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JOINT
NEW YORK STATE SENATE FINANCE
AND
ASSEMBLY WAYS AND MEANS COMMITTEES

MENTAL HYGIENE BUDGET HEARING

THURSDAY, FEBRUARY 7, 2019

TESTIMONY BY:
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Thank you for the opportunity to provide testimony this morning. My name is John Coppola and I am the Executive Director of the New York Association of Alcoholism and Substance Abuse Providers (ASAP), a statewide association that represents the interests of the continuum of substance use disorders services across New York State. Included in our membership are nearly 200 agencies that provide a comprehensive continuum of services, 15 statewide and regional coalitions of programs, and a number of affiliate and individual members.

Last year, when ASAP testified at this hearing, we expressed great concern about the worsening public health crisis related to prescription opioids, heroin, and fentanyl. We noted the continuing upward trajectory of overdose deaths, the increasing number of persons with an addiction, and the unimaginable grief and stress experienced in so many New York families. We expressed frustration that, in spite of our advocacy efforts urging the Governor, the Senate, and the Assembly to significantly increase resources for substance use disorder prevention, treatment, and recovery support services, the Governor's budget proposal did not contain the resources needed to address this emergency. We urged the Assembly to work with the Senate to increase funding in the 2019-20 State budget and reiterated our plea that "dramatic action is needed." Unfortunately, following the pattern from previous years, last year's enacted State budget did not include a significant increase in resources. Dramatic action was not taken.

Last year we also testified that, "Without the strength of significant new resources and a dedicated commitment to support the substance use disorders workforce, the public health crisis will continue to escalate in New York State, setting new records and impacting more and more families." In a presentation I heard last week in NYC, Dr. Andrew Kolody, Executive Director of Physicians for Responsible Opioid Prescribing, said that overdose deaths have increased every year for the past 23 years, including 2017, and we expect that, when all the data is in, it will be 24 straight years of increased death due to opioid overdose.

The magnitude of our response to this public health crisis has NOT matched the magnitude of the crisis itself. Year after year, prevention, treatment, and recovery service providers are asked to do more with less and cannot keep up with the demand for their services. SUD professionals from across New York State have expressed with frustration that they feel like they are fighting a forest fire with a garden hose.

It should not be a battle to get the funding necessary to address this public health crisis. It should not be necessary to have to explain to members of the Assembly and Senate that, while in 2017 it was widely believed that $213 million in *new* funding was being allocated to address the opioid crisis and in 2018 that the Opioid Stewardship Fund *added* $100 million to the OASAS budget, these funds were, to a large extent, simply supplanting existing funds to pay for the pandemic. In recent years, we were not committing new funds other than what amounts to an inflationary increase in the Aid to Localities funding that supports prevention, treatment, and recovery supports in communities across the State. We offer the following to substantiate this point:

Aid to Localities Funding Trend

2013-14	$457,696,000	
2014-15	$460,896,000	.7% (7/10 of 1%) increase
2015-16	$474,716,000	3% increase
2016-17	$501,490,000	6% increase
2017-18	$507,548,000	1.2% increase
2018-19	$573,405,000	13 % increase
2019-20	$574,051,000	.7% (1/10 of 1%) increase

Since the 2013-14 budget, New York State has increased its commitment to prevention, treatment, and recovery in communities across the state by an average of approximately 4% per year.

Documenting the impact of inadequate resources, a survey commissioned by ASAP conducted by the Center for Human Service Research in 2018 found that:

- Employee recruitment and retention is a significant problem in SUD programs across the State. Inadequate pay was the most common reason direct service staff leave the field.
- Treatment program staff vacancies are creating waiting lists and prohibiting individuals seeking treatment from accessing life-saving services. Treatment beds remain empty because there is no staff person to provide care, resulting in individuals suffering from addiction being added to waiting lists. Nearly 2/3 of survey respondents from inpatient and outpatient programs believe vacancies have become a greater problem due to the opioid/heroin epidemic.
- Prevention programs across the State have lost more than 1/3 of their staff over the past 20 years due to funding cuts and inadequate pay.
- Incentives available to other professions, such as student loan forgiveness, scholarships for training, education, and certification, and salary/hiring incentives to help to recruit and retain staff, are frequently not available to SUD professionals needed to address this epidemic.

