

**NYSPA EXECUTIVE COMMITTEE MEETING
Conference Call
January 28, 2020**

8:00 P.M.

- 1. December 17, 2019 Minutes**
- 2. Financial Statement**
- 3. Dues Comparison Statement**
- 4. PAC Financial Statement**
- 5. Albany Report**
- 6. MSSNY Sign-On Letter Regarding Executive Budget**



New York State Psychiatric Association, Inc.

Area II Council of the American Psychiatric Association
400 Garden City Plaza, Garden City, New York 11530 • (516) 542-0077

MINUTES OF THE MEETING OF THE EXECUTIVE COMMITTEE December 17, 2019 Meeting by Conference Call

PRESENT:

JEFFREY A. BORENSTEIN, M.D., President
EDWARD HERMAN, M.D., Vice President
MARVIN KOSS, M.D., Treasurer
VIVIAN PENDER, M.D., Area II Trustee
JEFFREY FREEDMAN, M.D., Chair, Public Affairs
RICHARD GALLO, Legislative Consultant
JAMIE PAPAPETROS, Legislative Staff
SETH P. STEIN, ESQ., Executive Director
RACHEL FERNBACH, ESQ., Deputy Director
DONNA GAJDA, Coordinator

Dr. Borenstein called the meeting to order. The following issues were discussed:

1. **Minutes.** The minutes for the September 10, 2019 Executive Committee meeting were reviewed and accepted.
2. **Financial Statement.** The Committee reviewed the financial statement for the period January through November, 2019. Mr. Stein reported that there will be major CPT coding changes coming in 2021. The changes will require that changes be made to our current documentation templates. NYSPA will offer trainings in 2020 and non-dues revenue will likely be increased as a result of non-member trainings.
3. **2018 Independent Auditor's Report.** The Committee reviewed the 2018 Independent Auditor's Report. Mr. Stein asked the members to review the audit and to contact him with any questions.
4. **Dues Comparison Statement.** The Committee reviewed a dues comparison statement for the months of October through December for the years 2010 through 2019.
5. **PAC Financial Statement.** The Committee reviewed a PAC financial statement for the period January through November, 2019. Mr. Stein reported that contribution income remains steady and the number of PAC contributors has increased in 2019.
6. **Albany Report.** In addition to the written report that was distributed to the Executive Committee, Mr. Gallo reported on the following items:

The Raise the Age New York Campaign has asked NYSPA to create and op-ed piece that addresses the implementation of the Raise the Age Law and the disparity between regulations

recently adopted by DOCCS permitting the use of solitary confinement and youth and the OCFS regulations for juveniles under its jurisdiction. Mr. Gallo stated that a draft op-ed was included with tonight's packet for the Committee's review. The Committee agreed that the op-ed should be sent, with edits, and discussed to which news outlets the op-ed will be sent.

The Governor signed legislation requiring providers who plan to cease operations in New York State to make a good faith effort to inform current patients of their closing and of their right to have records transferred to a provider or facility of their choice.

The Governor also signed into law five bills related to veterans, none of which NYSPA opposed.

Vetoed by the Governor were bills that would have authorized licensed clinical social workers in private practice to bill Medicaid and licensed mental health practitioners in private practice to bill Medicaid. A bill that would have required insurers and health plans to cover care and treatment provided by licensed mental health practitioners was also vetoed.

The following two bills are still pending delivery to the Governor: S.4808 (Harckham)/A.2094 (Quart) prohibits insurers and health plans from requiring prior authorization for the initial or renewal of prescription for all buprenorphine products, methadone or long-acting injectable naltrexone for detoxification or maintenance treatment of substance use disorder; S.5935-A (Harckham)/A.7246-B (Rosenthal) prohibits prior authorization under Medicaid for all buprenorphine products, methadone or long-acting injectable naltrexone for detoxification or maintenance treatment of substance use disorder.

Also pending delivery to the Governor is a bill to prohibit mid-year formulary changes and two bills related to medical malpractice.

Pursuant to the Mental Health (MH) and Substance Use Disorder (SUD) Parity Report Act, insurers and health plans have submitted reports to the DFS for two-year periods beginning with 2017-2018 measuring compliance with federal and state MH and SUD parity laws.

7. VMH-PCTI Update. Mr. Gallo reported that NYSPA, MSSNY and NASW-NYS will hold a joint VMHTI conference at HNA Palisades Premier Conference Center in Palisades, NY on Friday, May 1, 2020 and Saturday, May 2, 2020. Mr. Gallo also reported that NYSPA commissioned the development of two new presentations, one on military culture and the other on women veterans' issues. Once the presentations are finalized, they will be followed by train-the-trainer sessions. NYSPA contracted with the Research Foundation for Mental Hygiene to record two webinars and one of those webinars has now been completed. Finally, Dr. Goodman testified on behalf of NYSPA on the VMH-PCTI at a recent public hearing, held by Senator Carlucci, related to veterans' mental health and well-being.

8. 2020 Webinar Update. Ms. Fernbach provided a brief summary of the content to be covered on the 2020 Medicare Update Webinar to be held at 8:00 pm on Thursday, December 18, 2019.

There being no further business, the meeting was adjourned.

