



**Testimony of Howard A. Zucker, M.D., J.D.
Commissioner of Health**

**Joint Legislative Public Hearing
on the State Fiscal Year 2019-2020 Executive Budget Proposal**

**February 5, 2019
Legislative Office Building
Hearing Room B**

Good morning, Chairs Krueger and Rivera, Weinstein and Gottfried, and members of the New York State Senate and Assembly.

I'm here to present Governor Cuomo's Fiscal Year 2020 Executive Budget as it relates to health. I am joined by Donna Frescatore, the State Medicaid Director and Director of the NY State of Health. You have before you a comprehensive written testimony. I'll be delivering an abbreviated version this morning.

In his State of the State address, the Governor outlined a Justice Agenda that rests squarely on the foundation of FDR's Four Freedoms—freedom of speech, freedom of worship, freedom from want, and freedom from fear. The health-related proposals in the Governor's Executive Budget apply to these latter two freedoms. No New Yorker should want for the basic necessities to live a healthy life. And no New Yorker should live in fear that his or her access to a healthy life will be taken away. The Governor believes that healthcare is a basic human right. And while the federal government seems to be working to increase fear and want in relation to healthcare, the Governor is setting out to protect New Yorkers.

We have made tremendous progress in expanding access to healthcare across New York State. More New Yorkers than ever before have access to high-quality, affordable health insurance:

- More than 4.6 million of our neighbors have enrolled through the NY State of Health. New York's uninsured rate has reached a new low of 5 percent, compared with 10 percent in 2013, when the NY State of Health was launched. Today, 900,000 more New Yorkers have health insurance.
- At the close of open enrollment on January 31, 271,873 consumers have enrolled in a Qualified Health Plan, exceeding enrollment levels at the end of open enrollment in 2018. Of these, 22 percent are newly enrolled. Enrollment in the Essential Plan for lower-income New Yorkers is 790,152.

New York's Medicaid program serves over 6 million members. New HIV diagnoses continue to drop to record low levels. The Department has launched the NYS Health Connector, powered by

the All Payer Database. This web-based application makes a wide range of health information—including the costs of medical procedures and how frequently those procedures are performed—easily available to all New Yorkers. And in 2018, the Commonwealth Fund's Scorecard of Health System Performance ranked New York as the most improved in the nation. Our performance improved on 18 indicators.

Despite this success, we face an unprecedented assault from Washington. I realize I used these very same words in addressing you last year, but that doesn't mean I believe them any less fervently. The Governor and this agency remain undeterred amid a barrage of assaults on the freedoms that FDR championed. We've seen ongoing attempts to tear down the Affordable Care Act, placing at risk the healthcare of millions of New Yorkers along with billions of dollars in federal Medicaid funding. We've seen efforts to roll back protections to women's reproductive health and to environmental health.

In response to these threats, Governor Cuomo's Executive Budget proposes to:

- Enshrine in State law key provisions of the Affordable Care Act.
- Codify the NY State of Health, New York's health insurance marketplace.
- Protect our youth from tobacco and e-cigarettes.
- Provide an additional \$2.5 billion to protect our water.
- Establish a commission comprised of national experts to develop options for achieving universal access to high-quality, affordable healthcare in New York and
- Codify *Roe v. Wade* and protect access to contraception—proposals the Legislature has already passed and that the Governor has signed into law.

We will continue to expand access to healthcare across the State as we address head-on the major health challenges facing our communities.

The workforce that allows the New York State Department of Health to deliver on our mission to protect the health of New York may be the agency's most valuable asset. Since 1901, the Department has prioritized recruiting a dedicated staff to protect, improve, and promote the

health, well-being, and productivity of New Yorkers. We have been incredibly busy since I sat here with you last year.