More funding is needed so that prevention, treatment, and recovery services are supported at a level sufficient to address the magnitude of this crisis and set an example for other states to follow.

The New York Association of Alcoholism and Substance Abuse Providers (ASAP) recommends that the Senate and Assembly one-house budgets address the following priorities and include funding to support them as follows:

Priority #1

New York State's prevention, treatment, and recovery programs require immediate investments to ***strengthen the workforce infrastructure*** necessary to address the heroin/opioid epidemic and other substance use disorders. The Center for Human Services Research found that prevention and treatment staff receive $5,000 to $7,500 less than comparable professionals in other settings. Over three-fourths (76%) of community SUD service providers found it difficult to attract new employees due to uncompetitive salaries. Between 31% and 59% of respondents felt that vacancies were causing delays in providing services. This is no way to fight a pandemic.

- $30 million is needed to strengthen compensation for prevention staff in schools and communities across NYS and to hire new staff to replace one third of the workforce that has been lost over two decades because of funding cuts
- $40 million is needed to strengthen compensation for treatment staff and to add new treatment professionals to address the opioid crisis
- $5 million is needed to support additional recovery program staff and New York Certification Board certification of 1,250 new recovery peers

This $75 million workforce initiative could be implemented over a two to three year period.

Priority #2

The ***fiscal viability*** of prevention and treatment programs has been threatened because local assistance funding has not kept pace with inflation over the last decade while the cost of business has risen sharply. Increasing costs related to employee health benefits, the purchase of electronic health records and electronic billing systems, and the need to hire new staff to work with multiple managed care and health plans have created fiscal problems because programs have not received support to cover these costs.

- ***Implement the cost of living adjustment*** that was agreed to by the legislature and promised to community-based organizations but repeatedly deferred in recent years. Tied to the consumer price index (2.9%), the 2019-20 increase should be approximately $13.05 million for OASAS funded programs. ASAP supports this request being applied across all of the systems that were included in this COLA which has been deferred repeatedly, compromising the fiscal viability of not-for-profit organizations vital to vulnerable New Yorkers.
- ***Adjust all Medicaid rates*** to reflect the actual cost of SUD services. This would greatly help to stabilize the fiscal status of programs. ASAP recently convened a workgroup from all SUD service modalities to analyze current Medicaid rates, identify the actual cost of providing services, and develop recommendation to update Medicaid rates. We will share these recommendations with OASAS, DOB, the Governor's Office, and all appropriate Senate and

Assembly committees when they are finalized. Many of the current rates have not been adjusted since they were cost-based close to a decade ago.

- If an ***Opioid Stewardship Fund*** is successfully established, 100% of funds should be used to increase support to OASAS funded prevention, treatment, and recovery programs. Such a fund would provide an opportunity to address the consequences of the opioid crisis and to prevent future addiction, overdose, and death with new funds. An Opioid Stewardship Fund, which could benefit from taxes, surcharges, penalties, or fines, should not be used to supplant existing funds.

Priority #3

Insurance Law/ Opioid/ Parity Provisions in Proposed Budget

ASAP supports Health and Mental Hygiene Article VII budget bill (Part BB) proposals to make several amendments to the Insurance Law to expand health insurance coverage and access to SUD services and behavioral health/mental health services. Among major provisions proposed by the Governor that we ask the Senate and Assembly to include in their one-house budget bills are:

- Elimination of prior authorization for buprenorphine and other medication assisted treatment;
- Requiring insurers to cover naloxone
- Permitting SUD treatment to commence and continue without concurrent utilization review for 21 days (up from 14 days)
- Requiring that co-payments and co-insurance for mental health and SUD outpatient treatment shall not exceed the cost imposed for a primary care office visit under the policy
- Limiting co-payments for SUD outpatient visits to a single co-payment per treatment visit;
- Requiring that the criteria for medical necessity for outpatient SUD coverage shall be made available by the insurer
- Prohibiting insurers from retaliating against service providers who file a complaint with a State oversight agency about insurer compliance with behavioral health insurance protections
- Requiring insurers to post additional detail regarding their behavioral health provider networks

- Requiring hospital emergency departments to make Medication Assisted Treatments available prior to discharge or transfer
- Requiring hospital emergency departments to check the ISTOP Prescription Monitoring Program (PMP) registry before dispensing controlled substances, and
- Requiring court-ordered treatment for SUD to be provided at programs certified or approved by OASAS.