**New York State Psychiatric Association
Financial Statement**

	Restricted Jan-Dec, 2019	Unrestricted Jan-Dec, 2019	Restricted Jan-Dec, 2018	Unrestricted Jan-Dec, 2018	Restricted Jan-Dec, 2017	Unrestricted Jan-Dec, 2017
Opening Fund Balance	208,075.24	218,664.58	231,282.24	228,729.84	121,839.97	299,573.51
Income						
Dues						
Prior Years		510.02				199.00
Immediate Prior Year		8,394.15		6,897.50		5,126.81
Current Year		306,677.81		316,514.35		280,440.80
Following Year		60,230.00		87,248.61		79,135.49
Total Dues		375,811.98		410,660.46		364,902.10
Veterans Grant Income	150,000.00				150,000.00	
APA Meeting Block Grant		30,650.00		30,650.00		30,650.00
APA Expedited Grant		2,777.78		2,830.18		2,586.00
APA, Inc. Meeting Grant		3,995.00		7,191.00		
RxNT Endorsement Income						5,667.52
Dr. First Endorsement Income				10,000.00		
PRMS Sponsorship		25,000.00		25,000.00		25,000.00
Webinar Income				1,250.00		
Administrative Fees from Grant		16,244.24		3,027.00		4,062.42
Miscellaneous Income		425.00		1,875.33		1,200.00
Interest		2,670.38		957.91		714.99
Total	150,000.00	457,574.38	0.00	493,441.88	150,000.00	434,783.03
Grant Expenses						
Accounting/Audit	9,500.00				9,337.50	
Program Expenses	98,794.95		20,180.00		27,157.81	
Administrative Fees	16,244.24		3,027.00		4,062.42	
Expenses						
Advocacy Day Expenses		250.00				
APA Innovative Grant Expense				3,707.52		1,140.66
Awards				967.99		
Committees		378.63				61.43
Officers/Delegates		445.25		1,718.95		901.62
Email Expenses		1,343.53				2,382.12
Exec Dir/Legal/Central Office		309,999.96		304,999.92		300,000.00
Insurance		2,603.13		2,656.11		2,676.26
Journal Ads		3,450.00				3,300.00
Legislative Ad						2,000.00
Legislative		148,594.63		146,719.81		145,412.29
Meeting Expenses		32,452.59		34,745.42		36,059.77
ECP Dinner Meeting						2,398.95
RFM Scientific Paper Contest		1,016.61		929.31		1,281.81
RFM Poster Contest		523.36		488.19		504.79
Webinar Expenses		1,880.70		1,836.16		1,836.16
Website		5,391.42		3,765.67		4,650.60
Internal Revenue Service (for 990T)				26.00		
NY State Corporation Tax		250.00				250.00
NYAM Joint Program Expense		1,000.00				
Miscellaneous		653.09		946.09		770.24
Total Expenses	124,539.19	510,232.90	23,207.00	503,507.14	40,557.73	505,626.70
Surplus	25,460.81	-52,658.52	-23,207.00	-10,065.26	109,442.27	-70,843.67
Fund Balance	233,536.05	166,006.06	208,075.24	218,664.58	231,282.24	228,729.84

Dues Income	October	November	December	End of Year Total	January	Total through June
2010-2011	14,605	91,371	44,838	150,815	69,101	219,916
2011-2012	15,190	83,220	41,693	140,103	70,981	211,084
2012-2013	14,636	74,259	38,841	127,736	72,562	200,298
2013-2014	11,924	75,397	41,955	129,275	85,030	214,306
2014-2015	21,960	67,357	41,233	130,550	69,710	200,260
2015-2016	21,045	73,868	41,805	136,718	104,297	241,014
2016-2017	16,326	72,458	39,113	127,896	102,690	230,586
2017-2018	6,625	26,321	62,881	95,828	133,834	229,662
2018-2019	11,452	39,282	52,916	103,650	103,593	207,244
2019-2020	6,294	55,190	46,407	107,891	114,895	222,786

New York State Psychiatric Political Action Committee, Inc.
Financial Statement

	Jan-Dec, 2019	Jan-Dec, 2018	Jan-Dec, 2017
Opening Balance	5,368.92	8,221.60	7,441.79
Receipts			
Contributions	25,310.00	25,459.50	25,040.00
APA Contributions	1,665.00	715.00	400.00
Total Contributions	26,975.00	26,174.50	25,440.00
Disbursements			
Cuomo 2018	2,500.00	2,500.00	2,500.00
Citizens for Hannon		1,000.00	1,000.00
NYS Senate Republican Campaign Committee	1,000.00	5,200.00	4,000.00
Democratic Senate Campaign Committee	4,500.00	2,500.00	
Democratic Assembly Campaign Committee	2,000.00	3,000.00	2,000.00
Republican Assembly Campaign Committee	500.00	500.00	500.00
Friends of Andrea Stewart-Cousins	2,000.00	1,000.00	500.00
Friends of Toby Ann Stavisky	1,000.00	300.00	300.00
Citizens Committee to Re-Elect Ken LaValle	250.00	1,000.00	1,000.00
Latimer for Senate			250.00
Friends of Patricia Fahy	250.00	250.00	
New Yorkers on the Ball			250.00
Friends of Senator Seward		500.00	500.00
David Carlucci for New York	2,000.00	350.00	500.00
Friends of David Weprin	250.00	250.00	250.00
Cathy Young for Senate		500.00	
Friends of Tom Croci			850.00
Friends of John Flanagan	500.00	1,600.00	1,100.00
George Amedore for Senate	300.00	250.00	250.00
Boyle for Senate			250.00
Rob Ortt for State Senate	500.00	1,750.00	1,750.00
Savino 2018	500.00	500.00	500.00
McDonald for Assembly	400.00	250.00	300.00
Jeff Klein Excelsior		750.00	1,000.00
Friends of Marco Crespo	500.00	500.00	500.00
Committee to Elect Aileen Gunther	500.00	500.00	500.00
Sepulveda for Senate	500.00		
Gustavo Rivera for State Senate	1,000.00		
Friends of Senator Breslin	500.00		
Fred Akshar for our Future		350.00	
Friends of Dick Gottfried	500.00	500.00	500.00
Friends of Crystal People-Stokes	750.00		
Citizens for Lentol	500.00	500.00	500.00
Citizens for Alcantara			250.00
Santabarbara for Assembly	300.00		
Friends of Senator John Brooks	500.00		
Pete Harckham for Senate	500.00		
Friends of Carle E. Heastie	1,000.00	1,000.00	1,000.00
Friends of Abinanti	250.00	250.00	250.00
Total Donations	25,750.00	27,550.00	23,050.00
Bank Fees	1,495.98	1,477.18	1,610.19
Total Disbursements	27,245.98	29,027.18	24,660.19
Fund Balance	5,097.94	5,368.92	8,221.60
Total Number of Contributors	175	159	167

