NYS Conference of Local Mental Hygiene Directors, Inc.

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The New York State Conference of Local Mental Hygiene Directors, Inc.

Joint Legislative Budget Hearing on Mental Hygiene
2014-2015 Executive Budget Proposal

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Testimony Presented By:

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Commissioner & Director of Community Services, Onondaga County, & NYSCLMHD Chair

Kelly A. Hansen,
Executive Director

Chairman DeFrancisco, Chairman Farrell, Mental Health Committee Chairs Gunther and Carlucci, and Committee Members, I want to thank you for having us here today to provide you with our feedback and recommendations on the 2014-15 Executive Budget.

My name is Kelly Hansen and I am the Executive Director of the New York State Conference of Local Mental Hygiene Directors. I am joined by Mr. Bob Long, who is the Chair of the Conference and the Commissioner & Director of Community Services, Onondaga County.

As you know, The Conference of Local Mental Hygiene Directors was created by statute, in Article 41 of the Mental Hygiene Law, and its membership is limited by that law to 58 people. Those people are the Directors of Community Services (County Commissioners of Mental Health) for each of the 57 counties and the City of New York. Our members are appointed to lead the Local Governmental Unit (LGU) which is the part of local government with the statutory responsibility for the planning, development, implementation, and oversight of services to individuals living in our communities with mental illness, substance use disorders, and developmental disabilities.

At a time in our history when the Supreme Court has said that people with mental illness and developmental disabilities have a right to live in their communities and receive services, and in a year when the Executive Budget recognizes the value of reinvesting state dollars and Medicaid resources in our communities, we of the Conference, on behalf of the duly appointed representatives of those "communities" are in the very best position to assure that the funds that the Executive and the Legislature reinvests in our communities are spent in the most needed and efficient manner.

So this year we have a very different message for you. Rather than asking you as the Legislature what you can do for us by adding more money to the Executive Budget to support our mission (although if you want to do that we have no problem) our message to you this year is to tell you what we can do for you and to ask that appropriate language be included in the budget to assure that the Directors of Community Services can carry out their statutory duty to determine how funds can best meet the priorities of their communities.

Community Reinvestment Resulting from Closures

Closures of State Psychiatric Beds

Over the last 60 years the census in the state psychiatric hospitals has plummeted from approximately 90,000 patients to less than 3,000. With proper funding, and advances in medications and the ability to provide treatment and other supports, thousands of people with mental illness and developmental disabilities are now able to live healthy, productive, and happy lives in their communities. When such funding was not available, many people formerly residing in state hospitals ended up homeless and ultimately incarcerated in local or state correctional facilities. To help alleviate this problem, the Legislature enacted Section 41.55 of the Mental Hygiene Law which provided that as state-operated mental hygiene facilities were downsized, the state savings should be reinvested in community services to ensure the resources were available to provide needed services. The money followed the person in the community, and services were put in place based on the priorities identified in the local services plan.

The last several budgets have contained language notwithstanding that provision of law. The Conference therefore is very supportive of the provisions in this year's Executive Budget that proposes that $25 million should be reinvested into the community due to the closure of state psychiatric beds and the implementation of the Regional Centers of Excellence (RCE) Plan. The Executive Budget says that the proposed appropriation of $25 million is "deemed to satisfy the funding requirements of Section 41.55 of the Mental Hygiene Law." It is our understanding that this means that the state will be reinvesting $110,000 per bed into the community.

We acknowledge that the $25 million earmarked for reinvestment under the RCE Plan is a positive first step toward developing services needed to properly serve and support people as they transition to their communities. Our concern is that the budget gives no assurance that communities will be part of the decision as to how this money is to be spent. The Mental Hygiene Law requires the DCS to annually develop and implement local comprehensive plans to serve county residents with mental illness, substance use disorders, and developmental disabilities. Therefore, the DCS will ultimately be responsible for meeting the needs of people returning to the community and is in the best position to help determine how any community reinvestment dollars should be spent. We recommend that language be added requiring that the LGU be a participant in the decisions as to how this money will be allocated.

Closures of Article 28 Hospital Inpatient Beds

In recent years, there have been a number of hospitals that have closed their inpatient psychiatric units. The Governor proposes to reinvest $50 million (All Funds) of Medicaid savings from the closure of Article 28 hospital inpatient psychiatric and substance use treatment beds into community services. Article VII language indicates that OMH and OASAS, in consultation with DOH, would be responsible for developing a plan to allocate this funding. Again, it is imperative that the LGU is included in the decision making process of coordinating and determining how best to serve people with behavioral health needs in the community. We believe that language must be added to assure a proper role for the LGU.

