NYS Council for Community Behavioral Healthcare

Testimony before Joint Legislative Budget Committee

Executive Budget Proposals: Mental Hygiene

February 4, 2026

Good morning. My name is Lauri Cole, and I am the Executive Director of the New York State Council for Community Behavioral Healthcare ('The Council'), a statewide membership association representing the interests of 175 community based mental health and addiction prevention, treatment, recovery, and harm reduction agencies that provide a broad range of essential services in local communities across New York. NYS Council members operate these services in a variety of settings including freestanding nonprofit agencies, counties, and general hospitals. Our mission has been and continues to be the preservation and increase of access to care for New Yorkers with serious mental health and/or substance use disorders.

Below please find our response to mental hygiene proposals in the Governor's Executive Budget. Please note: We feel compelled to begin with a discussion of several critical requests (from the behavioral health sector) that are NOT included in the executive budget proposal, as well as several proposals that are not fully funded by the Executive, or that require a tweak. For example, our top priority this year focuses on securing a carve out of most mental health and substance use disorder services from

the state's Medicaid managed care program. This request is NOT included in the executive proposal despite the numerous benefits associated with implementation. *A carve out would generate a minimum of $400M/year allowing NYS to fully find a 2.7% TII for the mental health and substance use disorder sub-sectors, we could address serious gaps in access to care that exist across the state, while also investing resources that would permit providers to recruit and retain the workforce we need and that all New Yorkers deserve – all while increasing access to care.* The Governor's executive budget proposal is silent on this matter – a problem that must be addressed in this budget cycle if New York is to continue to uphold its commitments to New Yorkers with these conditions.

NYS COUNCIL BUDGET REQUESTS THAT ARE ABSENT FROM THE EXECUTIVE PROPOSAL

ACCESS TO CARE CRISIS CONTINUES BUT CAN BE REVERSED WITH A <u>CARVE OUT</u> & <u>REINVESTMENT OF $400M</u> IN SAVINGS TO FULLY FUND TARGETED INFLATIONARY INCREASE

<u>Request:</u> We urge the members and leaders of the NYS Legislature, and the members of this joint committee, to protect vulnerable New Yorkers and the community-based providers that serve them by including our proposal to carve out most OMH mental health and OASAS substance use disorder services from the state's Medicaid managed care program, in your one house budget bills. Carving out these services will remove insurer / middlemen that are deeply conflicted and should not be managing these benefits. It will immediately increase access to care, and yield $400M in savings and scarce resources that can be reinvested to fund a 2.7% TII, to invest in service expansions, to recruit our severely underpaid workforce, and more.

Background:

In 2015, NYS leaders made the decision to carve in OMH and OASAS mental health and substance use disorder services into the state's Medicaid managed care program. This decision was made under the Cuomo Administration and must be reversed. The Executive Budget is silent on this matter. This is an unacceptable outcome given the serious conflict of interest that faces care recipients and providers under the thumb of for-profit insurers who are focused entirely on profits – not people.

Despite our 10 years of advocacy designed to fix the numerous serious problems associated with the carve in of our services, insurance middlemen (MCOs) are the only parties benefiting from this failed policy experiment that allows insurers to ration care, delay reimbursement to providers, and to pocket a minimum of $400M/year as profit and overhead. This is nothing more than a profit-making scheme in which insurers are gatekeep care, and New York State is (in our opinion) throwing away $400M/year (currently paid to insurers) that should be used (to begin with) address our serious workforce shortages that result in long waiting lists for services, and an inability for providers to recruit and retain the valued workforce they need to meet demand for services.

