

HANYS' 2013-2014 STATE BUDGET AGENDA



EMPOWER

innovation through
mandate relief and
regulatory reform



INVEST

shared savings
from state and
federal actions



TRANSFORM

to a more efficient,
higher quality health
care system

Testimony before the Joint
Legislative Hearing of the
Senate Finance and Assembly
Ways and Means Committees

Daniel Sisto, President
January 30, 2013

You are the policy makers

- We are now at the end of the original two-year state Medicaid budget agreement. This provides an opportunity to reassess what has been done and to update and modify as necessary.
- The proposed budget also puts into play major health policies, and is one of the most wide-ranging budgets, with significant implications for health care delivery across the state.
- The proposed fiscal and policy changes provide an important opportunity for your vital focus as legislators.
- We have been partners with both the state and federal governments in efforts to transform health care delivery. That partnership needs to extend to shared savings and regulatory relief to stabilize and transform the health care system.
- In particular, significant anticipated savings associated with the implementation of the ACA should be shared with providers to enable transformation.

The value of health care providers

- Even amid this environment of ongoing reform, hospitals, nursing homes, and home care providers remain essential in providing care for our citizens, serving critical roles:
 - emergency care;
 - ensuring urban, rural, and suburban communities have access to care—including primary care and population health services;
 - training medical professionals;
 - treating those in need of sophisticated and complicated care;
 - caring for the chronically ill;
 - preparing for man-made and natural disasters; and
 - medical research.
- While staying under the Medicaid global spending cap as enrollment continues to grow exponentially, our providers have also taken on the responsibility for the health of their communities.

ENVIRONMENT:

Numerous actions in Washington, D.C., and Albany compound to dramatically reduce health care funding.

State and federal actions challenge providers

STATE

- \$5.5 billion in cumulative state budget cuts to hospitals over the last five years.
- Hospitals lose 26 cents on every dollar of Medicaid care they provide.
- Penalties disguised as reform.

FEDERAL

- Cuts to hospitals and health systems over the next 10 years:
 - \$15.4 billion under Affordable Care Act
 - \$3.3 billion additional Medicare inpatient coding adjustments
 - \$1.3 billion from fiscal cliff agreement
 - \$2.1 billion pending under sequestration

Safety Net/Vital Access Provider

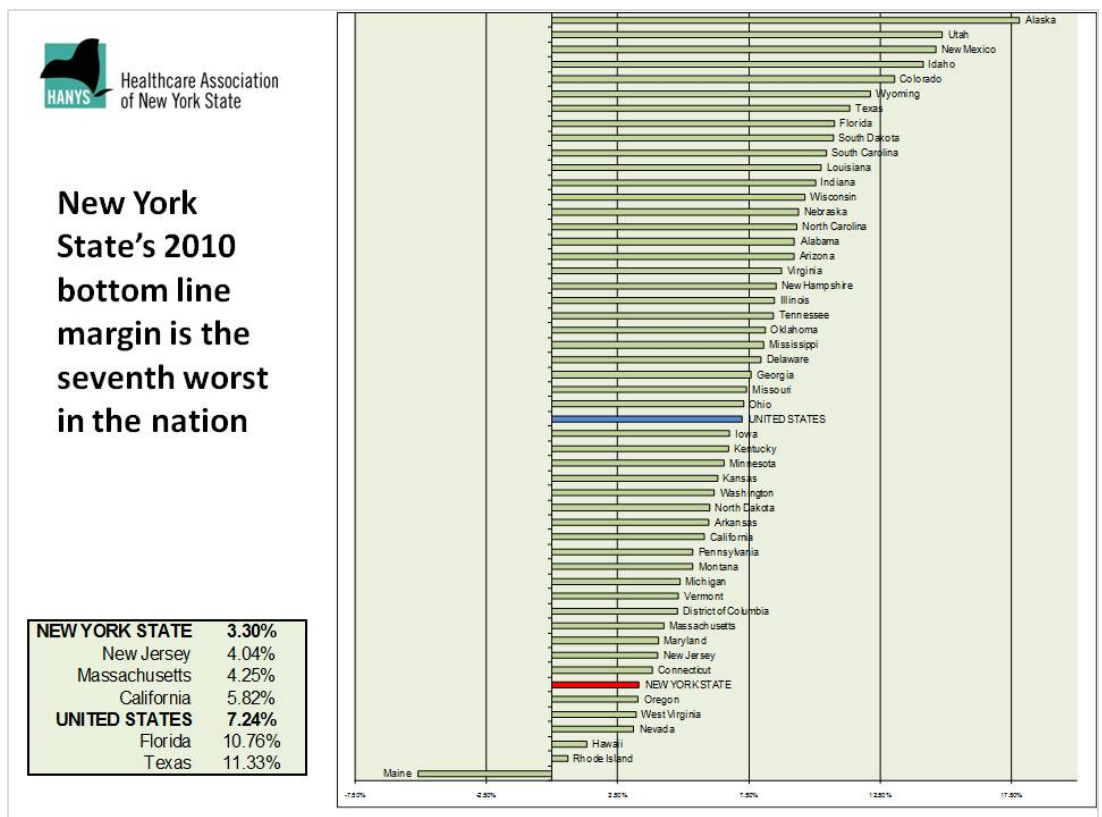
- Recognizing the increasing financial fragility of providers, the state created the Safety Net/Vital Access Provider (VAP) program.
- Funds from this program are intended to support hospitals and nursing homes that are financially challenged due to high Medicaid, Medicare, or uninsured utilization; or are essential given their location.
- Currently, \$100 million annually is authorized for the program and the Executive Budget would increase this to \$182 million this year.
- While these funds provide a good first step toward meeting immediate needs, far more is required to address the long-term need.
- If New York secures a new Centers for Medicare and Medicaid Services (CMS) waiver, additional funds are needed to secure the VAP program.

