

# **HANYS' 2017-2018 State Budget Testimony and Health Policy Recommendations**

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

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Good afternoon, Chairwoman Young, Chairman Farrell, Health Committee Chairs Hannon and Gottfried, and Committee members. Thank you for the opportunity to speak today regarding the Executive Budget proposal for state fiscal year (SFY) 2017-2018. This is my first address to this joint body and I want to take this opportunity to thank you for your support of the healthcare delivery system in New York State. I look forward to continuing our partnership with you during this critically important time.

I am Bea Grause, President of the Healthcare Association of New York State (HANYs), the only statewide hospital and continuing care association in New York State, representing 500 non-profit and public hospitals, health systems, nursing homes, home care agencies, and other healthcare organizations.

We have entered a tremendously tumultuous and uncertain time. The linkages between fiscal and policy actions in Washington and Albany are critical, especially now, with discussions about the future of the Affordable Care Act (ACA), its political course, and weighty consequences.

New York has long been a national leader in increasing access to health insurance coverage, including before and during ACA implementation. The state has made significant investments to provide access to health insurance to uninsured New Yorkers and, through ACA, received substantial funding support from the federal government. New Yorkers are now at risk of losing their coverage, and the potential loss of federal dollars could mean a loss of funding for the state and our counties.

The ACA repeal scenario currently under consideration in Washington would repeal ACA coverage expansion provisions, but retain more than \$24 billion in Medicare and federal Medicaid cuts to New York's hospitals and health systems over the next ten years without the benefit of coverage expansion. Those cuts were considered, when ACA was enacted, as the hospital and health system contribution to the cost of coverage expansion.

The HANYs Board of Trustees has unanimously urged that if ACA repeal is pursued, then replacement must be simultaneous and meaningful for patients, the state and its localities, and for hospitals and health systems.

**It is imperative that we, as a state, remain focused on providing cost-effective, accessible healthcare to 19 million New Yorkers. HANYs will continue to do our part in this effort.**

## **Essential Role of Hospitals and Health Systems**

New York's hospitals and health systems are central to delivering needed care 24/7/365—always ready to respond to emergencies, disasters, and disease outbreaks. Hospitals and health systems are improving care and enhancing the health of New Yorkers by:

- leading innovative efforts across the state to move the healthcare system forward to achieve the Triple Aim of better care, better health, and lower costs;
- transforming care delivery—supported by state and federal investments through capital, the Delivery System Reform Incentive Payment (DSRIP) program, and other mechanisms—to provide patient-centered care delivered in the right setting;
- optimizing the quality, safety, and efficacy of care; leading efforts to prevent avoidable hospitalizations, infections, pressure ulcers, and sepsis; and advancing antibiotic stewardship, obstetric safety, palliative care, and medication safety; and
- covering or subsidizing the cost of care to people in need and investing in many community health initiatives.

New York hospitals continue to participate in the national Partnership for Patients (PFP) initiative, created to reduce hospital-acquired conditions and preventable readmissions. From 2011 to 2015, through the New York State Partnership for Patients, New York’s hospitals have seen:

- 47,000 fewer patient readmissions;
- 22% reduction in hospital-acquired *C. difficile* infections;
- 20% reduction in colorectal surgical site infections;
- 62% reduction in catheter-associated urinary tract infection population rates; and
- 60% reduction in central line-associated infections.

Hospitals are also local economic drivers, are among the largest employers in every community, and provide tremendous investment in community benefits. Our hospitals and health systems are responsible for \$141 billion in economic activity annually—10% of the state’s entire Gross Domestic Product—and generate more than 770,000 jobs. Even with New York’s robust health coverage policies, New York’s hospitals provide more than \$8 billion every year in free and subsidized care to those in need.

Our hospitals and health systems play a special community role despite critically challenging financial times. This cannot be overstated. New York’s hospitals have the second lowest operating margins in the entire country. Twenty-seven hospitals located in every region of the state are on DOH’s “watch list,” reflecting their financially fragile status. Our infrastructure is the sixth oldest in the country, and government payers (Medicare and Medicaid) pay less than the cost of care.

As you debate various health policy proposals during this budget and legislative session, I urge you to consider the extremely special role that hospitals and health systems play in your local community, even while operating in a very challenging financial climate.

## 2017-2018 Executive Budget Proposal

The Legislature and Governor have enacted critical healthcare investments over the past several years to support and promote health system transformation. HANYS supported and worked with you on these proposals, which continue to be crucial to ensure that meaningful reform is achieved.

The Governor's proposed 2017-2018 Executive Budget supports some of these most vital issues, including \$500 million in new capital and related investments, and retaining funding for distressed hospitals, Critical Access Hospitals, Essential, and Sole Community Providers.

In addition to these important investments, the Governor has included the establishment of the Health Care Regulation Modernization Team. HANYS strongly supports pursuing modernization and streamlining the regulatory apparatus in which healthcare providers must operate.