Among numerous other activities, we have:

- Hosted a successful Aging Innovation Challenge that highlighted breakthrough solutions in independent living for older adults and their caregivers.
- Received recommendations from the Drinking Water Quality Council for the most protective maximum contaminant levels (MCLs) in the nation for PFOA, PFOS, and 1,4-Dioxane. All three contaminants have been detected in drinking water systems across the country yet remain unregulated by the U.S. Environmental Protection Agency, which is responsible for setting regulatory limits under the federal Safe Drinking Water Act.
- Managed one of the most significant flu seasons in recent history and—under the Governor’s leadership—enhanced access to flu vaccine for children in pharmacies, engaged in a massive public awareness campaign, and developed the new online Flu Tracker to give New Yorkers the county-level information they need about flu.
- Convened a workgroup and conducted listening sessions on the devastating and unjust issue of maternal mortality.
- Worked with communities to address harmful algal blooms.
- Expanded Medicaid coverage of telehealth services to enhance access to care.
- Worked aggressively to convert Medicaid managed care payment from volume-based to value-based.
- Began the statewide rollout of e-WIC, a new electronic benefit transfer card that’s simplifying the shopping experience for WIC families and retailers.
- Enabled a record number of New Yorkers to enroll in high-quality health insurance options through the NY State of Health.
- Battled the opioid epidemic by placing limits on prescribing while expanding education—particularly among at-risk populations—and increasing access to naloxone and Medication Assisted Treatment (now known as Medication for Addiction Treatment).

- And we are continuing to manage a major measles outbreak that began in the fall—the largest in the State since the 1980s—by working closely with health departments in Rockland and Orange counties, in New York City, and in Western New York.

These are just a fraction of the health initiatives that our talented DOH staff have been engaged in during the past year.

Governor Cuomo has identified the campus of Albany's Harriman State Office Building as the future site of the redesigned state public health lab. We anticipate that this new "Lab for the 21st Century" will function as a magnet for additional private-sector investments and public-private collaboration. By consolidating Wadsworth Center as a focal point, we will revitalize and enhance Albany's life sciences cluster and attract private investment and jobs to the Capital District.

Wadsworth is embracing a startup spirit through two recent public-private partnerships supported by the Governor's Life Sciences initiative. The first innovative partnership—with Regeneron Pharmaceuticals—seeks to improve the diagnosis of Lyme Disease and develop new treatments announced this past June. The second—with Merck's ILUM Health Solutions and OpGen, announced this past September—seeks to develop a state-of-the-art research program to detect, track, and manage antimicrobial-resistant infections at healthcare institutions statewide. Multiple offices within the Department of Health are participating in the ILUM and OpGen partnership, and the collaboration is an excellent example of how we are striving to coordinate and integrate our efforts inside and outside the Department to bring the most creative public health solutions to bear on today's complex challenges.

The Executive Budget includes an increase in the Department of Health's workforce to 5,616 full-time equivalent employees by the end of fiscal year 2020. The staffing increase is related to the continued state takeover of Medicaid administration from the local districts, ensuring parity for behavioral health and substance use coverage in Medicaid, assuming the administration of the Medical Indemnity Fund, implementing lower action levels for childhood lead poisoning, and addressing the opioid epidemic.

The \$9.4 million annual investment in lead poisoning prevention efforts is to help the local health departments respond at the proposed action level of 5 mcg/dL. Lead poisoning in children is caused by swallowing lead or lead dust and can harm a young child's growth, behavior, and ability to learn. The Governor's Executive Budget includes a proposal to require public health and environmental interventions when a child's blood lead level is 5 mcg/dL. Additionally, I will establish minimum standards for maintaining lead-based paint that may exist in rental properties across the state and empower local housing code officials to integrate these standards within existing enforcement to prevent lead poisoning from occurring in the first place.

The Governor is taking another important step toward safeguarding the health of youth and vulnerable populations with the Executive Budget's proposal to institute greater controls on the use of tobacco and e-cigarettes. This extraordinarily comprehensive package will:

1. Raise the minimum sales age for tobacco and e-cigarette products to 21.
2. Prohibit sales of tobacco and e-cigarette products in pharmacies.
3. Prohibit discount coupons or rebates provided by tobacco and e-cigarette manufacturers and retailers.
4. Clarify that the Department of Health has the authority to ban the sale of certain flavored e-cigarette vapor liquid.
5. Prohibit the display of tobacco and e-cigarettes in stores.
6. Require that e-cigarettes be sold only through licensed retailers.
7. Introduce a tax on vapor liquid used in e-cigarettes, and
8. Prohibit smoking inside and on the grounds of all hospitals licensed and operated by the New York State Office of Mental Health.