All these federal and state cuts greatly impact the financial condition of New York hospitals

- New York's not-for-profit and public hospitals continue to struggle financially.
- Bottom line margins collapsed significantly between 2010 and 2011, from 2.6% to negative 1.2%.
- Fifty-eight percent of hospitals reported negative bottom line margins in 2011, up from 30% in 2010
 - 35% of hospitals reported negative bottom line margins of -4% or more in 2011, up from 15% of hospitals in 2010

Financial condition of New York hospitals

- According to American Hospital Association's Hospital Statistics (2010 data):
 - New York hospitals have operating and bottom line margins that are consistently well below the national average of 5.53% and 7.24%, respectively.
 - New York hospitals had among the worst operating margins and bottom lines in the nation.



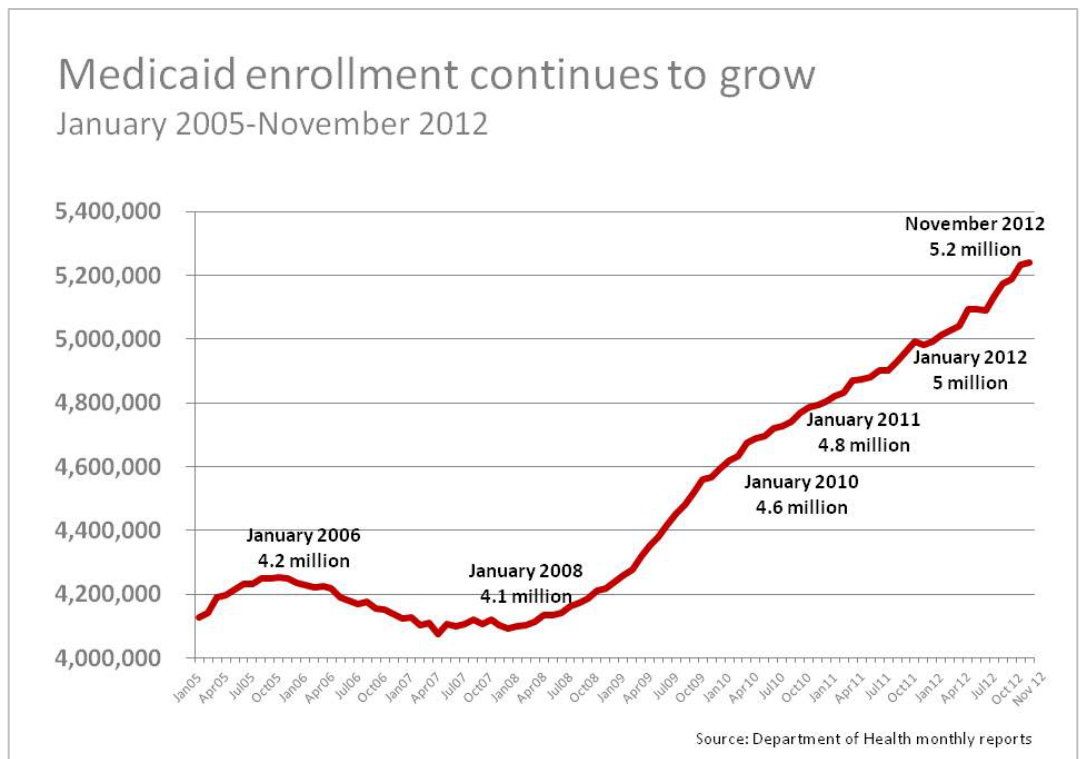
All of these environmental factors lead, unsurprisingly, to Moody's issuing a negative outlook

