven by their mission of providing quality care to patients 24/7/365, regardless of ability to pay. Our hospitals and health systems' stability is often assumed. Whether for routine care, an urgent medical issue or a response to an emerging public health crisis, New Yorkers expect their local hospitals to always be there when they need them.

> **"Our hospitals continue to face relentless financial pressures, including a pandemic in its third year. Without a financial margin, hospitals cannot invest in the necessary services and facilities to modernize our healthcare delivery system. The hospital community looks forward to working with New York's policymakers to address this crisis."**
>
> *— Kenneth E. Raske, president, Greater New York Hospital Association*

2 National healthcare workforce shortages continue to force hospitals to use costly contract labor, driving up expenses alongside substantial increases in drug, supply and energy costs.

New York hospital expenses (2019 – 2022)



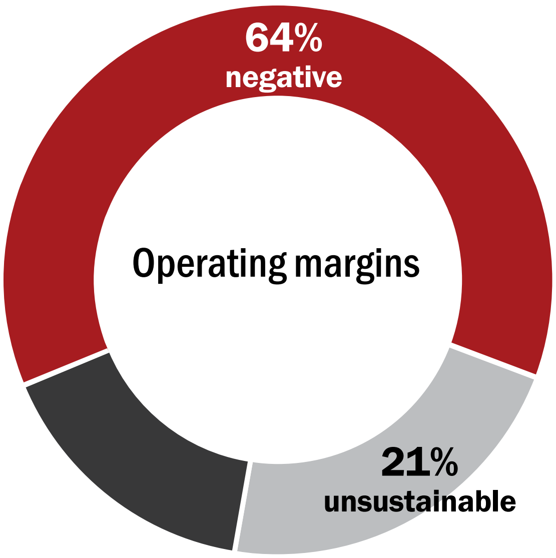
- **100%** of the state's hospitals report nursing shortages they cannot fill; **Over 75%** commented that other key positions cannot be filled, highlighting radiology/medical imaging roles, lab staff, respiratory therapists, physicians, environmental services staff, and patient registration and revenue cycle roles.
- From 2019 to 2022, overall labor costs increased by **17%**, driven by a **134%** increase in hospitals' contract staffing costs (an average annual increase of 33%).

  This increase was driven by the need to appropriately staff for patient care with the only nursing resources available. As a result of this paradigm shift, contract nurses, who made up 50% of New York hospitals' total contract labor expenses in 2019, now make up 65%.
- Labor costs aren't the only challenge. From 2019 to 2022, New York hospitals report drug costs are up **42%**, supply and equipment costs are up **20%** and energy costs are up **21%**. Hospitals expect these difficult trends to continue in 2023.

THE CONTRACTING WORKFORCE: Labor accounts for about 60% of a hospital's operating expenses, so when labor costs increase it is a meaningful and permanent change. As healthcare workers have retired, changed careers or, in many cases, become contract employees themselves, hospitals have been increasingly forced to hire temporary/contingent healthcare workers to maintain services. **Contract nurses can cost over two times more than a hospital-employed nurse**. While essential to keeping services available, their temporary status presents challenges such as constant onboarding, lack of cohesion with full-time staff and less familiarity with the local facility and community. Hospitals prefer to hire qualified, local full-time staff who can support day-to-day care needs and partner on long-term quality and patient experience initiatives.

> "Workforce shortages are causing vacant positions to go unfilled and services to be cut. Policymakers must immediately invest in the healthcare workforce and our hospitals to ensure they can serve their communities for years to come. Hospitals' labor costs are forever changed. Without help they face hard choices with dire consequences."
>
> *— Gary J. Fitzgerald, president and CEO, Iroquois Healthcare Association*

3 Four out of five hospitals in New York report negative or unsustainable operating margins.



- In 2022, **64%** of New York's hospitals and health systems report negative operating margins (those losing money when comparing care-related revenue and expenses).
- **85%** report negative or unsustainable operating margins (margins of less than 3%).
- The number of New York hospitals and health systems reporting negative or unsustainable operating margins increased by **23%** from 2019 to 2022.
- From 2019 to 2022, inpatient admissions dropped statewide by **8.3%**. As fewer patients receive care in the inpatient setting, hospitals are seeing less revenue.

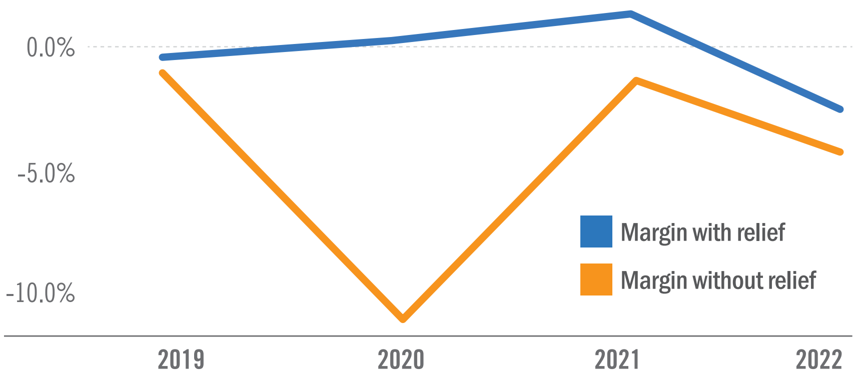
  While this decline in admissions follows a pre-pandemic trend, the total number of inpatient days did not change for this same time period. This indicates patients are staying at the hospital longer because their needs are more complex and/or a diminishing number of post-acute and other appropriate settings are preventing hospitals from discharging patients. Hospitals are serving as nursing homes with payment that fails to keep pace with the cost of caring for these patients for weeks and sometimes months.