OPWDD Developmental Center Closures

The Executive Budget indicates that OPWDD expects to transition 300 individuals from state developmental centers into the community in 2014-15 and provides for over $50 million in state funding to support the creation of additional community-based services. While the Conference applauds the efforts by the Executive to expand community services for OPWDD clients and agrees that individuals with developmental disabilities should be served in the least restrictive and most integrated settings, we are concerned about the lack of coordination with LGUs which has sometimes occurred when OPWDD clients were discharged from state facilities. Past experience has shown that OPWDD will often discharge a client directly to a provider of services without any notification to the LGU. Once the person is in the community he or she will become the responsibility of the DCS who might not even know of their existence. The client may also require mental health or substance abuse services in the community which the LGU will be required to plan for and provide but too often the DCSs' first introduction to the client is after they become homeless or are incarcerated. Therefore it is imperative that OPWDD better coordinate with the LGUs and notify the DCS before individuals are discharged into the community to ensure a smooth transition and that resources are allocated appropriately. We would like to see language in the budget requiring that this type of coordination must occur.

$120 Million in New Medicaid Funding for Behavioral Health Initiatives

The Conference certainly supports the Governor's proposal to invest $120 million in Medicaid funding for behavioral health initiatives. We believe that these investments are especially important as the state prepares to transition behavioral health services for adults and children into managed care. However, again, we are concerned that to the extent that these initiatives impact local communities, the LGU should have a voice in how they are implemented. The Executive Budget does recognize the LGU by including in his proposal of $20 million dollars for managed care readiness that the LGU receive some of these funds to facilitate the move of behavioral health services to managed care. However, $10 million is set aside for Health Home Plus for Assisted Outpatient Treatment (AOT) clients and no such language is included. Since the primary responsibility for AOT resides with the DCS by statute, it is important that the LGU have input into how this money will be spent. Finally, while we are glad to see another $30 million allocated to support the development of 1915-i services including rehabilitation, peer supports, habilitation, respite, non-medical transportation, family support and training, employment and education support services, and self-directed care services; it is again critical that these services be developed in a coordinated fashion based on the needs of each community. It is the DCS who is in the best position to determine the needs of his or her community.

Health Home and the Criminal Justice System

Recognizing a need long seen by our members, we are glad to see that the Executive Budget includes $5 million in funding (subject to federal financial participation) to help establish coordination between Health Homes and the criminal justice system. These funds are anticipated to be used for the integration of information between Health Homes and state and local correction facilities. We are all aware that county correctional facilities in some cases have become the largest provider of mental health services in the county. Recognizing this, the Conference is sponsoring a pilot project in Monroe County to set up data sharing capability between the County Office of Mental Health and the County jail to facilitate the engagement of individuals in jail with their Health Home providers. We would hope that these funds would be designated to fund many more such projects at the local level. This coordination could yield improved outcomes for clients and savings to the localities by reducing recidivism in our local jails.

Regulatory Requirements

The Conference strongly supports the Executive Budget proposal to add emergency regulatory authority for the Commissioners of DOH, OASAS, OPWDD, and OMH to implement integrated mental health services, substance abuse services, physical health services, and services to persons with developmental disabilities in a single location. Most people are aware that the population served by mental hygiene agencies includes many individuals with dual diagnoses of mental illness and substance abuse or a developmental disability and a mental illness. Many, if not most of them also have physical illnesses. While the oversight of mental hygiene services on the local level is unified under one department, the state system has developed in a silo fashion with each disability making its own rules many of which are inconsistent or conflicting. Providers who treat clients with multiple diagnoses are required to waste time and money attempting to meet these differing regulations which are sometimes impossible to reconcile. While permanent joint regulations would be the best solution, the Conference believes that the Executive Budget proposal to both add emergency power to adopt joint regulations and to give the Commissioners of DOH, OMH, OASAS, and OPWDD the authority to waive any regulatory requirements as are necessary to allow providers participating in joint projects under the Delivery System Reform Incentive Payment (DSRIP) program to avoid duplication of requirements are positive steps in solving what has become a major problem.

One-Year Deferral of Human Services Cost of Living Adjustment (COLA)

Finally, while it does not necessarily affect the LGU directly we feel compelled to say that the Conference believes that the Executive Budget proposal to once again defer the human services COLA for OMH, OASAS, OPWDD, OCFS, DOH and SOFA for another year is both unfair and unwarranted. As you know, not-for-profit employees were promised a series of COLAs by a law passed several years ago. However, because of year to year deferrals of that law, they have now not received a COLA in five years. Recruiting and retaining qualified workers to care for our most vulnerable populations is difficult enough and is made even more difficult by depressed salaries and diminished benefits. Studies show that clients receive the highest quality of care when their providers are well trained, experienced, and stay in their positions long enough to develop longstanding relationships. In years when the state suffered crippling deficits these workers were asked to share that suffering. This year, with the Governor projecting a surplus of $500 million and the cost of this COLA set at only $64 million, it would be a great disservice not to fund a two percent human services COLA.

We thank you for the opportunity to address you regarding our thoughts and concerns about this year's budget and can provide you with any further information or answer any questions at this time.