- Last week, Moody's Investors Service issued a release stating the U.S. not-for-profit hospital outlook remains negative in 2013.
- Moody's outlook for health care has been negative since 2008 due to:
 - changes in how hospitals are paid;
 - government and business pressures to lower health care service costs; and
 - continued reductions in patient volumes.
- Moody's also cited fiscal pressures from federal cuts, such as more than \$300 billion in Medicare cuts through 2019, and limited payment increases from insurers.

(Source: Healthcare Financial Management Association)

Challenges imposed by Medicaid global spending cap

- Providers have fulfilled their part of the agreement, keeping expenditures under the global cap, even as enrollment continues to grow.
- Approximately 350,000 Medicaid beneficiaries have enrolled since April 2011.



Challenges imposed by Medicaid global spending cap (continued)

- HANYS participates in the Medicaid Redesign Team Global Cap workgroup. As the original global cap agreement is evaluated, we urge the Legislature to take an active role in measuring its effectiveness and determining the appropriate next steps, including any modifications of the cap, its composition, and the process for establishing a Medicaid savings plan if the cap is pierced.
- If New York State receives a Medicaid waiver, proceeds should be invested in the provider community to achieve transformation and reform.
- We recommend several expense exclusions from the cap, including new initiatives that encourage enrollment or other new programs that did not exist when the cap was created; older funds that should have been distributed to providers in periods prior to the establishment of the cap; and future trend factor adjustments, since providers have not received a full trend factor in years.

Additional federal take-backs: *Recovery Audit Contractor Program*

- The Recovery Audit Contractor (RAC) program was intended to recover payments for inappropriate Medicare billing, but has instead been implemented beyond its intended scope.
- **The decisions to deny claims are not based on nationally accepted clinical guidelines used by hospitals.**
- Of all claims reviewed by RAC, 51 New York hospitals that responded to a survey report that RAC has denied more than \$172 million in claims.
- Nationally, hospitals reported appealing more than 40% of all RAC denials: Upon appeal, nearly 75% were successful. This process is flawed.
- Tens of millions of additional claims are expected as the program expands to more hospitals.

Please see Appendix for list of additional state and federal audits and surveys

Examples of RAC activity

- **DENIED:** Modified radical mastectomy patient with metastasis to lymph nodes hypertension, admitted as inpatient for one day.
- **DENIED:** Cardiac catheter patient with hypertension, diabetes, hyperlipidemia, coronary artery disease, peripheral neuropathy; blackouts during stress test. Surgery done inpatient, one day stay.
- **DENIED:** Patient admitted for one day after blacking out and shortness of breath, history of oxygen dependent chronic pulmonary disease, hypertension, hypothyroidism, pacemaker, colostomy from ruptured colon, heart murmur, two cardiac infarctions, and anemia.

Continued stress
endangers access

34 HOSPITALS

and

71 NURSING HOMES

CLOSED in New York State
since 2000.

Please see Appendix for full listing.

Health care providers are first responders in times of crisis, providing medical care and safe shelter

(influenza data as of January 17, 2013.)