MARGIN MATTERS: Low and negative margins preclude hospitals from the financial security needed to preserve access to vital healthcare services, re-invest in needed medical technology and research, recruit and retain a robust workforce, access capital markets and modernize healthcare facilities for all patients. A hospital's fiscal health has a significant ripple effect at the local level. Beyond care delivery, hospitals and health systems are often the largest employers in their communities and generate many more community jobs and hundreds of billions of dollars in economic activity each year.

> **"Hospital margins are absolutely going in the wrong direction, and everyone should be alarmed. The pandemic and recent natural disasters have proven we need strong, well-resourced hospitals that are ready for anything. New Yorkers are better off when their hospitals are thriving."**
>
> *— Wendy Darwell, president and CEO, Suburban Hospital Alliance of New York State*

4 With pandemic-related government support ending and expenses continuing to escalate, hospitals' dire fiscal crisis is likely to only get worse.

New York hospital median operating margin with and without one-time pandemic relief (2019 - 2022)



Including one-time pandemic relief, the median operating margin reported by New York hospitals hovered around break even in 2020 and 2021 but has deteriorated to **negative 3.7%** in 2022. While relief funding helped stabilize the healthcare system in the first two years of the pandemic, there is no new support on the horizon.

CRISIS ON TOP OF CRISIS: New York's hospitals have no breathing room to absorb escalating expenses as their reimbursement from Medicare and Medicaid — hospitals' highest-volume payers and the insurers for more than half of all New Yorkers — continues to be far below the cost of care and completely inadequate.

For each dollar of care provided by New York's hospitals, **Medicaid pays just 61 cents; Medicare pays 84 cents.** On average, 70% of inpatient hospital discharges and almost 60% of outpatient visits are paid for by Medicare or Medicaid. However, due to significant underpayment, these government-paid services represent only 51% of hospital revenue. This disconnect contributes significantly to the critical financial condition of New York's hospitals.

New York's hospitals cannot simply increase prices like other businesses to manage extreme cost growth. Persistent underpayment from Medicare and Medicaid forces struggling hospitals to try to balance their finances by negotiating more favorable payment rates from powerful commercial insurers, many of which are experiencing record profits. However, even if a hospital has meaningful commercial volume to offset losses from government payers, commercial insurer contracts lock providers into multi-year agreements that do not address unpredictable and untimely expense growth.

> **"The help hospitals need is nowhere on the horizon. Inadequate reimbursement and soaring expenses are pushing hospitals to the brink, begging for emergency relief just to keep the doors open, make payroll and repeat the situation all over again in a few months. It's an incredibly stressful cycle for everyone involved and it's absolutely unsustainable."**
>
> *— Ken Schoetz, vice president, Healthcare Association of Western and Central New York*

Action is needed now to protect patient access to care.

Preserving access to safe, high-quality patient care is the mission of New York's nonprofit and public hospitals and health systems. Today, that mission is threatened by fiscal forces outside of their control.

Hospitals and health systems have emerged from the worst of the pandemic into a changed world marked by severe and persistent workforce shortages and an untenable, structural revenue/cost imbalance, with no end in sight.

Government help is needed right now to sustain the current workforce, bolster the pipeline of new healthcare workers and fix longstanding reimbursement shortcomings that threaten patient access to care in communities across the state.

New Yorkers rely on their hospitals. Hospitals across the state are the heart of their communities, committed to giving every patient who comes through their doors the very best care. But right now, the majority of those facilities are struggling to survive.

The state and federal governments must immediately provide new funding, enact common sense policy changes and make no cuts to existing vital healthcare funding.

About the survey

Conducted in fall 2022, the survey asked New York hospitals fiscal, nursing workforce and patient volume questions for the period 2019 through projected 2022. Responses are from hospitals and health systems in all regions of the state with a participation rate that reflects over 90% of the annual revenue that New York hospitals and health systems generate. Data points on Medicaid and Medicare volume and payment are from hospital cost reports. "Unsustainable" margin levels reflect a standard from Kaufman Hall. This survey was a joint effort of the Healthcare Association of New York State, Greater New York Hospital Association, Healthcare Association of Western and Central New York, Iroquois Healthcare Association and Suburban Hospital Alliance of New York State.

HANYS
Always There for Healthcare

Healthcare Association of Western and Central New York

Suburban Hospital Alliance of New York State, LLC

IROQUOIS Healthcare Association

GNYHA
Greater New York Hospital Association