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November 16, 2026

Sara Paupini
Associate Attorney
New York State Office of Mental Health
44 Holland Ave.
Albany, NY 12229

Submitted electronically: regs@omh.ny.gov

Re: Repeal Of Part 551; Addition of New Part 551 To Title 14 NYCRR

Dear Ms. Paupini:

The Healthcare Association of New York State, on behalf of our member nonprofit and public hospitals, nursing homes, home care agencies and other healthcare organizations, thank you for the opportunity to comment on the proposed regulations related to the prior approval review process.

HANYS supports OMH's efforts to ensure that new and existing providers offering licensed mental health services meet appropriate quality, safety and fiscal viability standards through the PAR process. However, HANYS is concerned that some aspects of these proposed regulations could create unnecessary challenges for our hospitals, including duplicative requirements imposed by other state agencies, potential disagreements among multiple local governmental units and additional approval conditions that could further complicate and delay the PAR process

551.1 Background and Intent

OMH proposes coordinating its licensing process with the applicable practices of other state agencies, including, but not limited to, the Department of Health, the Office of Addiction Services and Supports, Office for People with Developmental Disabilities and State Education Department.

Our members have expressed concerns regarding duplicative OMH and DOH requirements for prior approval.

HANYS recommends that when a project requires both OMH prior approval and DOH Certificate of Need, the agencies designate a lead agency and accept a single joint application or a shared core application. In addition, we recommend that OMH and DOH publish a crosswalk of overlapping approval and licensing requirements, including the joint licensure threshold guidance that determines when behavioral health services in an Article 28 setting require Article 31 licensure.

551.5 Project Planning and Consultation

HANYS has several concerns, particularly related to the Memorandum of Understanding process, the role of LGUs in providing support and consultation and the prior consultation process. We offer the following comments and recommendations to clarify these processes, minimize potential administrative burdens and ensure that they do not create unnecessary barriers or delays for hospitals seeking to establish or maintain licensed mental health services.

OMH proposes that an applicant may be required to obtain a MOU whenever a project is physically hosted by another service provider in the same building.

Though we support this addition, we recommend that OMH add language to clarify exactly when a MOU would be required. HANYS strongly urges OMH to make this determination early in the process (i.e., during the prior consultation phase rather than during the review phase). We also suggest OMH develop or suggest a model MOU template to assist new applicants.

OMH proposes that E-Z PAR applicants notify all respective LGUs/counties and OMH field offices when seeking support for an application.

HANYS supports continued collaboration between applicants and LGUs when introducing or expanding programs in various counties. However, we recommend that OMH clarify that an applicant's obligation to LGUs in counties outside the primary service area is limited to notification and consultation, not obtaining approval from those LGUs. Requiring approval from multiple LGUs could create unnecessary administrative burdens, introduce conflicting expectations and potentially delay the establishment or expansion of mental health services. We recommend including language to clarify that LGU support is one factor in the review process and not a condition of eligibility for E-Z PAR. In addition, OMH should exempt administrative actions or other minor changes from LGU consultation. Finally, there should be clarifying language to distinguish between an LGU that has not responded and an LGU that opposes a project, including how OMH will proceed with a project when there is opposition.

OMH proposes a new prior consultation process for E-Z PAR and Comprehensive PAR applications. As this is a new process, HANYS recommends that OMH should:

- set a defined period for scheduling the consultation after a request;
- merge the letter of intent and consultation form or publish what level of detail each requires; and
- provide a short-written summary after the consultation that records the project classification, whether an MOU is required and any known concerns, and treat that classification as binding unless the project materially changes.

551.6 Project Subject to Prior Approval Review

OMH proposes to significantly increase the capital project threshold for the E-Z PAR process from $600,000 to $30 million; however, it also removes the flexibility to determine a dollar amount based on average construction cost increases.

We strongly support raising the threshold to $30 million and recommend that OMH apply it consistently across providers and regions with clear eligibility guidance. However, HANYS is concerned about eliminating the flexibility to adjust the threshold in response to increases in average construction costs. We recommend that OMH retain this flexibility or establish a mechanism

for periodically reviewing and adjusting the threshold to reflect construction cost inflation, with public notice.

Lastly, OMH included language that gives the commissioner the ability to charge a review fee to applicants. We understand that this is a standard of practice, however, we strongly suggest that there be a notification period identified in the review process so members can budget appropriately.

551.7 Standards for Approval of Projects

OMH proposes some additional factors for consideration when assessing whether projects increase the availability of necessary services to those without adequate healthcare coverage.

HANYS supports those additions and suggests the following additional factors for consideration:

- Acceptance of Medicaid enrollees should include participation in Medicaid managed care and HARP networks, not only fee-for-service.
- OMH should consider whether the applicant serves uninsured individuals and people experiencing homelessness.
- OMH should consider whether the applicant accepts referrals from the public behavioral health system, including SPOA, AOT and hospital and state facility discharges, without excluding high-acuity or complex-needs individuals.
- The standard refers to services "on an ongoing basis." OMH should say how commitments made at approval will be monitored afterward.

We support the expansion of the current standard of determining an applicant's character, experience and competence as it relates to reviewing and approving an application. HANYS recommends that OMH consider allowing applicants in "good standing" to forego re-documenting their record with each application. As it relates to fiscal viability, HANYS urges OMH to recognize that a program may project a first-year deficit and that public and safety-net operators may sustain programs through system or public funding. We suggest that a documented commitment of that support should satisfy the standard.

551.9 Review of Application for Prior Approval

HANYS appreciates the option to extend an EZ PAR application beyond 10 days when additional information is requested. The same option for an extension beyond 20 days should be added for a comprehensive PAR application.

HANYS values the opportunity to provide feedback on the proposed regulations. We look forward to continue working with OMH. If you have questions, please contact Katie Molanare, director, behavioral health at 518.431.7825 or kmolanare@hanys.org.

Sincerely,



Victoria Aufiero, Esq.
Vice President, Insurance, Managed Care and Behavioral Health