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ALBANY REPORT FOR EXECUTIVE COMMITTEE MEETING TUESDAY, JANUARY 28, 2020

GLENN MARTIN, M.D., CHAIR OF COMMITTEE ON LEGISLATION

Prepared by:
Richard J. Gallo
Jamie Papapetros

I. UPDATE ON GOVERNOR'S ACTION ON BILLS SINCE LAST EXECUTIVE COMMITTEE MEETING

- **S.4808 (HARCKHAM)/A.2904 (QUART)** – The bill prohibits insurers and health plans from requiring prior authorization for the initial or renewal prescription for all buprenorphine products, methadone or long acting injectable naltrexone for detoxification or maintenance treatment of substance use disorder. This legislation goes beyond what was enacted as part of the Behavioral Health Insurance Parity Reforms in the 2019-20 state budget, which prohibits prior authorization for formulary forms of these medications. *STATUS: Governor Cuomo signed the bill (A.2904) into law on December 31, 2019, as Chapter 748 of the Laws of 2019.*
- **S.5935-A (HARCKHAM)/A.7246-B (ROSENTHAL)** – The bill prohibits prior authorization under Medicaid for all buprenorphine products, methadone or long acting injectable naltrexone for detoxification or maintenance treatment of substance use disorder. This bill would go beyond legislation enacted in 2016, which prohibits prior authorization in Medicaid for the initial and renewal prescriptions for *preferred* buprenorphine or injectable naltrexone medications. *STATUS: Governor Cuomo vetoed the bill (S.5935-A) on January 1, 2020, citing Medicaid's budget deficit.*
- **S.2849-A (BRESLIN)/A.2969-A (PEOPLES-STOKES)** – The bill significantly curtails the ability of insurers and health plans from making mid-year formulary changes. The legislation provides certain exceptions when insurers and health plans can change their formulary within a plan year as follows: (1) moving a medication into a tier with higher patient cost sharing only if they add an AB-rated generic equivalent or interchangeable biological equivalent at the same time; and (2) removing a medication if the Federal Food and Drug Administration determines it should be pulled from market. *STATUS: Governor Cuomo vetoed the bill (A.2969-A) on December 23, 2019, citing the potential for an increase in insurance premiums. The veto message (No. 245) states in part, "The legislation would prevent any mid-year adjustments. Insurers would have to anticipate and set rates for hypothetical future drug price increases, causing higher premiums for everyone. Meanwhile, pharmaceutical companies would be able to raise their prices with impunity. While it is couched as protective of consumers, this bill would in fact be anti-consumer, driving rate increases across the board. For these reasons, I am constrained to veto this bill."*
- **S.6081 (HOYLMAN)/A.2372 (DINOWITZ)** – The bill would require a non-settling co-defendant in an action, where another co-defendant has previously settled, to choose whether to reduce his or her liability exposure by the stated settlement amount or the settling of the tortfeasor's equitable share prior to the start of the trial. *STATUS: Governor Cuomo vetoed the bill (S.6081) on December 20, 2019, citing its potential to "... unfairly tip the balance too far in favor of a settlement."*
- **S.6552 (SKOUFIS)/A.2373 (DINOWITZ)** – The bill authorizes a plaintiff to bypass the defendant originally sued to collect a judgement from a third party defendant that been sued for contribution or indemnification as a result of the underlying action. *STATUS: Governor Cuomo vetoed the bill (S.6552) on December 26, 2019, citing the potential increase in insurance premiums.*

