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Public Hearing:
Joint Legislative Public Hearing on 2016-2017 Executive Budget Proposal:
Topic "Mental Hygiene"
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Good Afternoon, Chairpersons Gunther and Ortt and members of the Assembly and Senate Commitees on Mental Health and Developmental Disabilities. I am Phillip A. Saperia, CEO of The Coalition Of Behavioral Health Agencies (The Coalition). The Coalition is the umbrella advocacy organization of New York's behavioral health community, representing over 130 non-profit community-based behavioral health and substance abuse agencies that serve more than 350,000 clients throughout New York City's five boroughs and neighboring counties.

Thank you for this opportunity to present our thoughts at this Joint Legislative Public Hearing on the 2016-2017 Executive Budget Proposal for Mental Hygiene.

The Transition to Medicaid Managed Care for Behavioral Health Services
On October 1, 2015, in New York City one of the last remaining groups of individuals receiving behavioral health services on a Medicaid fee-for-service (FFS) basis were carved into a managed care system. They are people on Medicaid who live with serious mental illness and/or chronic addictions. We support the transition to managed care, which we trust will lead to more positive outcomes for individuals struggling with behavioral health issues, but in the near-term we have some serious concerns about potential disruptions likely to affect consumers/clients and their community based providers.

We view the Governor's budget proposal through the lens of Medicaid managed care as the two are wholly intertwined.

Promote Transparency & Accountability in the Medicaid Redesign Process
We believe either through the budget process or as a stand-alone bill, OMH and OASAS, the most knowledgable State agencies about behavioral care for vulnerable individuals, should be given meaningful oversight over the Managed Care Organizations

(MCOs) and monitoring authority for compliance, network adequacy, continuity of care and evidenced-based behavioral health outcomes.

Oversight of MCO issues (contract language, network adequacy, evidence based practices, monthly reporting, access, payment, denials, evidence of maintenance of effort) with respect to behavioral health should rest with OMH and OASAS. These State agencies, using their comprehensive understanding of behavioral systems, have a long history of working with safety net providers and high needs consumers. Vesting them with authority over behavioral health matters would give providers and consumers/clients a needed level of comfort and stability and uphold elevated standards of care.

In order evaluate the progress of the transition to Medicaid manged care, the legislature should require the MRT and DOH to submit a public annual report to you, with specific information on how the numerous MRT funds are being spent (e.g. DSRIP, BIP), the rollout time and to whom funds are being provided, In addition, the report must identify where Medicaid funds are being reinvested.

Only with this information can we determine if the goals of the MRT are adequately being met and if safety net services are stabilized and individualized to meet the needs of consumers/clients and help them maintain their community based rehabilitation and recovery.

New York State should incentivize managed care plans to pay in a timely manner by increasing the penalty for non-compliance with prompt payment rules and indexing penalties for inflation. There has been no increase in the 12% penalty since 1998 when the Prompt Payment Law was enacted. In addition, the State must monitor compliance.

In order to preserve the community based not-for-profit behavioral health provider infrastructure in the move to value based payments DOH, OMH and OASAS must establish standardized metrics to determine savings attributable to behavioral health services and ensure the reinvestment of those funds in the sector. We seek assurance from the legislature that medical and behavioral care savings realized by virtue of hands-on community based supports and behavioral health services will result in reinvestment of those savings into behavioral health.

Ensure the Viability & Sustainability of the Behavioral Health Sector

Government Rates

Although not in in the current budget proposal, we strongly urge that New York State extend government rates through 2020 when Value Based Payments will be in full effect. This would be the most effective approach to ensure the health and stability of the community-based behavioral health safety net.

HCBS Services

The budget should, but fails to, strengthen and ensure a robust capacity of Home and Community Based Services (HCBS) by providing adequate rates. HBCS are Medicaid-funded services and supports provided in non-institutional residential settings that address the social determinants of health. The crux of these service, is to provide person-centered care, rehabilitation and recovery services that will reinforce the

strengths, preferences and needs as well as the desired outcomes of the individual. New York State has submitted a Statewide Transtion Plan to CMS for approval to effectuate these services in New York.