The rules of the Medicaid managed care in the behavioral health domain create incentives for MCOs to assertively gatekeep and create barriers to services for Medicaid beneficiaries. The tactics insurers utilize to delay or deny services, and to delay or deny payment to community-based providers, are largely overlooked by state regulators and where there is any enforcement, it is weak and does not deter insurers from continuing to game the system. Insurers are paid to arrange care for their Medicaid beneficiaries- and to promptly reimburse providers in full and at the appropriate rate. However, rhe commitments made by the insurers – to ensure adequate access to care, to ensure providers are reimbursed on time and at the appropriate rate, and to provider other value-added

services, have not materialized. Instead, New York State is throwing away $400M/year, paying insurers for poor outcomes and no value-add.

The data speaks for itself – Medicaid managed care for behavioral health services is an abject failure and must be reversed:

- NYS has experienced a 9.9% increase in youth suicide rates over 10 years. (This corresponds with the implementation of Medicaid managed care for children/youth services)
- In situations where an insurer denies care, and the Medicaid beneficiary dares to appeal, 62% of all denials for substance use disorder related care are reversed upon appeal, by an outside medical expert
- OMH Article 31 waiting lists for outpatient care remain a major problem: In 2024 a NYS Council statewide survey found over 50% of OMH clinic providers had extensive waiting lists for services; in 2024, 45% of OMH clinics had extensive waiting lists, with virtually no change in 2025.
- OMH has found a whopping 60% insurer claims denial rate for mental health services, and the state has issued 320 citations against insurers of which 89 citations are for inappropriate claims denials, failure to pay the correct state mandated rates, failure to pay on time and in full, etc.
- A 2023 Attorney General secret shopper report found that 86% of provider directory entries published by insurers for their beneficiaries were profoundly inaccurate to include practitioners that do not accept Medicaid, no longer accept new clients, or simply don't exist.
- Providers are forced to hire between 3-6 additional staff to perform functions that are solely focused on billing, chasing reimbursement from insurers, appealing claims denials and filing complaints with regulators
- In 2025, a statewide NYS Council survey found that providers were owed anywhere from $25,000 to over $1M from insurers

who failed to reimburse on time and in full, and according to state laws.

- In 2022, the NYS Council was forced to inform the Hochul administration we would bring litigation against the state unless it began to enforce a MCO contract provision that paid insurers for failing to meet a contractual requirement designed to hold them to having to spend a high percentage of the funds they are paid by the state, for ACTUAL SERVICES for Medicaid beneficiaries. To date over $500M has been recouped from insurers and returned to OASAS and OMH however, our systems of care were deprived of hundreds of millions that belonged to taxpayers and to Medicaid beneficiaries but instead, funds sat with insurers, earning interest while insurers waited for the state to collect the overpayments.

As waiting lists for mental health and substance use disorder services persist, communities are left scrambling to address the unmet needs and negative consequences associated with vulnerable community members who are at risk or already suffering as a consequence of a serious mental health or addiction challenges, and their inability to secure care. This results in increased rates of homelessness, incarceration, and unnecessary utilization of acute health services that are far more costly than community-based care.

New York State has experienced increasing rates of youth suicide (9.9% increase over the last 10 years according to the CDC), and we continue to have unacceptably high rates of overdose in communities of color, and in other underrepresented communities, and this is a recipe for disaster that sustains the ongoing emergency facing New Yorkers with few choices and increasingly complex needs.

NYS continues to pay insurers for care coordination and other services designed to head off preventable crises through robust access to a broad range of services that can address a disease process before it becomes a

full-blown emergency. But when OMH and OASAS community-based providers are forced to wait for months if not years for reimbursement from insurers, their hands are tied and they are unable to use these funds to recruit the workforce they need, pay their bills and deliver the care New Yorkers deserve. Delayed care is denied care. Deaths of despair are preventable.

Insurers will do anything to hold on to the funds the state pays them to 'manage' care for New Yorkers with these conditions. They delay or deny services to care recipients, and they delay or deny prompt and complete reimbursement to providers. All of this leaves already fiscally vulnerable community agencies unable to utilize funds owed to them to compete in today's challenging job market. At the present time, OMH and OASAS Programs have a job vacancy rate approaching 30% and these numbers have not changed substantially for several years. That makes the $400M the state is paying insurers to gatekeep and block care and reimbursement, that much more insulting.