II. NEW BILLS OF NOTE (IN ORDER OF SENATE BILL NUMBER)

- **S.6687 (HOYLMAN)/A.8543-A (FERNANDEZ)** – Modeled off of a law enacted in Oregon in 2018, the bill amends State Education Law to allow a student to be absent from school for mental or behavioral health reasons pursuant to regulations promulgated by the Commissioner of Education. *STATUS: The bills were referred to the Senate and Assembly Education Committees.*
- **S.6831 (HOYLMAN)/A.8820 (DINOWITZ)** – The bill would amend New York’s Civil Practice Law and Rules to prohibit the application for admission (New York State Bar Application) to practice law in New York State from including questions that require the disclosure of mental health and substance use disorder diagnosis and treatment. Currently, Question 34 of the application to practice law in New York State inquires if the applicant “currently have any condition or impairment including, but not limited a mental, emotional, psychiatric, nervous or behavioral disorder or condition, or an alcohol, drug or other substance abuse condition or impairment or gambling addiction, which in any way impairs or limits” as well as their ability to practice law and additional information if answered in the affirmative. Removal of the question regarding mental health and substance use disorders is supported by the New York Bar Association, which had a work group examine the issue that concluded that such a question did not “reliably, uniformly, fairly and consistently identify applicants who suffer from a disqualifying mental health condition and prevent their admission.” Removal of the question is also supported by the American Bar Association, New York City Bar Association, the National Conference of Chief Justices and the Deans of New York’s law schools. *STATUS: The bills were referred to the Senate and Assembly Judiciary Committees.*
- **S.7010 (CARLUCCI)/NO SAME AS** – The legislation directs the Department of Health (DOH) to study the issues, implications, practices and correlations between pharmaceuticals and suicide. If enacted, the legislation would require DOH to publish a report of its findings and recommendations by December 31, 2020. *STATUS: The bill is in the Senate Health Committee.*
- **S.7015 (CARLUCCI)/NO SAME AS** – The legislation would authorize the establishment of local or regional accidental fatality review teams to gather localized and comprehensive data on deaths caused by overdose or suicide. The teams would consist of representatives from the Department of Health, County Department of Health, Office of Mental Health, Office of Alcoholism and Substance Abuse Services, County Department of Mental Health, Office of Medical Examiner or office of the coroner, office of district attorney, office of county attorney, local and state law enforcement, emergency medical services, a physician or comparable medical professional, and a substance use program provider. *STATUS: The bill (S.7015) is in the Senate Health Committee.*
- **S.7049 (CARLUCCI)/NO SAME AS** – The legislation would establish a nine member attention deficit hyperactivity disorder (ADHD) suicide prevention task force to examine, evaluate and evaluate how to improve mental health and prevent suicide among New York residents aged 3 through 18 impacted by ADHD. The legislation would require the task force to prepare a preliminary report of its finding, conclusions and recommendations within thirteen months of enactment and a final report within twenty-four months of the enactment of the bill. *STATUS: The bill (S.7049) is in the Senate Mental Health & Developmental Disabilities Committee.*
- **S.7065 (SANDERS)/A.1589-A (ABINANTI)** – The legislation would require a purchaser of a firearm, rifle or shotgun to submit to a mental health evaluation and provide the seller with notification of his approval. The legislation further stipulates the OMH Commissioner would promulgate regulations outlining the mental health professionals who would be approved to perform evaluations, the process to be used by mental health professionals and the development of a standardized form to be used. *STATUS: The bill is in the Senate Consumer Protection Committee and the Assembly Codes Committee.*
- **S.7102 (BENJAMIN)/NO SAME AS** – The legislation would amend the section of law mandating prescribers of controlled substances to complete three hours of training every three years pursuant to the I-STOP Law, to include curriculum “... on techniques that will reduce the likelihood of overdose and others harms related to the use of controlled substances and medications used for the treatment of addiction, including information about becoming a buprenorphine prescriber.” The bill would impact those prescribers registering after July 1, 2021. *STATUS: The bill is on third reading on the Senate calendar.*
- **S.7120 (CARLUCCI)/NO SAME AS** – The legislation would amend the Article 17 of the New York State Constitution pertaining to the protection and promotion of the health of the inhabitants of the state to include explicit mention of physician and mental health. If enacted Article 17 of the State Constitution would read, “The protection and promotion of the **physical and mental** health of the inhabitants of the state are matters of public concern and provision therefor shall be made by the state and by such of its subdivisions and in such manner, and by such means as the legislature shall from time to time determine.” Note - Since this legislation is a proposed constitutional amendment, it requires passage by two successive Legislatures before being put on the ballot for voter approval. *STATUS: The bill (S.7120) was referred to Senate Judiciary Committee.*
- **S.7138 (HOYLMAN)/A.9032 (LENTOL)** – The legislation would enact the Student Suicide Prevention Act, would require all school boards serving students in grades 7 through 12 to adopt a policy on student suicide prevention,

intervention, and postvention in time for the 2020-21 school year. **STATUS: The bills are in the Senate and Assembly Education Committees.**

- **S.7032 (CARLUCCI)** – The legislation would require all pediatric primary care physicians to complete a continuing medical education course on children’s mental health, which could include courses provided by OMH’s Project TEACH Program. **STATUS: The bill (S.7032) is in the Senate Higher Education Committee.**
- **S.7042 (HARCKHAM)/A.9541 (CUSICK)** – The bill would require that all intake forms for admission or residency to any hospital, nursing home, assisted living facility or homeless shelter that require information regarding an applicant’s military status phrase the question as follow: “Have you ever served in the military?” **STATUS: The bill is in the Senate Veterans, Homeland Security and Military Affairs Committee and Assembly Veterans’ Affairs Committee.**
- **S.7253 (CARLUCCI)/NO SAME AS** – The bill amends State Insurance Law to require coverage an annual mental health care visit (similar to coverage for yearly physical). **STATUS: The bill is in the Senate Insurance Committee.**

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GLENN MARTIN, M.D., CHAIR OF COMMITTEE ON LEGISLATION

Prepared by:
Richard J. Gallo
Jamie Papapetros

PRELIMINARY REPORT ON GOVERNOR'S 2020-21 EXECUTIVE BUDGET PROPOSAL: \$178 BILLION (ALL FUNDS) PLAN FOR NEW YORK CLOSING \$6.1 BILLION BUDGET DEFICIT, MEDICAID REDESIGN TEAM TO BE RE-LAUNCHED TO FIND \$2.5 BILLION IN RECURRING SAVINGS WITHOUT IMPACTING COUNTIES & MEDICAID BENEFICIARIES

LEGISLATURE RELEASES PUBLIC HEARING SCHEDULE AS BUDGET PROCESS STARTS (APRIL 1 DEADLINE)

Governor Cuomo delivered his Executive budget proposal for fiscal year 2021 on Tuesday, January 21, 2020 before a packed audience consisting of Senators, Assemblymembers, lobbyists and advocates, all of whom were eager to see how the \$6.1 billion budget deficit would be addressed. The nearly one hour long presentation once again highlighted the major priorities the Governor outlined in his State of the State address, ranging from a plan for addressing climate change, health care including the Medicaid shortfall, women's health and ethics. The presentation sets out the stakes for budget negotiations that will now commence and continue up until the April 1 deadline. The Senate and Assembly have announced the schedule for the thirteen legislative budget hearings to collect testimony from advocates and impacted groups and stakeholders (schedule at the end of the report).

While we continue to review the thousands of pages of budget bills, below is a summary of some the pertinent areas of interest with further analysis to be provided in the coming days and weeks.

