



Healthcare Association  
of New York State

**Testimony**

**of the**

**Healthcare Association of New York State**

**before the**

**New York State Senate Health Committee**

December 1, 2006

Thank you, Chairman Hannon, and other members of the State Senate, for giving the Healthcare Association of New York State (HANYS) the opportunity to comment on the final report of the Commission on Health Care Facilities in the 21<sup>st</sup> Century. My name is Daniel Sisto, President of HANYS, a statewide association representing more than 550 non-profit health care providers, including hospitals, health systems, nursing homes, and home care agencies across New York State.

As you know, HANYS has supported the concept of a rational reconfiguration of the health care system, including a reasonable downsizing of capacity. We recommended a process that emphasized local community input, was sensitive to the unique needs of each affected community, and was appropriately funded. The goal of this process was, and is, a stronger, more viable system configured to meet the health care needs of New York State's 18 million citizens.

During the course of the Commission's deliberations, HANYS testified in each region and met on multiple occasions with Commission staff. HANYS expressed numerous concerns over the past year and a half, including issues with the public input process. We appreciate that the Commission was willing to listen and discuss concerns. Some, but not all, were addressed. For example, we were concerned that:

- the Commission initially established unreasonable targets for excess capacity;
- the evaluation criteria lacked depth and breadth;
- discrete services (e.g., behavioral health, obstetrics, emergency preparedness) were not afforded adequate focus;

- it took too long for the Commission to establish a process for anti-trust protection for facilities interested in engaging in voluntary discussions with competitors;
- the Commission's recommendations needed to be scaled relative to the available Health Care Efficiency and Affordability Law for New Yorkers (HEAL NY) and Federal-State Health Reform Partnership (F-SHRP) funding; and
- it took too long to release the HEAL NY restructuring funding, which could have stimulated more voluntary efforts.

The Commission ultimately recommended downsizing the acute care system by 4,166 beds. That is significantly less than the Commission's initial estimate of excess capacity and is more consistent with the level HANYS acknowledged could be reduced in the system and still maintain critical services to communities.

That acknowledgement, however, should not be construed to indicate HANYS' position relative to the Commission's report. Given the extraordinarily complex nature of the recommendations, HANYS, like you, is still analyzing the report at this time.

We are here today to speak to the policy issues associated with reform and transformation, given the significant implications the Commission report, if approved, would hold for facilities in a competitive marketplace.

We believe that the Commission attempted to make reasonable judgments about how to achieve the stated reductions. That is an extraordinarily difficult task. As was acknowledged by

Chairman Berger, the closure or conversion of a community's hospital is a traumatic and painful event. The immediate response in various regions of the state is evidence of that understandable concern. No matter how thorough the process, critical issues of access or the institution's economic impact may have been overlooked. Additionally, the dynamic environment may evidence new factors to be considered.

Should this report continue to move forward toward final adoption, it is essential that communities impacted by closure or conversion recommendations continue to be afforded genuine opportunities to state their case to their Legislators, the Commissioner of Health and even the courts, before and after any potential implementation activities commence. To do otherwise would diminish the responsibility of the Legislature and the next Commissioner to preserve and protect the public health.

Similarly, the Commission makes numerous recommendations for "joining" independent hospitals under new, combined governance structures. Many of these initiatives are voluntary—stimulated by the Commission activity—and can proceed in a timely fashion. Others are "shotgun marriages," including a few that have tried and failed previously at relationships. Again, should the report go forward, we believe the Commissioner of Health needs to employ the discretion to determine when "good faith efforts" by affected parties are nevertheless unable to achieve the recommended goal, without penalizing the hospitals involved.

HANYS, therefore, views the release of the Commission report as the beginning, not the end, of this extraordinarily complex and critical process.

Now I would like to talk about several overarching concerns we believe must be addressed for this effort to succeed in its goal of improving, not diminishing, the ability of our health care system to provide care to all New Yorkers.