The members of this Committee should know that over the last 4 years, and despite the fact that this body has worked with the Executive to enact COLAs for the human services sector, insurers managing mental health and substance use disorder services that are responsible for reimbursing them based on state requirements, fail to pay the rates that reflect the COLAs you have passed year after year. In fact, many providers wait years for insurers to pay accurate rates that reflect enacted increases prioritized by the members of the Legislature.

Perhaps all of this would be somewhat manageable if NYS regulators conducted robust surveillance, monitoring and enforcement of such violations, but robust enforcement does not exist in our carve in, and after 10 years of fighting for it, we do not believe New York is interested in stopping insurer tactics that are at best unethical, and more often in violation of state laws and regulations.

Our association has been offering solutions, and escalating our advocacy to secure meaningful changes to this broken policy experiment for years, however the situation is worse than ever, and we need your help to fight for increased access to care and a return of $400M currently paid to insurers, to bolster our workforce and address care gaps.

We urge this committee to take action to return the responsibility for reimbursement of these services to the Medicaid Fee for Service system, and to reinvest the funds currently paid to for-profit insurers ($400M/annually) in our workforce, beginning with a 2.7% Targeted Inflationary Increase, and as yet unmet need. Using for profit insurers to manage healthcare services is a massive conflict of interest, one New York State taxpayers can no longer afford and New Yorkers with these challenges don't deserve. Please include our carve out request in your one house bills, and pass our legislation, sponsored by Senator Brouk and Assemblywoman Simon, (S8309-A/A8055) as soon as possible.

Address Anticipated Increase in # of Uninsured New Yorkers Needing Mental Health and/or Substance Use Disorder Services and Supports (No executive budget proposal)

Unfortunately, Governor Hochul's executive budget proposal does not include a 'Plan B' for already fiscally challenged OASAS and OMH community-based providers in the likely event that the numbers of uninsured New Yorkers seeking mental health and/or substance use disorder services through New York's public mental hygiene system, grows as result of the implementation of federal work requirements and other draconian federal actions.

At the present time, OMH contributes some funds to an Uncompensated Care Pool that gets some federal assistance, and is established to assist OMH Article 31 clinics. The Pool permits providers that are eligible for these funds to continue to serve a significant number of uninsured

individuals; however, the Pool does not fully subsidize the cost of care – not by any means.

OASAS provides some net deficit funds to some of its providers; however, neither of the existing resources mentioned here are in any way sufficient to address what may be significant increases in the numbers of uninsured New Yorkers seeking services through our systems of care. Even with the most liberal interpretation by NYS regarding the conditions (diagnoses) that would exempt an individual from federal work requirements, the online filings required of Medicaid beneficiaries to remain insured, will be onerous and many will fall off the Medicaid rolls.

The current annual process that requires New Yorkers with Medicaid to prove they are eligible for this insurance is changing, and will move to a every a6-months schedule. For individuals with cognitive impairments, those who cannot figure out how to enroll, stay enrolled, or renew their enrollment, these demands will certainly result in an increase in the number of uninsured New Yorkers seeking our care. Uncompensated Care Pool resources and current OASAS Net Deficit resources have not increased in many years while the number of providers seeking a subsidy from the OMH Pool has increased. In the OASAS system of care, not all providers receive net deficit funds, and the amount of funds they receive is largely arbitrary, and the rules regarding how these funds can be used are challenging for many providers.

REQUEST: We urge this Committee and the members of the NYS Legislature to make strategic investments to ensure access to care for uninsured New Yorkers. The coming risk is not addressed in the Governor's budget proposal despite the numerous proposals in her budget document that propose significant resources for other types of providers. Specifically, the budget document includes a proposal to appropriate an additional $750 million for hospitals and nursing homes to respond to an increasing number of uninsured patients. We agree with this investment AND we think NYS must also prioritize the needs of community-based

agencies that are the safety net for millions of New Yorkers, many of which are likely to become uninsured in the months to come.