- To date, there have been more than 19,000 confirmed cases of influenza this season, beginning in October 2012, compared to only 4,400 cases during all of the 2011-2012 season.
- So far there have been 2,884 confirmed hospitalizations associated with influenza this flu season.
- We must ensure that we have the flexibility and capacity available to meet the demand in instances, like the current flu outbreak, SuperStorm Sandy, and others that are unforeseen.
- During and after SuperStorm Sandy, our health care system had to immediately respond to the displacement of thousands of hospital patients and nursing home residents.
- At the same time, hospitals served as vital community centers, providing emergency medical care, shelter, and food.
- The state estimates that it will cost \$2.2 billion to repair hospitals, nursing homes, and clinics.
- We must ensure that flexibility and capacity are available to meet the demand in emergencies. By their very nature, disasters cannot be predicted and should be excluded from a global spending cap.

PROVIDERS ARE LIVING UP TO THEIR PART OF THE BARGAIN:

- Staying under the global cap
- Transitioning from fee-for-service to care management and population health

Hospitals have committed historic levels of resources to improve quality

- **New York State Partnership for Patients (NYSPFP):** A national initiative led by the Centers for Medicare and Medicaid Services and joint collaborative of the Healthcare Association of New York State and Greater New York Hospital Association.
- **Goals:** to make care safer by reducing hospital-acquired conditions by 40% and improve care transitions by reducing preventable readmissions by 20%.
- Virtually every hospital in the state is participating in the initiative.

Hospitals have committed historic levels of resources to improve quality (continued)

Areas of focus are:

- Pressure Ulcers
- Injuries from Falls
- Venous Thromboembolism
- Adverse Drug Events
- Catheter-associated Urinary Tract Infections
- Central Line-Associated Bloodstream Infections
- Surgical Site Infections
- Ventilator-Associated Pneumonia
- Obstetrical Adverse Events, including Early Elective Deliveries
- Building Culture and Leadership
- Preventable Readmissions

Hospitals achieving improvements

- Through NYSPFP and other initiatives, hospitals indicate since 2010:
 - incidents of central line-associated bloodstream infections decreased 21%;
 - surgical-site infections decreased 24%; and
 - ventilator-associated pneumonia decreased by 16%.
- Since June 2012, participants indicate early elective deliveries decreased 37%.
- New York State Department of Health's hospital-acquired infection report also identified ongoing improvement in infection rates for Cardiac Artery Bypass Grafting surgery and central-line bloodstream infections.

Hospitals focus on improving patient outcomes through countless initiatives, including:

- Surviving Sepsis Campaign
- Patient-Centered Medical Homes
- Health Homes
- Diabetes Campaign
- Patient Experience of Care (HCAHPS)
- Gold STAMP Program to Reduce Pressure Ulcers
- IPRO's 10th Scope of Work (Quality Improvement Organization)
- Palliative Care
- Community-Based Care Transitions Program
- Accreditation Programs (The Joint Commission, DNV, Healthcare Facilities Accreditation Program)
- Institute for Healthcare Improvement
- Infection Reduction and Reporting
- Medication Safety

Our hospitals also participate in a growing portfolio of private, government, health plan, and grant-funded quality improvement programs.

HANYS' priorities for 2013-2014 budget

- A partnership for shared savings to stabilize and transform the health care system
 - Reinvesting state savings associated with ACA implementation
 - Reinstating a trend factor
 - Eliminating the 2% cut
- Eliminating unfunded mandates and providing regulatory relief
- Indigent care reform to comply with federal requirements
- Not-for-profit alternatives for capital access
- Support Safety Net/Vital Access Providers

Stabilize and transform the health care system

- Hospitals have endured \$5.5 billion in cumulative state budget cuts since 2008. The last year in which providers received a full trend factor adjustment was 2005.
- The Executive Budget proposes a permanent elimination of the trend factor.
- Providers have also been hit with a 2% across-the-board cut for the last two years, with a proposal for another two years.

HANYS urges the Legislature to:

- **reinstate the trend factor; and**
- **eliminate the 2% across-the-board cut.**

HANYS opposes the permanent elimination of the trend factor and the continuation of the 2% cut.

Lack of capital access impedes providers' ability to transition

- Capital-starved hospitals need to invest in:
 - information technology;
 - physician alignment;
 - patient-centered primary care;
 - care coordination; and
 - integration of care across the continuum.

Non-profit alternatives for capital access

- HANYS urges the Legislature to pursue non-profit alternatives for capital access in lieu of the for-profit, publicly traded, pilot program included in the Executive Budget.
- We oppose this major policy shift to for-profit medicine.