The Coalition strongly supports the person-centered approach provided through HCBS, but calls on the State to provide adequate rates in order to strengthen and ensure a robust capacity for services. DOH's first rate proposal vastly undervalued the services and, consequently, without changes, there will be few providers willing to provide them.

COLA

The Executive budget proposes an inconsiderable 0.2% COLA. Instead, we seek a 3% across the board COLA for all OMH and OASAS contracted providers—the same percentage as is being given to Managed Care companies—and help providers stabilize for the coming transformative changes in care delivery.

The Clubhouse Model

The Clubhouse is an integrated model in which several behavioral health services (services that will be reimbursed separately and discretely by the proposed HCBS Model) are often provided simultaneously, by mandate of its accreditation body, Clubhouse International.

Given the uniqueness and success of the evidenced-based Clubhouse model, we request that the Commissioners of SDOH, OMH and OASAS develop an exemption for Clubhouse programs from the proposed HCBS model. To both maintain accreditation and high quality services for Clubhouse program members, services cannot be provided independently. Therefore, the State should employ a clubhouse-specific case rate reimbursement model for these services.

HIT & Capital Investment

The Coalition was the among primary advocates for capital for funding for health information technology (HIT) and other costs related to the transition to managed care in the current fiscal year's budget. We are extremely appreciative that the legislature allocated $10 million for these purposes. The vast majority of federal funding for HIT—particularly Federal HEAL grants—so necessary for this transition and compliance with record keeping and information exchange mandates, on both federal and state levels, has gone to hospitals and physical health providers.

While the State is working dilligently to implement and distribute its grants, we believe that significantly more funding is necessary to build the infrastructure for behavioral health providers, especially in OASAS-licensed facilities, to meet the demands of the new billing and electronic health environments. Such technology is also vital for providers to track data on outcomes which will be needed in the new MMC environment.

That is why The Coalition is calling for a recurring investment of $100 million to expand the Nonprofit Infrastructure Capital Investment Program and a directive to target significant funds to community behavioral health providers.

Office of Management and Budget's Mandate with Respect to Nonprofit Indirect Costs
Unfortunately, the Executive's budget does not provide for implementation of the Federal Office of Management and Budget's (OMB) mandate with respect to nonprofit indirect costs. On December 26, 2015, OMB's Final Guidance made clear that a nonprofit's indirect costs (sometimes called overhead or administrative costs) are legitimate expenses that need to be reimbursed in order for the organization to be sustainable and effective.

The OMB Guidance explicitly requires pass-through entities (typically states and local governments receiving federal funding) and all federal agencies to reimburse a nonprofit's indirect costs by applying the nonprofit's federally negotiated indirect cost rate, if one already exists. If a negotiated rate does not yet exist, then nonprofits are empowered either to request negotiating a rate or to elect the default rate of 10 percent of their modified total direct costs.

Supportive Housing
We strongly support the Executive's proposal to fund 20,000 units of supportive housing; ensure equitable distribution of units so that people with serious mental illnesses are assured a fair share of the units.

With regared to our current stock of supportive housing, funding for OMH Housing programs has eroded up to 43% over the last 20 years. These programs are expected and required to serve much more challenging clients in the community, manage the health and mental health for people with many co-occurring conditions and manage complicated medication regimens that were never anticipated when the models were developed and are serving priority populations that were chosen specifically because of their very high needs.

The continuum of OMH licensed and non-licensed (supportive, Community Residences, Single Room Occupancy, Treatment Apartments, supported SROs) housing is critical to the State in meeting its Delivery System Reform Incentive Payment (DSRIP) goals, further reduce the state psychiatric center census, keep more people out of inpatient and other institutional settings, and meet more assertive rehabilitation goals in transitional residences, which MMCOs will surely expect.