Without strategic investments in this area, providers may be forced to limit the amount of uncompensated care they can provide or worse yet, they may have to restrict care dramatically in order to keep their doors open.

New York State needs a final budget deal that includes an emergency plan to contend with increased numbers of uninsured New Yorkers who want and deserve access to services regardless of the insurance card in their pocket – or the fact that they have no insurance.

OMH: Children's Outpatient Rates Increase (No executive budget proposal)

Addressing social media exploitation and the needs of school aged youth is incredibly important, and proposed initiatives such as the expansion of Mental Health First Aid, and school-based mental health services, can address some of the needs of our youth; however, these initiatives cannot and do not replace the critical need for services for children and youth with high needs making the absence of continued investment in intensive treatment for children, youth and families with these needs absolutely essential. A recent RFP that will implement additional CPEP and inpatient hospital beds for youth, while necessary, appears to ignore the capabilities of the community-based (non-institutional) abilities of our system of care by failing to invest in services and practitioners needed to serve kids and families with serious mental health and substance use disorder challenges. This is a mistake.

The HealthyMinds, HealthyKids Campaign, hosted by Citizen's Committee for Children, has been at this table for several years requesting an investment of $200M to address the unique needs of service providers that focus on New York's children and youth with significant challenges. As time goes on without this increase, we observe a continuing deterioration

in access to timely services that meet the actual needs of some of New York's most vulnerable children and families. Access to care continues to shrink as various services along the children's mental health continuum are harder to secure as the result of insurers dropping contracts with providers, and as services on the low acuity end of the continuum prove to be unavailable to meet current demand. When services on the less intensive end of the service delivery continuum are either ineffective, under reimbursed, or restricted in some other way, New York's children and youth suffer as they wait for care and (in many instances) develop more serious problems.

REQUEST: We strongly recommend an immediate investment of $200M in the OMH Medicaid outpatient system to begin to stabilize the foundation of care and to improve access for those 3 out of 4 youth who need care but are not receiving it. Unfortunately, the SFY 2027 Executive Budget fails to adopt this recommendation. We again urge both houses to support this request. Further information is below:

Unmet needs data: https://healthymindshealthykids.org/bh-gap-analysis/?region=New+York+State

Proposals We Support with Qualifications

Opioid Settlement Funds: $35M MUST remain with OASAS (OASAS ATL Bill)

New York's Opioid Settlement Funding is proposed to increase from $70.4 million to $101.98 million. Most of the $31.58 million year-to-year increase is the result of earned interest on the Opioid Settlement Fund account this year. This is (theoretically) good news however, the executive budget proposal identifies $35M in the OASAS section of the ATL bill as "Reserved for Allocation". We implore the members of this Committee to remain vigilant regarding appropriation of these funds to ensure every penny goes to OASAS.

New York State is not where it needs to be in terms of curbing the Opioid Crisis that, while showing some promising reductions in overdose rates for certain communities and for majority populations, however, continues to disproportionately impact communities of color, and those that belong to other marginalized, underrepresented communities. New York State should not and must not look the other way when it comes to the needs of ALL New Yorkers with these life-threatening conditions. Rome is still burning; New Yorkers are dying needlessly, and resources designed to strengthen the OASAS system of care – are still needed.

The OASAS budget and its service delivery system is not adequately funded by New York State, and Opioid Settlement Funds MUST not be utilized to supplant existing investments by the state. Instead, New York State leaders should lean in and capitalize on what it has learned (to date) from any decreases in overdose rates across the state.

REQUEST: Opioid Settlement Funds should not be used to substitute for state investment in New Yorkers who are currently suffering, and the providers on the front lines serving them every day.