STATE FISCAL PICTURE

In terms of the overall numbers, Governor Cuomo proposes a \$178 billion budget (all funds) for 2020-21, an overall increase of 2.0 percent. The Governor continued his pledge to keep growth in State Operating funds below 2.0 percent coming in at \$105.8 billion, a 1.9 percent increase. The budget closes a \$6.1 billion budget deficit, attributing \$4 billion of the deficit to New York's Medicaid program due to rising enrollment, increased managed long-term care costs and wage costs as a result of the minimum wage increase. To close the budget deficit, the Governor proposes a series of actions including:

	FY 2020	FY2021	% CHANGE
State Operating Funds	\$103.9 B	\$105.8 B	1.9%
School Aid	\$27.7 B	\$28.5 B	3.0%
Medicaid	\$19.4 B	\$20.0 B	3.0%
Executive Agencies	\$10.5 B	\$10.6 B	1.0%

- \$1.8 billion in local assistance savings from targeted actions and continuation of prior-year cost containment efforts.
- \$359 million in savings from state agency operations.
- Projecting an additional \$2 billion in tax revenue

- Relaunch of the Medicaid Redesign Team (MRT II) to develop a plan for achieving \$2.5 billion in recurring savings, which is to be adopted as part of the 2020-21 budget. MRT II will be chaired by Michael Dowling, president and chief executive officer of Northwell Health, and Dennis Rivera, former chair of SEIU 1199. (Additional details below)
- Other revenue actions include increasing fees/surcharge for certificate of need applications for hospital construction projects and tax revenue from legalization of adult use cannabis.

In terms of the other big ticket items, the 2021 Executive budget proposal calls for 3 percent increase (\$826 million) in school aid bringing the State’s overall annual investment to \$28.5 billion, \$7.8 billion in State support for higher education, continuation of middle class tax cuts that will impact nearly 5 million New Yorkers with \$1.8 billion in savings, reducing the corporate tax rate for small business to 4 percent (from 6.5 percent) benefiting nearly 36,000 small businesses and guaranteeing paid sick leave for employees.

MENTAL HYGIENE

The mental hygiene agencies, which includes the Office of Mental Health (OMH), the Office for People with Developmental Disabilities (OPWDD), Office of Alcoholism and Substance Abuse Services (OASAS), as well as the Developmental Disabilities Planning Council (DDPC), Justice Center for the Protection of People with Special Needs, serve more than 1 million individuals on an annual basis, including an estimated 800,000 with mental illness, 240,000 with substance use disorders or gambling problems and 140,000 with developmental disabilities. The Executive Budget proposes **\$7.8 billion in funding, reflecting an annual spending growth of \$299 million or 4.0 percent. Here is the breakdown provided in the budget briefing materials:**

Category	FY 2020 (millions)	FY 2021 (millions)	Change	
			Dollar (in millions)	Percent
OPWDD	3,752.1	3,953.8	201.7	5.4
OMH	3,049.3	3,121.7	72.4	2.4
OASAS	638.4	662.2	23.8	3.7
Justice Center	43.7	45.2	1.5	3.4
DDPC	4.2	4.2	0.0	0.0
Subtotal	7,487.7	7,787.1	\$299.4	4.0
Adjustments – OPWDD¹	(611.0)	(1,974.6)	(1,363.6)	(N/A)
Adjustments – OMH¹	0.0	(220.0)	(220.0)	(N/A)
Total	6,876.7	5,592.5	(1,284.2)	(18.7)

¹Adjustments reflect OPWDD and OMH programmatic spending that is paid for with available resources under the Medicaid Global Cap. There are no budgetary reductions or impacts to mental hygiene program spending as a result of these interactions. In addition these amounts, Federal Medicaid spending for these agencies is reflected in the Department of Health budget.

NOTABLE PROVISIONS FOR MENTAL HYGIENE

- MH/SUD Parity Enforcement and Compliance – Budget proposes the establishment of the Behavioral Health Parity Compliance Fund, which would consist of funds collected from penalties assessed on insurance carriers who violate New York’s MH/SUD parity laws. In addition, regulations to strengthen compliance with the behavioral health insurance parity reforms adopted as part of the 2019-20 budget will be released by October 2020.
- \$3 million in loan forgiveness for psychiatrists who agree to work for a period of at least five years in one or more hospitals or outpatient programs operated by the Office of Mental Health (OMH) or deemed to be in one or more underserved areas as determined by the OMH Commissioner.
- \$1.5 million permanent and annual appropriation for SUD/MH Ombudsman – Established as part of 2018-19 state budget, the ombudsman is a joint program of the Office of Alcoholism and Substance Abuse Services (OASAS) and

Office of Mental Health (OMH), which helps individuals and families navigate health insurance coverage for mental health and substance use disorders as well as investigating complaints and issues related to denied or delayed care.

- Comprehensive Psychiatric Emergency Programs (CPEP) – Executive budget extends authorization for the CPEP through July 1, 2024 (currently set to expire July 1, 2020). The provisions would also extend the time an individual can held in CPEP for emergency observation, care and treatment from 72 hours to 96 hours and allow for triage and referral services by a physician or psychiatric nurse practitioner.
- \$150,000 re-appropriation for NYSPA’s Veterans Mental Health – Primary Care Training Initiative
- Investments in infrastructure – (1) Executive proposed an additional \$100 million to support the replacement of the Mid-Hudson Forensic Psychiatric Center, which includes buildings that are over a century old; and (2) \$60 million to maintain and preserve community-based residential facilities.
- Transform Kingsboro Psychiatric Center into Recovery Hub – Executive budget proposes plan to develop a voluntary-operated step-down transition to community residence on the Kingsboro Psychiatric Center campus with the “recover hub facility” focused on shortening lengths of stay.
- Jail-Based Restoration to Competency Demonstration Program – Executive budget includes a proposal for OMH to establish jail-based restoration-to-competency programs in county jails on a voluntary basis. This would authorize local correctional facilities (outside of New York City) to operate residential mental health units to house, treat and restore felony-level defendants to competency as they await trial.
- Sex Offender Management Treatment Act (SOMTA) Population Reforms – Executive budget proposes the establishment a separate and distinct treatment program for sex offenders under SOMTA. Currently, the SOMTA population is comingled with the forensic population at OMH’s forensic psychiatric centers. The proposal would separate these two populations and staff and projected to save \$2.5 million.
- \$20 million to support existing community-based residential programs
- \$12.5 million to support individuals living in adult homes in New York City who wish to transition into more integrated settings
- \$500,000 for the School Mental Health Resource and Training Center
- \$1 million for services and expenses related to suicide prevention efforts for veterans, first responders, law enforcement and corrections officers
- \$170 million to support to provide 2 percent increase for direct care staff and clinical staff at not-for-profits licensed, certified or otherwise authorized by OPWDD, OMH and OASAS.