### **UNREALISTIC COST ESTIMATES**

First, HANYS is very concerned that the true cost impact of the Commission recommendations has not been made clear, and that the savings calculations contained in the report appear to be underestimated. In particular, we believe that the cost projections contained in the Commission report related to closing hospitals and nursing homes are substantially understated.

The Commission has estimated the closing costs associated with, by its count, 16 hospitals and four nursing homes at \$350 million gross. That cost is the projected value of such things as pension settlements, severance, staff retraining, security costs, legal expenses, and debt retirement. It is further assumed that the full value of assets on each facility's balance sheet is available for use and that the liquidation of real property is worth \$300 million for the affected facilities—leaving an unrealistic net closing cost estimate of just \$50 million.

The Commission's projections assume that hospitals would be phased out over 12 months and there would be no additional operating losses incurred during this phase-down period.

This is ludicrous.

The recent closure of one modest-sized hospital in upstate New York cost nearly \$100 million. It is unrealistic to assume, then, that we can close, by the Commission's count, 16 hospitals and four nursing homes for a net cost of \$50 million, or even a gross cost of \$350 million.

The Commission also estimates that 22 facilities impacted by bed conversions (14 hospitals, 8 nursing homes) would cost another \$110 million—only \$5 million apiece. This also appears to be unrealistically low.

Further, the Commission identified only \$11 million for all planning and legal expenses associated with numerous affiliation recommendations. There are no assumed operating or capital costs associated with such mergers. Also, there are no assumed operating expenses associated solely for bed de-certifications.

Lastly, the Commission estimates that all other new construction or rebuilding would cost \$1 billion. That includes approximately \$600 million for two new hospitals—one in Orange County and one in the Rockaways. All other new construction or rebuilding is estimated to cost \$400 million.

HANYS believes these Commission cost estimates are unreliable. If this or any such plan is to be implemented intelligently, we need realistic estimates. We need to plan restructuring and downsizing commensurate with available resources. Patient care is at stake in every region of the state. We simply cannot risk our ability to protect the health and well-being of 18 million New Yorkers on what appear to be very shaky numbers.

When HANYS expressed concerns in October that the potential costs of the Commission's recommendations would exceed available HEAL and F-SHRP revenues, the Commission's Executive Director concurred: "We agree with your central premise: the Commission's recommendations should be scaled to available resources. It is not our intention to produce recommendations that are impractical or excessively costly to implement."

Based on the information available to date, we believe the Commission's report has not demonstrated a full appreciation for the costs of closure or conversion, nor has it adequately matched recommendations to available resources. Instead of scaling recommendations to fit the available resources, they have, it seems, scaled the cost estimates to fit the resources.

## **HOSPITAL CLOSURES AND CONVERSIONS**

The Commission also formally counted as hospital closures only those nine hospitals and seven nursing homes that will be completely decommissioned. However, that total failed to include at least seven other hospitals that will lose their medical/surgical inpatient services—essentially eliminating those services that generally distinguish a hospital from any other type of health care facility.

When you convert an inpatient hospital to a clinic, detox or mental health facility, or a nursing home, as the Commission report recommends, you do not have an acute care hospital any more. So let us be clear: if this report is implemented as written, the state will lose at least 16 hospitals,

not nine. This must be understood before the Legislature and the public can begin to consider the true ramifications of this plan.

More globally, despite a legitimate attempt at a public process, much of the analysis and discussion during this process occurred with limited public appreciation of the issues at stake. The recommendations, however, must now contend with the much less controllable conditions of the real world; difficult access questions must be answered; challenges presented by those affected must be satisfied; and a host of other variables, foreseen and unforeseen, will leave their mark. It is therefore likely that the ultimate implementation of this plan, if it proceeds, will look differently than it does today on paper.

As this process moves forward, notwithstanding the statutory deadlines, it is imperative that you and your colleagues, and the Governor-elect, continue to shape the subsequent process to ensure that local community needs and sensitivities are fully considered.