HANYS' capital access agenda

These proposals were submitted by HANYS at the October 2, 2012 Department of Health *Improving Capital Access for Health Care Providers in New York State* forum.

- Leverage HEAL NY/Medicaid waiver funds to expand access to tax-exempt capital markets for vulnerable providers.
- Partner with the U.S. Federal Housing Administration to develop credit enhancement vehicles.
- Relax DOH and Dormitory Authority financing contingencies, restrictions, and provisions that stifle and delay capital formation.
- Develop “Social Impact Bonds,” a form of outcome-based contracting between private investors and government.
- Eliminate or reduce high expense fees associated with Dormitory Authority financing.
- Support and nurture strategic partnerships between providers and information technology vendors.
- Encourage closer cooperation between utility companies and providers in need of upgrading energy-efficient projects.
- Adopt policies that facilitate the development of obligated groups, both interstate and intra-state.
- Broaden the definition of projects that can be financed with the state's Tax-Exempt Leasing Program.

Eliminating obstacles to reform and unfunded mandates

- Too many hours and dollars are spent complying with outdated rules and policies that inhibit our ability to innovate, create efficiencies, and improve care.
- To facilitate health care innovation and reform, we need to clear the regulatory, administrative, and policy obstacles created by state agencies.
- The state must reform the Certificate of Need (CON) process by:
 - Implementing numerous CON reforms approved last year by the Public Health and Health Planning Council.
 - Leveling the playing field for hospitals by eliminating CON requirement for services that can also be provided by private physicians and other non Article 28-licensed providers.

Eliminating obstacles to reform and unfunded mandates (continued)

- Implement last year's observation services statute to align the state's Medicaid rules with federal Medicare requirements.
- End the duplicative surveys by the state's Wadsworth Laboratory already carried out by national laboratory accrediting organizations.
- Update regulations to allow emergency department preceptorships for new nurses in lieu of one year experience in another department.
- Act on proposed regulations for Certificate of Public Advantage to protect, support, and incentivize delivery system integration.

Workforce flexibility proposals

HANYS **supports** proposals included in the Executive Budget, including those approved by the MRT Workgroup on Workforce Flexibility and Scope of Practice, including:

- Elimination of nurse practitioner (NP) written practice agreement requirement for NPs providing only primary care services.
- Social work licensure exemption made permanent.
- Authorization of medication administration by home health aides.
- Certification of advanced home health aides through training requirements.

More needs to be done

We **recommend** the Legislature:

- Support the use of technology, such as telemedicine, to provide access to specialists in short supply in many parts of the state.
- Recognize the use of standing orders and order protocols, consistent with CMS, to improve care and efficiency.
- Enhance funding of Doctors Across New York, which encourages physicians to practice in under-served parts of the state.
- Authorize physician home visits for home-bound and nursing home patients as practitioners from federally qualified health centers are permitted.

Indigent Care

- The Governor's budget includes important provisions related to indigent care reform to comply with Affordable Care Act requirements.
- This proposal is critical to ensure that New York State is not penalized by cuts in reduced federal funding for noncompliance.
- The proposal advanced by the Governor reflects the consensus developed by an MRT workgroup of stakeholders. It includes provisions related to the distribution of funds, transition, and compliance with the financial assistance law.

HANYS strongly supports the Governor's proposal and urges the Legislature to enact it.

Implementing Health Care Reform: *Conforming to the Affordable Care Act*

- The Executive Budget contains a number of provisions related to the Affordable Care Act (ACA), including:
 - General conformance changes related to the ACA Medicaid expansion, including Medicaid income eligibility and the use of modified adjusted gross income (MAGI).
 - Mandate health plans to conform to all ACA insurance requirements.
 - Healthy New York and Family Health Plus phased out during 2014, with enrollees expected to transition to Medicaid or commercial health coverage available on the Exchange.
- In both the long- and short-term, the number of insured lives on the Exchange and success of Exchange products will have far-reaching implications for the state.
- The state must guard against the unintended adverse transformation of the small group market to exchange products that potentially pay less than cost.
- Concerns are rapidly growing that plans will not form adequate networks if they are only offering rates that are unsustainable and unacceptable to providers.