In NYC, the median contract rent of rent-stabilized units as whole was $1,200 in 2014; the median contract rent for private, non-regulated units was $1,500. With a city-wide rental vacancy rate of 3.45 percent and 2.12 percent for rent stablilized apartments, affordable housing is nearly impossible to locate. The impact of the rising NYC rental market on our supportive housing providers' ability to operate is devasting

Every year an increasing percentage of their State contracts go towards rent instead of services. A couple of years ago the ratio was 60%-40% with 60% going towards rent and 40% towards services. Two years later it is now closer to a 70%-30% split.

Some providers have given back almost all of their scatter-site contracts because they have been running such large deficits over the years that it's not financially sustainable for them to operate anymore. The model simply no longer works from a fiscal standpoint.

The Coalition is also calling for an across-the-board (not targeted) COLA for OMH and OASAS providers that spans the continuum of supportive housing. We request that future COLAs be indexed to the urban CPI index for housing to assure the sustainability of the sector.

We have specific one-time asks for the various types of OMH and OASAS licensed housing that will help providers gain back a portion of the losses due to inflation, which is in our Albany 2016 Agenda, attached to this testimony.

Minimum Wage Increase

The Coalition supports the Governor's proposed minimum wage increase, but notes that it will have a significant impact on its members. Higher wages lift more people out of poverty and help in recruitment and retension of employees. While we support the Governor's proposal to raise the minimum wage we underscore the commensurate need for substantial reinvestment in the already underfunded non-profit sector to cover the cost of the wage increase and ensure stability of the sector. We ask for increases for both contracts with the State agencies and to supplement Medicaid rates to address additional workplace costs, including the compensation of supervisory staff (the "spillover" effect).

Unlicensed Practice Exemption through 2020

We strongly support the Executive's proposal to extend until 2021 an exemption (currently scheduled to expire in June 1, 2016) from licensing requirements for certain social work and mental health professionals employed by not-for-profit corporations regulated, funded, operated or approved by OMH, OASAS, Office of Children & Family Services, Office for People with Developmental Disabilities, Local Government Units or local social services districts.

Without the exemption, providers of behavioral health services will not be able to maintain current client volume, potentially placing the providers and, consequentially, consumers/clients at risk. Furthermore, recruiting bi-lingual, bi-cultural licensed professionals is currently a challenge. Prematurely removing the exemption will exacerbate the current shortage of licensed social workers and other mental health practitioners in New York State as well as negatively impact the diversity of the workforce.

The uncertainties of the transition to MMC coupled with "new" licensing requirements that will target social workers, mental health counselors, marriage and family therapists, and creative arts therapists, (all of whom comprise the backbone of public behavioral health) will be destabilizing to the entire sector.

Taking these facts into account, we propose that the Unlicensed Practice Exemption be extended to June 1, 2020, when Medicaid managed care will be fully implemented and providers will have had an opportunity to function in the new environment.

Health Homes

In order to safeguard the viability of Health Home care management for HARP and non-HARP enrollees, The Coalition calls for the final budget to provide adequate rates for

outreach and care coordination, as well as funding for Health Information Technology connectivity and interoperability for Health Homes.

Expand and Protect the Rights of Consumers/Clients

Presumptive Medicaid Eligibility

The Coalition strongly supports implementing presumptive Medicaid eligibility for all uninsured persons discharged from psychiatric institutions or released from prisons or jails. Any minor costs attributable to the rare intance when an individual might not be eligible for Medicaid will be infinitesimal compared to the savings that could be realized from getting people discharged into care.

Raise the Age

The Coalition strongly supports the Executive's proposal to raise the age of criminal responsibility from 16 to 18 years. New York remains one of only two states in the country where 16 year-olds are automatically charged as adults, which has been shown to increase the chance of re-offending and reduce public safety. It's time for New York to implement and move forward on this humane, commonsense proposal.

Provider Prevails

The legislatures should preserve "provider prevails" language, which in its absence would allow a managed care company to deny a professional prescriber's judgment about a consumer/client's need for a specific pharmaceutical. The current Executive proposed exemption of certain "behavioral health" drugs from "prescriber prevails" is not sufficiently broad to encompass all drugs used by persons with mental illness and/or substance abuse issues.