ASAP also supports inclusion within state law, additional health insurance "parity" protections for behavioral health services that are included within the federal parity law (Mental Health and Addiction Equity Act of 2008), which are intended to eliminate insurance barriers for behavioral health services. Among these parity protections are the following:

- Ensuring that health insurance coverage would not apply financial requirements or treatment limitations to mental health or substance use disorder benefits that are more restrictive than the "predominant financial requirements and treatment limitations" that apply to "substantially all medical and surgical benefits" covered by a policy, and
- Prohibiting "non-quantitative treatment limitations" that are more restrictive than those applicable to physical health coverage, such as: standards limiting benefits based on medical necessity, experimental treatments, formulary design for prescription drugs, network tier design, standards for provider networks, "fail first" or "step therapy" protocols, exclusions based on failure to complete a course of treatment, and restrictions based on geographic location, facility type, or provider specialty

Other Article VII Bill Proposals

ASAP also asks that the Senate and Assembly include the following proposals in your one-house budget bills, which were contained in the Governor's budget proposal

- *APG rates* (also known as "government rates"), which are minimum rates that Medicaid managed care must reimburse for services provided by ambulatory providers licensed by OMH or OASAS(including patients enrolled in CHIP), are proposed to be extended for a 2-year period, until 3/31/22.

- Adds several new fentanyl analogs to the list of State controlled substances. Would also permit DOH, by regulation, to add other drugs to the list of controlled substances that are listed on the Federal schedules of controlled substances.

Priority #4

As suggested as a possible course of action by members of the Senate and Assembly, ASAP supports separating discussion about the legalization of marijuana for adult use from the budget process so that adequate attention can be given to new scientific research and data from other states. We ask that you also consider recommendations that were made by ASAP as language was being developed for inclusion in the budget. These recommendations are attached as an addendum to this testimony for your information.

We urge that, if the legislature decides to legalize marijuana for adult use, a substantial percentage of tax revenue associated with legalized marijuana should be allocated to OASAS for prevention, treatment and recovery services to:

- Implement a statewide, science-based education campaign about risks associated with marijuana use, and
- Prevent underage use and treat people with marijuana use disorders

Priority #5

Ensure that implementation of licensure laws are administered by the State Education Department in a manner that does not worsen our workforce crisis. We ask that OASAS, OMH, OCFS, DOH and any other state agency responsible for health and human service delivery be consulted no less than semi-annually by the Senate and Assembly to monitor 1) opportunities to strengthen the workforce by statute or regulation by applying standards and interpretations of scope of practice that accommodate the education, training, and experience in the service delivery systems for which they have oversight, and 2) occurrences of conflict between SED and these other state agencies where there is a concern on the part of state agencies that that the integrity of the service delivery system might be compromised

by overly restrictive interpretation or regulation by SED. We remain very concerned that implementation of the social work license and the sunset of exemptions to the social work scope of practice pose a risk to the SUD workforce and the people we serve. We may need your assistance with this issue which we had hoped could be resolved with reasonable guidance from SED.

New York State must invest in rebuilding its prevention, treatment, and recovery service infrastructure if we are to make significant progress in reducing the number of overdose deaths and meet the demand for SUD services in communities across NYS. While new addiction-focused pilot programs and public awareness campaigns are appreciated, an investment is critically needed to strengthen core SUD services in existing programs that are struggling from under-staffing and inadequate resources. Additional prevention, treatment, and recovery support resources are needed to address not just the opioid crisis, but also such profound issues as underage drinking; substance use disorders experienced by pregnant women and their impact on newborn children; and the special needs of veterans, young adults, adolescents, the LGBTQ community, and others.

As we testify here today, we will are back with the same request we made last year and the year before and the year before and .... Please give New York communities the resources needed to address our number one public health problem with the magnitude necessary to make a difference.

Thank you for your public service and the hard work that you do, not just during the legislative session, but throughout the entire year. ASAP is committed to working with you. Thank you.