HANYS and our members are your partners

- Agency leaders and personnel are faced with increasing workloads and decreasing resources. HANYS has been and will continue to be a productive partner to help them succeed in their missions.
- We appreciate working with the Administration and the Legislature on transforming health care delivery in New York State.
- We are actively involved in the new vision and design of health care, expanding insurance coverage to the uninsured, and focusing on population health.
- The success of these programs depends on recognizing the cost of this transformation and the challenges of policymakers to ensure providers have access to the capital necessary to succeed.

HANYS looks forward to working with the Legislature and the Governor on all of these important matters.

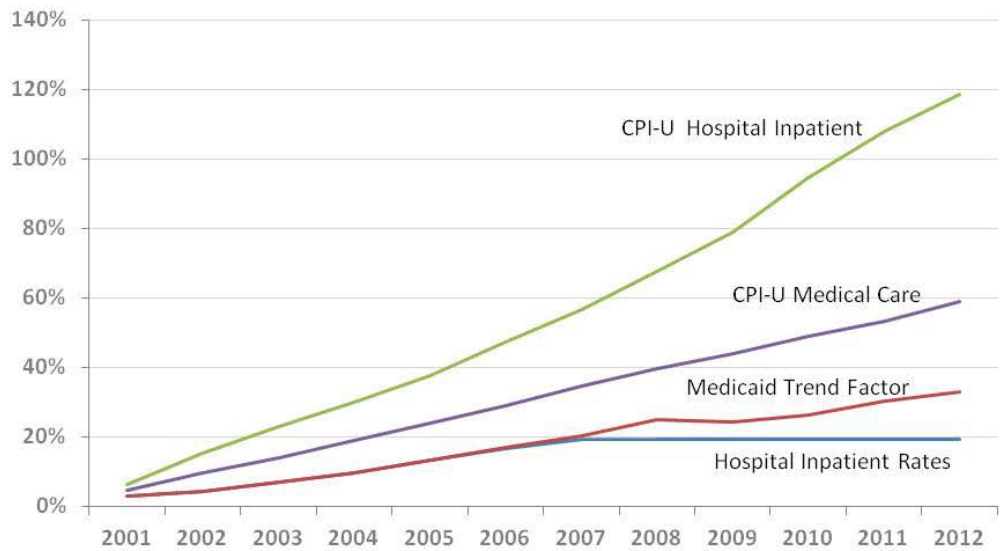
Thank you.

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APPENDIX

Inflation growth versus hospital inpatient rates



Hospitals struggle to comply with numerous, overlapping audit and survey activities:

STATE AUDITS

- Office of Medicaid Inspector General (OMIG)
- Medicaid audits by IPRO
- Attorney General
- DSH
- ICR
- HCRA surcharge
- Medicaid RAC
- Additionally, commercial payers conduct audits of their own

ONGOING DOH SURVEYS AND INSPECTIONS

- Certification surveys on behalf of CMS
- Federal allegation surveys
- Federal validation surveys
- Radiology inspections
- OMH surveillance surveys
- OASAS surveillance surveys
- Pre-opening program surveys
- OPMC investigations
- DOH narcotics control investigations
- Public health/disease control inspections
- Wadsworth inspections of hospital labs

Proliferation of audit and survey activities (continued)

FEDERAL AUDITS

- Medicare RAC
- Medicaid Integrity Contractors (Audit MICs)—in New York State, this is IPRO
- Office of Inspector General (OIG)
- Medicare administrative contractors (MACs)
- Comprehensive error rate testing (CERT) contractors
- Program safeguard contractors (PSCs)
- Zone program integrity contractors (ZPICs)
- Providers may conduct self-audits to identify coverage and coding errors using the OIG Compliance Program Guidelines