Address the NY State Opioid Epidemic

The Coalition supports the Executive's proposal to expand opioid overdose prevention training and widespread distribution of the overdose reversal drug Naloxone.

We propose a mandate for a minimum of four hours of training for healthcare providers on judicious pain management and alternatives to prescribing opiates for pain as detailed in several State and Federal recommendations.

Additionally, The Coalition calls for an increase in access to comprehensive treatment, including medication-assisted treatment. The use of long-acting medications such as Vivitrol should be more widely encouraged, especially when the risk for relapse is elevated, such as when people leave incarceration.

More investment should be made in Harm Reduction services, which have success engaging individuals who are not easy to connect to treatment and have been historically underfunded.

Finally, we call for significant funding to increase prevention efforts targeting young people before they begin using substances and provide treatment services to intervene as early as possible when young people begin using. Resources are needed to expand campaigns to warn against the non-prescription use of substances and to fund community-based early intervention services.

Support for Children's Behavioral Health Services in a Managed Care Environment

The exemption from managed care for children with Medicaid coverage living with serious mental illness and/or chronic addition will end on January 1, 2017 for children in New York City and Long Island. The rest of the state will follow on July 1, 2017.

As the very complex system of care for children, adolescents and families moves toward managed care, the State should adopt rigorous, child and youth-focused behavioral health metrics that monitor plan and network access and performance, ensure high quality care and gauge short and long-term outcomes; commit to periodically convening plans, networks and providers to work with State and local government to publicly issue reports on utilization, capacity and other quality and performance measures.

The Coalition urges New York State to increase the funding for technology and workforce development for the launch of Children's Health Homes and transition of children to Medicaid managed care.

Additionally, we are advocating for a two-year, Children's Behavioral Health Capacity Building and Start-Up grant program, similar to the $30 million program established for adult providers, to establish new services under the State Plan Amendment, including workforce development, training and credentialing fees and expansion of the provider network.

Finally, we believe the State should add $3 million for Family Support Resource Centers—fund the Executive Proposal to provide Family Resource Center services to families and youth at-risk of Persons In Need of Supervision (PINS) placements. This important prevention initiative requires training in family engagement and capacity building to potentially reduce the expense of implementing the proposal to "Raise the Age" of juvenile jurisdiction beginning in Jan 2018.

The Coalition looks forward to working with you to help ensure that people with serious behavioral health issues and their safety net providers come through these monumental changes with a stronger and more sustainable community behavioral health system that highlights rehabilitation and recovery and meets the aims of the New York State Medicaid transformation.

THE COALITION OF BEHAVIORAL HEALTH AGENCIES, INC.

Albany Agenda 2016

Ensure the Viability & Sustainability of the Behavioral Health Sector

- Extend government rates through 2021 when Value Based Payments will be in full effect.
- Strengthen and ensure a robust capacity of Home and Community Based Services (HCBS) by providing *adequate* rates. Many services are underfunded and there will be few providers willing to provide those services.
- Preserve the viability of the Clubhouse model through a case rate reimbursement mechanism for HCBS Services provided by Clubhouses.
- Across-the-board (not targeted) COLA for OMH and OASAS providers across the continuum of supportive housing and future COLAs indexed to the urban CPI index for housing to assure the sustainability of the sector. A one-time adjustment to account for losses due to inflation in the amounts of:
  - $40 million for OMH Supported Housing
  - $23.2 million for OMH Licensed Community Residence-Single Room Occupancy (CR-SRO)
  - $17.0 million for the OMH Licensed CR program (smaller CRs and Treatment Apartments)
  - $12.7 million to OMH SP-SROs (permanent housing with supports)
  - $7 million in funding for 300 new OASAS-funded beds (supporting the Executive's proposal)
- Support the Executive's proposal to fund 20,000 units of supportive housing; ensure equitable distribution of units so that people with serious mental illnesses are assured a fair share of the units.
- Support the Executive's proposal to extend the Unlicensed Practice Exemption through 2020.
- Increase the Executive's proposed 0.2% to a 3% across the board COLA for all OMH and OASAS contracted providers the same percentage as is being given to Managed Care companies.
- Safeguard the viability of Health Home care management for HARP and non-HARP enrollees by providing adequate rates for outreach and care coordination, as well as funding for Health Information Technology connectivity and interoperability.
- Support the Executive's proposal to increase the minimum wage to $15 and assure additional support to non-profit sector that would enable providers to pay it. Increases are needed for both contracts with the State agencies and to supplement Medicaid rates to address additional workplace costs, including the compensation of supervisory staff (the "spillover" effect).