Last year, HANYS hosted a series of regional meetings across the state, bringing DOH staff together with our members to discuss the operational and regulatory issues impacting their organizations. This was a valuable experience for all, and we strongly support this proposal that recognizes the importance of the information gathered at these meetings. Real regulatory reform will help hospitals and health systems deliver the best care possible for the benefit of our patients, the healthcare delivery system, and payers.

The Executive Budget also includes important new funding to facilitate healthcare providers' transition to new transformational models of care and to help achieve the state's goals for Medicaid Value-Based Payment (VBP). It is critical to support this transition, and we urge that funding remain flexible to support providers at different stages of transformation.

I urge you to support these investments and initiatives as you deliberate the proposed budget.

The issue of Medicaid payment adequacy is an important one as we mutually work to ensure that our providers can continue to deliver the highest quality services. I urge your consideration of additional, new funding to provide support for financially struggling hospitals across the state, and to assist in the transformation of healthcare through investments.

The Governor's budget includes several initiatives that cause concern for HANYS and our members, including:

- A payment reduction or penalty for potentially preventable emergency room (ER) visits. New York's hospitals and health systems have always worked hard to ensure the appropriate care at the appropriate setting. While reducing avoidable ER visits is important for patients, the penalty component is problematic as it seeks to hold hospitals responsible for access and other issues beyond their control and fails

to consider that hospitals medically screen and stabilize patients coming to the ER, even if it is not an emergency.

- A funding reduction of \$10 million to the Hospital Quality Pool, which was established in state fiscal year 2015-2016.
- Elimination of nursing home bed hold payments, even though nursing homes will continue to incur many associated expenses.

I also urge you to reject the proposed overall budget “super powers” language that would allow the Division of the Budget (DOB) to reduce payments for many programs if tax dollars, other revenue, and/or federal aid are less than expected. This newly proposed authority is of tremendous concern and we urge the Legislature to maintain its legislative prerogative to protect funding commitments for the many healthcare and non-healthcare programs that are funded throughout the state budget.

While the state has made significant progress in getting funds out the door, delays can still be significant and hinder progress toward addressing the critical needs for which funds were intended from previous budgets.

HANYS urges the Legislature to advocate and work to ensure that:

- \$195 million in capital funding is released from the 2016-2017 state budget;
- adequate settlement funds are directed to cover shortfalls from the Health Republic liquidation;
- funds for indigent care are distributed; and
- funds dedicated to the hospital quality pool and for the state’s rural hospitals are released.

The legislative session could also bring forth damaging proposals that, if enacted, would dramatically increase the costs for hospitals and health systems and impede progress in transforming New York’s delivery system, such as harmful, non-comprehensive medical malpractice legislation and arbitrary, mandatory nurse staffing ratios.

We look forward to continuing our close partnership with the Legislature and Governor to enact policies that build on the progress achieved to date, and that will help our health system move forward with the work of transformation.

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## RECOMMENDATIONS

HANYS asks for your careful consideration of these priorities this year:

### **Capital Investment**

HANYS strongly supports the Executive Budget proposal to create a new \$500 million Health Care Facility Transformation Program for flexible capital and capital-related funding to support bondable and non-bondable projects and to use funding for projects unfunded under the \$195 million program established in last year's budget. Despite the state's recent investments, tremendous need remains. We understand that the applications for the \$195 million program from the 2016-2017 state budget far exceed the funding available. There was also a \$3 billion funding gap from the Capital Restructuring Financing Program, awarded in March 2016. Eligible providers include hospitals, nursing homes, diagnostic and treatment centers, clinics, primary care, and home care providers.

### **Health Care Regulation Modernization Team**

HANYS strongly supports the Executive Budget proposal to review and make recommendations on New York's regulatory structure through a Health Care Regulation Modernization Team. Untangling the web of regulatory requirements and determining whether decades-old regulations have value today is an important undertaking. HANYS continues to urge the elimination of unnecessary or duplicative regulatory burdens that do not contribute to safety or quality, and to ensure rationality and reasonableness.

### **Maintenance of Current Funding for Distressed and Other Hospitals**

HANYS strongly supports the proposed funding of existing commitments for distressed, Critical Access, Essential, and Sole Community Providers through the Vital Access Provider Assurance Program/VBP Quality Improvement Program, and Vital Access Provider programs.

### **New Funding for Financially Struggling Hospitals**

While not in the proposed budget, HANYS strongly supports the development of new, additional funding to address critical needs of financially struggling hospitals in communities across the state.

### **Penalty for Potentially Avoidable Emergency Room Visits**

HANYS strongly opposes the proposed payment cut/penalty to hospitals for potentially avoidable ER visits. The Executive Budget has a \$23 million (total Medicaid) penalty and an outpatient reinvestment of \$3 million for a net

cut/penalty to ERs of \$20 million. While reducing avoidable ER visits is important for patients, and hospitals and health systems are working hard to address avoidable emergency room visits alongside their community partners and the DSRIP program, the penalty component is problematic as it holds hospitals responsible for issues beyond their control and fails to consider that hospitals must medically screen and stabilize patients coming to the ER, even if it is not an emergency.