HEALTH CARE

- Physician Profile Enhancements – Executive budget proposes requiring a physician’s profile, via DOH’s Physician Profile Website, <https://www.nydoctorprofile.com/>, to include hours of operation, availability for taking new patients and availability of assistive technology. The provisions would authorize a physician to designate an employee or contractor to be responsible for physician profile reporting.
- Physician Integrity & Accountability – Proposal to assure DOH’s Office of Professional Medical Conduct (OPMC) has the tools to investigate, discipline and monitor physicians, physician assistants, and specialist assistants licensed in New York. The reforms would make it easier for OPMC to inform public when physician is under investigation and to summarily suspend license during investigation bypassing important due process protections. The reforms also include:
 - Eliminate the indefinite licensure of physicians and instead require the maintenance of registration over two consecutive registration periods.
 - Require a fingerprint-based criminal history background check prior to licensure.
 - Expand the definition of professional misconduct to include complaints that are resolved by stipulation or agreement before an adjudicatory proceeding.
 - Allow publication of administrative warnings and consultations.
 - Require licensee to notify DOH within twenty-four hours of being charged with a crime.
 - Grant DOH Commissioner the discretion to disclose information about OPMC investigations.
 - Require the Executive Secretary of OPMC to serve at direction of DOH Commissioner instead of the chairperson.

- MSSNY has launched a call to action asking physician to write to their legislators today at <https://p2a.co/hn9SSVu>.
- Certificate of Need Surcharge – Executive budget proposes a 3 percent surcharge on the total capital value of CON applications, which is expected to generate \$70 million in additional revenue. The language does provide DOH Commissioner with the authority to exempt certain CON applications from the surcharge via criteria established in regulation.
- Extend the Physician Excess Medical Malpractice Program for one year with \$105,100,000 appropriation.
- Regulation, licensure and oversight of pharmacy benefit managers.
- Lowering Cost of Prescription Drugs with three part plan: (1) cap insulin copayments at \$100 per month for insured patients; (2) empower DFS to investigate drug manufacturers when the price of a drug has increased by more than 100 percent in a one year time period; and (3) establish commission to study feasibility and benefit of a Canadian drug importation program and submit plan to U.S. Department of HHS.
- Increasing Transparency in Healthcare Costs – Establish a new website to be known as NYHealthcare Compare, which would allow New Yorkers to compare the cost and quality of health procedures at hospitals around the State. The press release indicates the website would allow New Yorkers to: (1) See cost, quality and volume by specific hospital, (2) search by medical procedure costs, and (3) Search affordability questions.
- Addressing Concerns with E-Vaping – Proposals include: (1) banning the sale of flavored nicotine vaping products; (2) restricting vaping ads targeted to youth; (3) banning the sale of vaping carrier oils; (4) limit the online sales of vaping products to licensed vaping product retailers only; (4) end the sale of tobacco and e-cigarettes products in pharmacies; and (5) Expand Clean Indoor Air Act to include place of employment.
- Department of Financial Services, in consultation with the Department of Health, will convene a work group to study and evaluate mechanisms to reduce health care costs and complexities.
- Clarify State insurance law regarding when payers to clarify that when payers seek to down-code claims submitted by providers, those down-coding decisions should be based on national coding guidelines accepted by the Centers for Medicare & Medicaid Services (CMS) and/or the American Medical Association (AMA), and increases the period over which a payer is required to pay interest if claims payment are not timely.
- Collaborative Drug Therapy Management – Executive budget proposes making permanent a demonstration program that authorizes pharmacists to perform collaborative drug therapy management with a physician and proposes expanding it to include nurse practitioners and physician assistants. The provisions continue the voluntary basis of the program and state the professional judgement of the physician, nurse practitioner or physician assistant shall prevail when there is a disagreement with pharmacist. We are still reviewing this proposal in closer detail.
- Transfer the authority of the Eating Disorder and Comprehensive Care Centers for Eating Disorders program from DOH to OMH.

MEDICAID

- Relaunch of the Medicaid Redesign Team (MRT II) to develop a plan for achieving \$2.5 billion in recurring savings, which is to be adopted as part of the 2020-21 budget. MRT II will be chaired by Michael Dowling, president and chief executive officer of Northwell Health, and Dennis Rivera, former chair of SEIU 1199. The Governor’s budget address directed the \$2.5 billion in savings would have to be achieved with zero impact on local governments and beneficiaries and instead focus on rooting out waste, fraud and abuse.
- MRT II DIRECTIVES**

 - Zero impact on local governments
 - Zero impact on beneficiaries
 - Find industry efficiencies and/or additional industry revenue
 - Root out waste, fraud and abuse
 - Report back in time for April 1st deadline
- In order for the State to continue subsidizing the counties growth in Medicaid costs, to the tune of \$20 billion, the Executive budget proposes reform: State will continue to pay the entire increase in Medicaid costs for counties as long as they stay within the 2 percent property tax cap and control Medicaid costs to 3 percent growth per year. If the county does not stay within the 2 percent property tax cap it would be on the hook to pay for the spending growth.