Promote Transparency & Accountability in the Medicaid Redesign Process

- Empower OMH & OASAS with specific oversight and enforcement authority with respect to behavioral health services, over Medicaid managed care organizations that contract with providers of mental health and SUD services.
- Incentivize managed care plans to pay in a timely manner by increasing the penalty for non-compliance with prompt payment rules and indexing penalties for inflation. There has been no increase in the 12% penalty since 1998 when the Prompt Payment Law was enacted. In addition, assure that compliance is monitored and made transparent to regulatory government agencies and the Medicaid Redesign Team.

- Preserve the not-for-profit behavioral health provider infrastructure in the move to value based payments by establishing standardized metrics to determine savings attributable to behavioral health services and ensuring the reinvestment of those funds in the sector.

- Require a public annual report from the MRT and DOH to the legislature with specific information on how the numerous MRT funds are being spent (e.g. DSRIP, BIP), the rollout time and to whom funds are being provided, and importantly, provide information regarding where Medicaid funds are being reinvested.

Expand and Protect the Rights of Consumers/Clients

- Implement presumptive Medicaid eligibility for uninsured persons discharged from psychiatric institutions or released from prisons or jails.

- Support the Executive's proposal to raise the age of criminal responsibility.

- Preserve "provider prevails" language, which in its absence would allow a managed care company to deny a professional prescriber's judgment about a consumer/client's need for a specific pharmaceutical. The current Executive proposal which exempts certain "behavioral health" drugs from prescriber prevails is not sufficiently broad to encompass all drugs used by persons with mental illness and/or substance abuse issues.

Address the NY State Opioid Epidemic

- Support the Executive's proposal to expand opioid overdose prevention training and widespread distribution of the overdose reversal drug Naloxone.

- Mandate a minimum of four hours of training for healthcare providers on judicious pain management and alternatives to prescribing opiates for pain as detailed in several State and Federal recommendations.

- Increase access to comprehensive treatment, including medication-assisted treatment. Expand the use of long-acting medications such as Vivitrol, especially when the risk for relapse is elevated such as when people leave incarceration.

- Invest in Harm Reduction services, which have success engaging individuals who are not easy to connect to treatment and have been historically underfunded.

- Increase prevention efforts targeting young people *before* they begin using substances and provide treatment services to intervene as *early* as possible when young people begin using. Resources are needed to expand campaigns to warn against non-prescription use substances, to fund community-based early intervention services.

Provide Support for Children's Behavioral Health Services in a Managed Care Environment

- Increase the funding for technology and workforce development for the launch of Children's Health Homes and transition of children to Medicaid managed care.

- Fund a two-year, Children's Behavioral Health Capacity Building and Start-Up grant program, similar to the $30 million program established for adult providers, to establish new services under the State Plan Amendment, including workforce development, training and credentialing fees and expansion of the provider network.

- Add $3 million for Family Support Resource Centers - fund the Executive Proposal to provide Family Resource Center services to families and youth at-risk of Persons In Need of Supervision (PINS) placements. This important prevention initiative requires training in family engagement and capacity building to potentially reduce the expense of implementing the proposal to "Raise the Age" of juvenile jurisdiction beginning in January 2018.