### **RIGHTSIZING IS ONLY ONE COMPONENT OF NECESSARY REFORM**

The Legislature and the Governor-elect should view the Commission's activities as only one component of several necessary to achieve real, lasting reform that benefits patients and health care consumers.

True reform of the health care delivery system must span the entire continuum, and it must preserve and strengthen the ability of vulnerable populations to access health care. But it cannot

be focused solely on hospitals and nursing homes. All members of the provider community must participate, as must health insurers and others.

The non-binding policy recommendations issued in mid-November by the Commission spell out very cogently the array of additional reforms that are necessary. We agree that the Medicaid reimbursement system needs to be improved in ways that will strengthen the viability of institutions, including those serving vulnerable populations. The state cannot continue to allow for-profit interests such as freestanding ambulatory surgery centers and other niche providers to siphon off the well-insured, less complex cases from hospitals, to fragment the system, to disperse short staffing resources and in some cases to accelerate the medical “arms race,” outside of the Certificate of Need process, without creating a mechanism to offset resultant losses to our community safety nets. HANYS has continually called upon the Department of Health to address these disparities.

We also support the Commission’s call for:

- providing health care coverage to the millions of New Yorkers who are uninsured;
- for expanding primary care; and
- for investing in health care information technology.

Each of these recommendations will require investment.

## **WHERE ARE THE HEALTH INSURANCE COMPANIES?**

We also agree with the Commission's recommendation that health insurers reinvest dollars back into the health care system. Frankly, when you objectively consider all the participants in the health care system—aside from the most important, the patient—it becomes clear that not everyone has made a commitment to reforming it.

The federal and state governments, even while faced with deficits, have shown their commitment to health care by providing the F-SHRP and HEAL NY dollars. Hospitals have done so, not only by providing the matching funds necessary to qualify for the HEAL program, but also by undertaking restructuring and investment in medical and health information technology, mostly on their own, with limited resources compared to hospitals in the rest of the nation.

So who is missing? The health insurance companies. Insurers are making billions of dollars every year in New York, yet they are virtually nowhere to be found when it comes to making investments necessary to reform and improve the system. That is why HANYS believes we need a strategy that would reinvest at least some health insurance revenues back in the health care system.

As you know, HANYS has been discussing the concept of a health insurance reinvestment fund for several months. And we will be talking to you more about this concept during the 2007 Legislative Session.

I cannot stress enough that proceeding without these additional policy reforms will result in the health care system relapsing to its current, vulnerable condition; we will have wasted billions of dollars, and years of potential progress.

### **IMMEDIATE ACCESS TO TRANSITIONAL FUNDING**

Now that the Commission recommendations have become public, their impact in the marketplace will be immediate, particularly for facilities recommended for closure or major reconfiguration.

This brings us to another overarching concern: The availability of transitional funding that is essential to support an orderly realignment.

As I articulated earlier, the true costs of this process are not fully understood. What is clear, however, is that the meter has already begun running at many of these potentially affected facilities.

As you know, the F-SHRP funding is provided in equal installments over the next five years. If this plan is to be implemented in any form, however, the affected facilities would not be afforded the luxury of five years to clear their balance sheets and satisfy their many fiscal obligations. Debts must be paid, displaced workers must be aided, and a variety of other costs will emerge, none of which would wait.

The HEAL NY and F-SHRP funding is appreciated; however, the timelines associated with the distribution of each of these resources does not match the timeline that right now is being imposed by the marketplace.

Should this process proceed, HANYS urges the state to provide as much transitional funding as early as possible; otherwise the impact of the Commission will be just the opposite of its intent. If the goal is an orderly transition while preserving access to quality health care in each affected community, then the resource commitment and timeframe for transition must be carefully synchronized.

I want to again thank you for allowing HANYS this time to share our concerns and suggestions. I hope you agree that HANYS over our many years of existence has proven that we are willing to join with you and other organizations to resolve problems, not simply identify and decry problems. We certainly stand ready to do the same concerning the critical issues before you today.

I am happy to address any questions you may have.