The Department of Health will work with the Department of Environmental Conservation to ensure that New Yorkers are aware of what chemicals are in the products they use. The Executive Budget includes a proposal to require manufacturers of personal care products sold in New York State to disclose information related to the health effects of chemicals in their

products. By ensuring that this important information is publicly available, this proposal will help consumers select the personal care products they use with health and safety in mind.

The Executive Budget proposes to increase provider rates to support the provision of Early Intervention services. We will increase rates by 5 percent for services provided by licensed physical therapists, occupational therapists, and speech-language pathologists. The Early Intervention Program provides essential therapeutic and support services to infants and toddlers (ages birth to three years) with disabilities and their families. Approximately 68,000 children are served annually in the program.

Building on our work this past year with the Taskforce on Maternal Mortality and Disparate Racial Outcomes, the Executive Budget includes \$4 million to address key issues. We will create a statewide Maternal Mortality Review Board, launch an education and training program to reduce implicit racial bias in the delivery of healthcare, expand and enhance community worker programs, and build a data warehouse to provide essential information and inform targeted quality initiatives on maternal mortality and morbidity with the goal of improving maternal outcomes.

The opioid epidemic remains a major focus for Governor Cuomo, and his Executive Budget outlines additional actions we can take to combat this deadly threat. In partnership with several State agencies, the Department of Health will expand our ongoing efforts to include requiring hospitals to ensure that their emergency departments are working to screen patients for substance use disorder, initiating or referring them for treatment when appropriate, and facilitating a patient's connection to community-based services. We will also require that hospitals implement screening and opioid prescribing protocols hospital-wide to help ensure that interactions with the healthcare delivery system result in solutions and don't add to the burden of addiction. We will work with partner agencies on learning collaboratives to support clinicians prescribing Medication Assisted Treatment—specifically buprenorphine—for the first time. And we'll work to engage particularly vulnerable populations at risk of addiction, such as incarcerated, recently incarcerated, and homeless individuals.

The Department of Health's Medicaid program will work to ensure that all health plans are applying the same treatment and financial rules to behavioral health services—i.e., substance use and mental health services—as those used for medical and surgical benefits. Other enforcement activities include a proposal to give law enforcement the ability to prosecute drug traffickers who deal in emerging fentanyl analogs. The proposal will allow me, as the Commissioner of Health, to add new drugs that have been added to the Federal Schedule I list to the State Schedule I list. This action will follow an opportunity for public engagement to promote public awareness about these dangerous substances and to solicit feedback from additional subject matter experts. These are just some of the elements included in the Governor's proposal to escalate the State's efforts to battle the opioid epidemic.

We are enhancing the existing Medicaid Drug Cap and streamlining the negotiation process with drug manufacturers to secure additional rebates for the State within the fiscal year. The State is also reducing or eliminating unnecessary prescription drug costs to the Medicaid program by exposing the profit-making actions engaged in by the pharmacy benefit managers (PBMs). We propose to require that PBMs adopt a transparent model that ensures pharmacies are paid the same amount (plus reasonable dispensing and administrative fees) that managed care plans are charged by the PBMs. This will reduce Medicaid overpayment for drugs without impacting availability for members, and it will shine a light into the "black box" of transactions that occur in this industry.

Data show that during the period immediately following release from incarceration, individuals are particularly vulnerable to overdose, to suicide, and to reduced control of chronic health conditions such as HIV viral suppression, hypertension, and diabetes. This is due to challenges that sometimes occur in linking to and coordinating care. To remedy this injustice, we're seeking to amend New York's Medicaid Redesign 1115 Waiver for Medicaid to cover medical, pharmacy, and care coordination services in the 30-day period immediately *prior* to release of incarcerated eligible individuals. This coverage and support *pre-release* would support longer term clinical stability *post-release*.

In addition to this criminal justice waiver submission, we will submit a waiver for Medicaid's supportive housing program in order to access federal funding for certain housing-related activities and services that are currently resourced with state-only funds. If federal resources are secured, the proposal reinvests the new federal funds into housing-related activities and services that promote community integration. We believe in—and our successful programs have demonstrated—the importance of stable, supportive housing to improving health outcomes.

These are just some of the proposals in Governor Cuomo's Executive Budget as it relates to New Yorkers' health. With these measures, the Governor and the Department of Health will continue our work to improve public health so that all New Yorkers can realize those Four Freedoms necessary for a strong democracy.

Thank you for the opportunity to share this information, and we're happy to take your questions.