Community-based providers MUST have the resources they need to recruit and retain culturally competent staff who can meet the unique needs of ALL of the New Yorkers seeking services and supports. At the present time, culturally competent care is an aspiration rather than a reality in many cases. Strategic investments by the state – resources that are not associated with Opioid Settlement initiative, must be increased.

Gambling Addiction Insurance Coverage (Part R, Article VII/HMH)

The bill would amend Insurance Law to ensure coverage and protection for gambling disorder treatment by amending references in Insurance law to "substance use disorder" to "substance-related and addictive disorder." These amendments would align the insurance law with the Mental Hygiene Law and recent changes to the Diagnostic and Statistical Manual of Mental Disorders (DSM-5) and ensure that patients with gambling disorders receive the same coverage and protections as substance use disorders,

preventing unnecessary delays or denials for treatment. *We vigorously support this proposal.*

OMH and OASAS will also develop a new "Co-Occurring Capable" designation for agencies that have various levels of expertise serving New Yorkers with these conditions. This will enhance transparency for consumers making decisions about where to seek services, based on their unique needs. *We enthusiastically support this proposal.*

REQUEST: It must be noted that NYS anticipates significant revenues related to the expansion of mobile gaming opportunities available to New Yorkers. The NYS Council urges the members of the NYS Legislature to remain vigilant as these funds come into New York, and grow, and to ensure these resources are appropriated to OASAS for purposes of prevention, outreach, education, awareness AND treatment and recovery services for New Yorkers that find themselves in the clutches of a gambling cycle where the consequences can be dire.

Integrating Behavioral Health Services: Long Overdue and Already In Statute? (HMH, Article VII, Part Q)

It is our understanding that NYS previously codified law that speaks directly to and provides the relevant state agencies (OMH, OASAS, DoH & OPWDD) with the authority they need to permit eligible agencies to provide integrated services, so we wonder why this proposal is necessary. Having said this, the NYS Council (again) vigorously supports this executive budget proposal – let's just (finally) get it done.

To be clear, NYS statutes that we believe authorize the state agencies to approve the provision of integrated OMH, OASAS, OPWDD, and/or DOH services under one license are: OMH-Mental Hygiene Law §31.02 (f); OASAS-MHL §32.05 (b) (ii); OPWDD-MHL section §16.03 (g); and DOH-Public Health Law §2807.21 (e). These sections are located in the articles that authorize the four agencies to license providers. *However, to*

our knowledge the implementing regulations for these sections were never promulgated.

REQUEST: We urge all lawmakers to expeditiously review standing law and, if our interpretation is correct, move immediately to promulgate regulations to complete the process that will finally allow New Yorkers with co-occurring mental health and substance use disorder conditions, to receive the wholistic care they need and deserve. Doing so will immediately improve consumer choice as to the programs that are best equipped to meet their needs and deliver positive outcomes. It will undoubtedly save New York State taxpayers scarce resources that currently enable fragmented and siloed care to continue. The failure to permit providers to offer comprehensive services under one roof results in the need for more costly interventions (hospital care, ER), and is widely understood to result in unnecessary spending to address homelessness, increased rates of incarceration, etc.

Certified Community Behavioral Health Clinic Indigent Care Funding

In 2017, New York was one of eight states selected to participate in a federal demonstration program that opened the door to federal funding and the implementation of a new model of care for New Yorkers with significant mental health and/or substance use disorder challenges. The model is a game changing reform designed to remove siloes, enhance client outcomes, reduce hospitalizations and re-hospitalizations, and to open up access to care. However, the rates paid to participating providers do not cover costs associated with serving New Yorkers with no insurance (Indigent Care), or those with commercial insurance.

In 2023, Governor Hochul and the members of the NYS Legislature expanded the number of agencies participating in this evidence-based model of care from 13 to 39 agencies. The final enacted budget also included the implementation of an Indigent Care Pool where eligible

CCBHC providers can seek some (limited) funds for services provided to these New Yorkers.