### **Nursing Home Bed Hold Payments**

HANYS strongly opposes the Executive Budget proposal to eliminate payments for reserved bed days for nursing homes, effective April 1, 2017, and to continue the existing bed hold payment cut.

### **Outpatient Clinic Rate Increase**

While not in the proposed budget, HANYS is recommending an investment for targeted outpatient Medicaid rate adjustments based on transformational efforts to move care from costly inpatient settings to outpatient settings when appropriate.

### **Health Care Reform Act (HCRA)**

The Executive Budget extends HCRA for three years and similarly extends prior-year Medicaid reductions. HANYS supports the reauthorization of HCRA and safeguarding its many critical initiatives. HANYS opposes the extension of old cuts, including trend factor cuts. Healthcare providers have little control over major cost drivers and Medicaid has not provided a trend factor in a decade.

### **Other Hospital Cuts**

HANYS strongly opposes the \$10 million reduction in the current \$91 million hospital quality pool and an increase in the penalty for early elective deliveries by \$3 million for physician and hospital services.

### **Doctors Across New York**

HANYS urges the Legislature to provide an additional \$2 million for 50 new loan forgiveness and practice support awards.

### **Consolidation/Cut of Public Health and Workforce Programs**

HANYS opposes the Executive Budget proposal to consolidate various public health and workforce programs into four pools and cut the total funding for each pool by 20%.



## **Global Cap and Commissioner’s “Super Powers”**

The proposed budget extends, through March 31, 2019, the Commissioner of Health’s “super powers” to develop a Medicaid savings plan if Medicaid expenditures exceed the global cap and also redirects \$382 million from the Medicaid program for other purposes in the state budget—on top of funds that have previously been redirected. HANYS strongly opposes the redirection of Medicaid dollars for purposes outside of the global cap. HANYS recommends an assessment of the global cap in relation to its purpose, public policy, and adequacy.

## **Overall Budget “Super Powers”**

HANYS opposes the various provisions to provide unilateral authority to the Division of the Budget to reduce funding to a variety of healthcare and non-healthcare programs if revenues, including but not limited to revenue from the federal government, are less than anticipated.

## **Health Republic**

HANYS urges the allocation of adequate funding, either through settlement or other funding, to cover shortfalls related to the Health Republic liquidation.

## **Department of Financial Services (DFS) Oversight**

In light of the increasing uncertainties facing the insurance market and the upheaval caused by the shutdown of Health Republic Insurance of New York, HANYS supports strengthening the authority of the DFS Superintendent to intervene and supervise the operations of impaired insurers. The proposed authorization for administrative supervision will be an important mechanism for DFS to help protect consumers and providers from future insurer failures.

## **Minimum Wage**

HANYS supports the proposed funding of the direct costs of the minimum wage increase and urges consideration of full funding of the new increase.

## **Medicaid Managed Care and Managed Long-Term Care Premiums**

As Medicaid managed care and managed long-term care have grown, the issue of premium adequacy has similarly increased in importance. Premium adequacy, including pharmaceutical costs, is critical to ensure stability in the access to and the delivery of care.

## **Behavioral Health Reimbursement**

HANYS supports the Governor’s proposal to extend until 2020 the requirement that Medicaid managed care organizations reimburse at rates equivalent to the fee-for-service Ambulatory Patient Groups (APGs) for

outpatient behavioral health services. However, HANYS strongly opposes putting into law the specific value-based payment goals and timeframes for behavioral health providers. The state is already moving all provider groups toward VBP under the DSRIP program.

### **PCMH Enhanced Funding Reduction**

HANYS opposes the proposed \$10 million reduction to the enhanced funding for Patient-Centered Medical Homes (PCMHs) achieving specific levels of National Committee for Quality Assurance (NCQA) recognition. Providers are working hard to obtain and enhance their PCMH status. Reducing funding for PCMHs not achieving the highest levels of NCQA recognition could undermine their work.

### **Food Waste Recycling Program**

HANYS strongly opposes the inclusion of hospitals and nursing homes in this proposal, which requires designated high-volume food waste generators, as determined by the Department of Environmental Conservation, to separate excess edible food for donation to food banks and food scraps to animal feed operations, anaerobic digesters, or other composting and organics recycling facilities if they are located within 50 miles of such a facility. Hospitals and nursing homes must already comply with very stringent federal and state regulations related to medical waste and are not appropriate for inclusion. Limited financial resources should be devoted to meeting the healthcare needs of millions of New Yorkers.

### **Hospital-Based Addiction Treatment Services**

HANYS strongly encourages the addition of funding in the budget for hospital-based/hospital-run addiction treatment programs to improve access to these critically needed services for all patients throughout New York State.

**We thank you for your partnership and understanding of the challenges faced by New York's healthcare providers, and look forward to working with you.**