COMBATTING OPIOID EPIDEMIC

- Legislation to designate fentanyl analogs as controlled substances and empower DOH's Commissioner the authority to add additional analogs to the list of controlled substances.
- 200 new residential treatment beds by end of fiscal year 2022
- Expand Medication-Assisted Treatment (MAT)

RAISE THE AGE/JUVENILE JUSTICE

- The Article VII Public Protection Bill contains a number of raise the age reforms as follows:
 - Repeals statutory authority for adolescent offender (AO) facilities created by Raise the Age
 - Creates new section of Correction Law requiring all AOs to be transferred from NYS Department of Corrections and Community Supervision (DOCCS) to OCFS facilities by 10/1/2020
 - Transfer plan to be developed by DOCCS and OCFS by 7/1/2020
 - AOs sentenced 60 days after bill becomes law cannot be sentenced to DOCCS, only OCFS secure
 - AOs can continue to serve sentences in specialized secure detention facilities (SSD) if sentence does not exceed 1 year
 - AOs can be held in OCFS facilities until 21 (like JOs)
- Raise the Age Appropriations
 - \$250 million in Aid to Localities to provide for continued implementation of Raise the age law subject to the tax cap and approval of local implementation plan
 - \$49,995,000 of \$50,000,000 re-appropriation in capital projects
 - \$62,425,000 of \$110,000,000 re-appropriation in capital projects
- Planned closure in 2021 of OCFS' Sergeant Henry Johnson Youth Leadership Academy (YLA) in Delaware County, which has a bed capacity for 25 but only has 8 youth currently placed. The 1 year notice for closure will be issued in 2020. The facility had been housing males between the ages of 13 and 18 who have been adjudicated juvenile delinquents and placed with the Family Court.

LEGALIZE ADULT-USE CANNABIS

Proposal calls for the establishment of the Office of Cannabis Management to oversee medical, adult-use cannabis and hemp programs. The Office of Cannabis Management would be housed within the Division of Alcohol Beverage Control and be governed by a five-member Cannabis Control Board overseeing the adult-use, medical and cannabinoid hemp industries. The Office of Cannabis Management would be led by an Executive Director who would be required to appoint a duly licensed physician as deputy director for health and safety responsible for overseeing the medical cannabis program and all clinical aspects of the office.

- The sale of cannabis would be limited to those over the age of twenty-one.
- Counties and cities with a population of 100,000 or more could opt-out of allowing sales of recreational marijuana through passage of local law, ordinance or resolution. Furthermore, counties, cities, towns, and villages will be able to dictate the hours of operation and location of licensed adult-use cannabis retail dispensaries within their jurisdiction, through local zoning powers.

The proposal includes taxation on adult-use of cannabis as follows:

- "The cultivation of cannabis is taxed at the rate of \$1 per dry weight gram of cannabis flower, \$0.25 per dry weight gram of cannabis trim, and \$0.14 per gram of wet cannabis;
 - The sale by any entity to a retail dispensary is taxed at a rate of 20 percent of the invoice price; and
 - The same sale by any entity to a retail dispensary is taxed at a rate of two percent of the invoice price but collected in trust for and on account of the county or a city with a population of a million or more in which the retail dispensary is located."
- Other related proposals: establish the SUNY Global Cannabis Center for Science, Research and Education

GUARANTEED PAID SICK LEAVE

- Proposal to guarantee paid sick leave – This would require business with five to ninety-nine employees to provide employees with at least five days of paid sick leave per year. Those businesses with more than 100 employees would be required to provide at least seven days of paid sick leave per year. Business with four or fewer employees would be required to provide at least five days of unpaid sick leave per year.

TAX RATES FOR INDIVIDUALS & BUSINESSES

- Reducing the tax rate for small business to 4 percent (from 6.5 percent) for those small businesses with 100 or fewer employees and with a net income of \$390,000 or less that file under Article 9-A.
- Implement third phase of middle class tax cuts – lowering income tax rates for those making between \$40,000 and \$150,000 to 6.09 percent (from 6.85 percent) and for those making between \$150,000 and \$300,000 to 6.1 percent, which is estimated to save New Yorkers \$1.8 billion per year.

WOMEN’S ISSUES

- Pass Equal Rights Amendment – Proposal would add sex to protected class (Section 11 of Article I) of the State Constitution and Governor will work to include additional categories including – ethnicity, national origin, age, disability, sexual orientation, and gender identity.
- Banning the “Pink Tax – Proposal would prohibit gender-based pricing discrimination for substantially similar or like kind goods and services.
- Require sexual harassment data disclosure from State Contractors – Proposal would require potential state contractors to submit a report on the number of adverse judgements, adverse administrative rulings and settlements related to sexual harassment in past year.

LGBTQ

- Legalize gestational surrogacy
- LGBTQ-Affirming Addiction Services – Governor Cuomo will direct New York’s Office of Addiction Services and Supports (OASAS) to develop clinical practice standards for addiction treatment programs working with LGBTQ individuals. In addition, OASAS will implement an accompanying endorsement for programs that meet these clinical practice standards.
- Transgender cultural competency training for NYS Employees – Governor’s Office of Employee Relations will provide cultural competency training regarding gender identity to all state employees and update annual trainings to ensure best practices are included in aspects of state training.

GUN CONTROL

- Prohibit individuals convicted of serious misdemeanor crimes in other states from owning a gun in New York State.
- Executive budget proposes amendment to Mental Hygiene Law to allow for the sharing of information to law enforcement entities in other states for the purpose of determining eligibility to purchase, possess, or carry a firearm.

ELECTORAL REFORMS

- Proposal for automatic voter registration
- Proposal to require automatic recounts in close elections, which would be triggered in statewide contests where the margin of victory for a candidate is 0.2% and 0.5% in call other elections

ENVIRONMENT/CLIMATE CHANGE

- Proposal to ban the use of single-use polystyrene foam containers and sale of polystyrene loose fill packaging
- \$3 billion environmental bond act to fight climate change

ETHICS REFORMS

- Proposal for Nothing to Hide Act – Require the Governor, Attorney General, Comptroller, Senators, Assemblymembers, State Commissioners and any every other elected official who earns more than \$100,000 to release their tax returns to the public.