The SFY27 Executive Budget appropriates $22.5M to continue to fund the CCBHC Indigent Care Pool – a critical component in light of coming federal Work Requirements that will likely result in increased numbers of New Yorkers with mental health and/or substance use disorder challenges who have no insurance.

REQUEST: *Unfortunately, the Executive Budget does not seek to further expand the number of agencies that can participate in this Program. It also does not increase the amount available in the Indigent Care Pool for these agencies despite the fact that we anticipate greater need for these resources as more New Yorkers find themselves uninsured.* Having said this, we greatly appreciate the investment NYS has made in the CCBHC Program to date, and we are sure to re-visit the topic of further expansion of the Program in future budget requests. We fully support continued funding for this Program, and for the Indigent Care Pool (discussed above) however we caution lawmakers that, without further strategic investments in the number of resources available in the Pool, providers will face serious financial challenges serving uninsured New Yorkers who need and deserve this care.

Proposals We Support Without Qualifications

OASAS: Public Health Education and Prevention Campaigns

(Aid To Localities, OASAS)

The NYS Council welcomes this executive budget proposal that would make an investment of $24M in the OASAS budget for purposes of funding public education and prevention campaigns focusing on the health effects associated with the use/misuse of cannabis.

The proposal also supports expansion of SUD treatment for New Yorkers (and especially young people) who may be misusing cannabis with

negative consequences that can profoundly impact individuals, families and communities. There is substantial research and corresponding evidence to support the harmful effects on brain development that are associated with cannabis use by young people, and the Governor is certainly on the right track with this proposed investment.

OMH and OASAS: Supportive Housing Programs

This proposal invests $71M to increase rates for OMH and OASAS housing programs to help ensure that residential providers have sufficient resources to maintain housing capacity for these populations, to support recovery, and to avoid more costly emergency visits and inpatient care. The New York State Council vigorously supports this important proposal, and urges increased investment for New Yorkers in need of safe and affordable housing, and the providers that serve them.

The NYS Council enthusiastically supports the following executive budget proposals:

OMH: Proposes to retain $18 million for community mental health loan repayment

OMH: Proposes $83 million for Safe Options Support teams, Critical Time Intervention Teams and CPEPs; (+$3M)

OMH: Maintains $2.8 million for Intensive and Sustained Engagement Teams (INSET PROGRAM)

OMH: Maintains $8 million for the Joseph P Dwyer Veteran Peer to Peer Program

OMH: Maintains $74M that has been recouped from Medicaid managed care organizations (MCOs) that failed to meet a required (contractual) target for how much of the funds they receive from the state MUST be

spent on actual services for Medicaid members with mental health and substance use disorder conditions.

OMH: Adds $1.8 million for 9-8-8 for a total of $91.8 million; this appropriation appears to focus on LGBTQ+ call-line support

OMH: Adds $1 million for a First Responder Behavioral Health Center of Excellence in

OMH: Adds $26 million for youth initiatives such as Mental Health First Aid, Evidence Based Practices, and new Youth Safe Spaces.

OASAS: Maintains $37M that has been recouped from Medicaid managed care organizations (MCOs) that failed to meet a required (contractual) target for how much of the funds they receive from the state MUST be spent on actual services for Medicaid members with mental health and substance use disorder conditions.

OASAS: Proposal that would task OASAS (and community-based providers) with opening 15 Youth Clubhouses including through co-location with existing Recovery Centers.

OASAS: Statewide Opioid Settlement Agreements (ATL, OASAS)

Includes $101,979 million from the Opioid Settlement Account to be spent pursuant to the published sub-schedule ($31.5M increase from SFY26)

OASAS: Proposal that includes level funding for two appropriations to support the activities of the CHAMP Program (SUD and MH Insurance Ombuds Program). Two approps: $8.5M & $1.5M.