List of hospital closures since 2000

- Massapequa General Hospital
- Olean General Hospital—West Division
- Genesee Hospital
- McClellan Health System, Inc.
- The Caledonian Hospital
- Staten Island University Hospital—Concord Site
- ViaHealth of Wayne—Myers Campus
- St. Agnes Hospital
- Interfaith Medical Center—Jewish Hospital Medical Center Division
- Our Lady of Mercy Medical Center—Florence Durso Pavilion
- Our Lady of Victory Hospital
- Beth Israel Medical Center—Herbert and Nell Singer Division
- St. Joseph’s Hospital of Flushing
- Brunswick Hospital
- The Hospital in Sidney
- Bayley Seton Hospital
- United Memorial Medical Center—Bank Street Division
- New York United Hospital Medical Center
- St. Mary’s Hospital of Brooklyn
- St. Vincent’s Midtown Hospital
- Manhattan Eye, Ear, and Throat Hospital
- The New Parkway Hospital

continued >

List of hospital closures since 2000 (continued)

- Cabrini Medical Center
- Victory Memorial Hospital
- Eddy Cohoes Rehabilitation Center
- Albert Lindley Lee Memorial Hospital
- Mary Immaculate Hospital
- St. John's Queens Hospital
- Saint Francis Hospital—Beacon Division
- St. Vincent's Hospital—Manhattan
- North General Hospital
- Millard Fillmore Gates Circle Hospital
- Peninsula Hospital Center
- Sheehan Memorial Hospital

List of nursing homes closed since 2000

- United Helpers Cedars Nursing Home
- Lake Shore Nursing Home, Inc.
- Ann Lee Home & Infirmary
- Community General Hospital of Greater Syracuse, Nursing Home Unit
- Nazareth Nursing Home
- Mount View Health Facility
- Episcopal Residential Health Care Facility, Inc.
- Clifton-Fine Hospital
- Brunswick Hospital Center, Inc.
- Eden Park Health Care Center
- Lemberg Home & Geriatric Institute, Inc.
- Manor Oak Skilled Nursing Facilities, Inc.
- Southampton Care Center
- St. Joseph's Manor
- Cedar Hedge Nursing Home
- Childs Nursing Home Company, Inc.
- Beechwood Residence
- Livingston County Campus SNF
- The Hospital SNF
- Menorah Home and Hospital for Aged and Infirm
- Rehab Institute of New York at Florence Nightingale Health Center

continued >

List of nursing homes closed since 2000 (continued)

- Hebrew Home for the Aged at Riverdale—Baptist Division
- New York United Hospital Medical Center Skilled Nursing Pavilion
- Loeb Center, Montefiore Medical Center
- St. Luke Manor of Batavia
- Manor Oak Skilled Nursing Facilities, Inc.
- Hutton Nursing Home
- Kresge Residence
- Williamsville View Manor
- St. Clare Manor
- Norloch Manor
- Eden Park Health Care Center
- The Gardens at Manhattan Health and Rehabilitation Center, LLC
- Manor Oak Skilled Nursing Facilities, Inc.
- St. Mary's Manor
- Eden Park Health Care Center
- Potsdam Nursing Home
- Mt. St. Mary's Long-Term Care Facility, Inc.
- Mary McClellan Skilled Nursing Facility
- Wesley-on-East, Ltd.
- Bethel Methodist Home
- Lyden Care Center

continued >

List of nursing homes closed since 2000 (continued)

- Albany Avenue Manor
- The Waters of Syracuse
- Chandler Care Center
- Genesee Hospital ECF
- Our Lady of Victory Health Trauma Rehabilitation Unit
- Sunrest Health Facilities, Inc.
- Faxton-St. Luke's Healthcare—Allen Calder
- Cabrini Center for Nursing & Rehabilitation
- Millard Fillmore Skilled Nursing Facility
- Bialystoker Center for Nursing & Rehabilitation
- Elderwood Health Care at Heathwood
- Fairchild Manor Nursing Home
- Nathan Miller Center for Nursing Care
- Loretto-Oswego Health & Rehabilitation Center
- Wartburg Nursing Home, Inc.
- River Hospital
- Claxton-Hepburn Medical Center RHCF
- Dover Nursing Home
- Dorothy & David I Schachne Institute for Nursing Rehabilitation
- St. Francis of Buffalo
- Little Falls Nursing Facility

continued >

List of nursing homes closed since 2000 (continued)

- Martin Luther Nursing Home, Inc.
- United Nursing Home for the Aged, Inc.
- Taylor Care Center at Westchester
- St. Rose Home
- Grace Manor Health Care Facility
- Eddy-Ford Nursing Home
- Monsignor Fitzpatrick Pavilion for Skilled Nursing
- Lilly Pond Nursing Home