LEGISLATIVE JOINT HEARING SCHEDULE

Date	Day	Time	Hearing	Request to Testify Can be Found at:
January 27	Monday	11:00 AM	Environmental Conservation	www.nysenate.gov
January 28	Tuesday	9:30 AM	Transportation	www.nyassembly.gov
January 29	Wednesday	9:30 AM	Health	www.nysenate.gov
January 30	Thursday	9:30 AM	Human Services	www.nyassembly.gov
February 3	Monday	11:00 AM	Mental Hygiene	www.nysenate.gov
February 4	Tuesday	9:30 AM	Higher Education	www.nyassembly.gov
February 5	Wednesday	9:30 PM	Workforce	www.nysenate.gov
		1:00 PM	Housing	www.nyassembly.gov
February 10	Monday	11:00 AM	Local Government	www.nyassembly.gov
February 11	Tuesday	9:30 AM	Elementary Education	www.nyassembly.gov
February 12	Wednesday	9:30 AM	Public Protection	www.nysenate.gov
February 13	Thursday	9:30 AM	Economic Development	www.nysenate.gov
		1:00 PM	Taxes	www.nyassembly.gov

Key Links

Division of Budget:

<https://www.budget.ny.gov/>

State of the State Book:

<https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/2020StateoftheStateBook.pdf>

Transcript of State of State:

<https://www.governor.ny.gov/news/video-audio-photos-rush-transcript-governor-cuomo-outlines-2020-agenda-making-progress-happen>

Vide of State of State Address:

https://www.youtube.com/watch?v=_QmlnFatM9E&feature=youtu.be

Press Release:

<https://www.governor.ny.gov/news/governor-cuomo-outlines-2020-agenda-making-progress-happen>

**MEDICAL SOCIETY OF THE STATE OF NEW YORK
NEW YORK OCCUPATIONAL AND ENVIRONMENTAL MEDICAL ASSOCIATION
NEW YORK STATE ACADEMY OF FAMILY PHYSICIANS
NEW YORK STATE NEUROLOGICAL SOCIETY
NEW YORK STATE SOCIETY OF ANESTHESIOLOGISTS**

The above-signed groups represent tens of thousands of physicians delivering patient care across New York State every day. We are writing to express our strong objections to an Executive Budget proposal (Part L of the Health/Mental Hygiene Art. 7 bill) that would allow the NYS Health Department to disregard essential due process protections when a complaint has been filed against a physician, and make information public about a physician under disciplinary investigation. While New York's physicians share the goal of assuring the State has ample power to protect the public when the conduct of a particular health care provider places patients at risk, the Commissioner already has authority to take summary action prior to the conclusion of a disciplinary hearing in the absence of a finding of misconduct. Therefore, our organizations respectfully urge that these provisions be rejected from the Budget.

We agree with the goal of expediting that New York's disciplinary process when alleged professional misconduct involves circumstances which present a serious and imminent threat to the public. Indeed, one aberrant health care professional reflects poorly on the entire profession.

We have for many years worked proactively with the Administration and Legislature on laws to enhance the ability of the Office of Professional Medical Conduct (OPMC) to "summarily suspend" physicians in instances where available evidence of a threat to public safety was overwhelming. We also understand that circumstances do occur in which existing OPMC practices are insufficient to adequately protect the public.

However, our system of justice which provides the essential parameters for our professional misconduct statutes recognize the need for an appropriate balance between the public interest and the rights of the accused. There are enormous adverse professional implications when disciplinary action is taken against a physician, or even when there has been an accusation, including loss of reputation and the risk of being dropped by Medicaid and other insurers. With Google, Yahoo and other search functions, an unproven allegation released to the public could linger forever in cyberspace, and permanently and unfairly scar a reputation. Worse, we worry about the crippling impact that making accusations public would have on the trusted relationship physicians with their patients, creating mistrust and fear. Targeting physicians, when no other class of individuals accused of a crime or impropriety would face such exposure, would exacerbate the difficulty we already have in attracting new physicians to practice in NY.

It is important to remember that an accusation does not prove wrongdoing. In fact, most complaints to OPMC of alleged misconduct do not become actual findings of misconduct. Indeed, most complaints to OPMC do not even get so far as advancing to a formal Investigation Committee review. According to the 2018 OPMC Annual report, while over 9,000 complaints were received by OPMC, and 8,782 complaints closed, only 210 cases resulted in the filing of actual charges. **This is 2% of filed complaints that ended in actual charges.** Given the significant disparity between the number of complaints and the number of cases where there is ultimately some finding of misconduct, it is imperative we limit the bypassing of these important due process protections to circumstances when it is clear that the delay of going through these procedures threatens the safety of the public. A subjective assessment that a physician may be a "risk", as this legislation would propose, should not be enough to merit bypassing these long-standing due process protections.

Furthermore, Public Health Law Section 230 (12)(a) already grants power to the Department of Health to summarily suspend a physician from medical practice without an otherwise required hearing and pre-hearing where there is a “determination that a licensee is causing, engaging in or maintaining a condition or activity which in the commissioner’s opinion constitutes an imminent danger to the health of the people. This power was then expanded through a 2018 law that authorizes the Commissioner to summarily suspend a physician’s license if they have been accused (not convicted) of a felony charge and, in the commissioner’s opinion, the physician’s “alleged conduct constitutes an imminent danger to the health of the people”.

With regard to making charges public, PHL Section 10 (a) (iv) provides for the ability of the Commissioner of Health to make charges against a physician public once it is determined that there is enough evidence to warrant a formal hearing. Since there are still a relatively small number of cases each year that get so far as having formal charges brought, it is completely unfair to enable the release of enormously prejudicial information with little if any review process to determine that even formal charges are warranted.

In conclusion, existing statute permits the Commissioner to act in the public interest where there is sufficient evidence to warrant such exceptional action to protect the public from aberrant health care practitioners. Furthermore, this proposal is prejudicial and excessive in that it abandons long-standing due process protections, and could unfairly destroy professional reputations and the patient-physician relationship so essential for providing high quality care. Therefore, we urge that this proposal be rejected.