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MEMORANDUM REGARDING FY 2024 EXECUTIVE BUDGET

The New York State Psychiatric Association (NYSPA), the medical specialty society of nearly 4,000 psychiatrists practicing in New York State and a division of the American Psychiatric Association, appreciates the opportunity to comment on provisions in the Executive Budget proposal for fiscal year 2024.

I. AREAS NYSPA SUPPORTS

**1. NYSPA SUPPORTS PROVISIONS RELATED TO MENTAL HEALTH COVERAGE & PARITY
(PART II, S4007/A3007)**

NYSPA **strongly supports** Part II of the Health and Mental Hygiene Budget (S4007/A3007), which would expand access to care for those with mental health and substance use disorders, establish important network adequacy standards for insurers and health plans to follow and a private right of action. As New York State and the nation contend with a mental health crisis compounded by the effects of the COVID-19 pandemic, particularly among our children and adolescents, these provisions along with investments in capacity are critical. The provisions NYSPA supports include:

- Insurance coverage for mobile crisis intervention services and sub-acute care in medically-monitored residential facilities licensed by OMH.
- Prohibition of preauthorization or concurrent reviews for adults in the first 30 days of inpatient/residential mental health treatment at in-network hospital or crisis residence licensed by OMH.
- Insurance reimbursement for school-based mental health services from satellite Article 31 clinics at least at the same rate that Medicaid pays.
- Payment parity for telehealth services provided by providers licensed by OMH, OASAS, and OPWDD without regard to location of provider or patient.
- Clarification of coverage of medications used to treat SUD and prohibit prior authorization for medication including opioid antagonists (Naloxone).
- Provisions directing Department of Financial Services and Department of Health to promulgate network adequacy regulations in consultation with OMH and OASAS. These standards would need to address:
 - Timely and proximate access to treatment for MH/SUD;
 - Appointment availability including timeframes for initial provider visits following discharge from a hospital or emergency department; and,
 - Time and distance standards "... that take into consideration reasonable proximity to an insured's residence, established service delivery patterns for the area, the geographic area, and the availability of telehealth services;" and
 - Responsibility of insurer or health plan to provide out-of-network referral when in-network provider is not able to provide health care service "...within the timely and proximate access standards established by regulation..."

NYSPA also strongly supports Subpart D of Part II, which provides a private right of action for individuals to sue insurers and health plans for violations of parity laws and recover "actual damages." This measure will provide an important level of accountability and will mirror a private right of action that already exists under the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) but not under

New York State's parity laws. The New York Legislature must not allow this disparity to persist as we continue to face non-compliance with parity laws by insurers made clear by data and reports submitted to the Department of Financial Services pursuant to the Mental Health and Substance Use Disorder Parity Report Act of 2018, which NYSPA championed. A state private right of action and the above provisions will take New York State one step closer to achieving the full spirit and intent of the parity laws.

2. NYSPA SUPPORTS INVESTMENTS TO INCREASE INPATIENT & OUTPATIENT CAPACITY

NYSPA appreciates and supports the \$1 billion investments in mental health in the FY 2024 budget. This includes supports to increase inpatient capacity by 1,000 beds, including the reopening of 850 beds in community Article 28 hospitals that have been closed during the pandemic in anticipation of a surge but not since re-opened. NYSPA supports the immediate reopening of these beds and provisions that authorize OMH to issue fines for non-compliance as proposed under Part JJ of Health and Mental Hygiene budget (A3007/S4007). NYSPA urges OMH to consider setting aside a portion of these beds for children and adolescents as we continue to hear reports of backups in emergency rooms.

Recognizing that mental health is a continuum requiring appropriate level of supports and resources in the community following hospital discharge, NYSPA supports investments to establish 3,500 new housing units and expand outpatient services including:

- 12 new Comprehensive Psychiatric Emergency Programs (CPEPS). CPEPS are hospital-based services that include emergency observation, evaluation, care and treatment
- 42 New ACT Teams (22 in New York City and 20 in the rest of the State)
- 8 new Safe Option Support Teams (SOS)—5 new teams in NYC and 3 around the rest of the State
- Increasing the number of Certified Community Behavioral Health Clinics
- 42 new Health Home Plus Care Managers

NYSPA also supports the continued funding for the Community Health Access to Addiction and Mental Healthcare Project (CHAMP), a joint project of OASAS and OMH, which provides New Yorkers with assistance in addressing insurance related barriers that prevent or delay access and continuity of care for New Yorkers seeking MH or SUD treatment. Since it was established in 2018, CHAMP, according to its annual report, served over 5,000 New Yorkers and conducted education and outreach to more than 273,00 New Yorkers. The CHAMP is a critical resource helping New Yorkers navigate and secure access to care.

NYSPA also supports the \$60 million investment to support the 988 Crisis Hotline in New York State.

3. NYSPA SUPPORTS INVESTMENTS IN THE WORKFORCE

NYSPA supports critical investments in the proposed FY 2024 to support the mental health workforce including:

- \$3 million appropriation to DOH to provide for physician loan repayment awards to psychiatrists who are licensed to practice in New York State and who agree to work for a period of at least three years in one or more hospitals or outpatient programs that are operated by OMH and deemed to be in one or more underserved areas, as determined by the commissioner of OMH
- \$14 million for recruitment and retention of psychiatrists, psychiatric nurse practitioners, and other licensed mental health professionals in licensed programs with critical capacity shortages
- One year extension and funding for the Physician Excess Medical Malpractice program

However, NYSPA stands with its colleagues in urging that the proposed 2.5% cost of living increase for health and human services programs under OMH, OPWDD, and OASAS, among others, be increased to 8.5% recognizing widespread staffing shortages and rising inflationary costs impacting these programs. These programs are seeing rates of turnover as high as 40% and are the backbone of the system helping individuals transition from higher levels of care to living in the community.

4. \$450,000 IN FUNDING FOR THE VETERANS MENTAL HEALTH TRAINING INITIATIVE

NYSPA, the Medical Society of the State of New York (MSSNY), and the New York State Chapter of the National Association of Social Workers (NASW-NYS) **are seeking funding in the 2023-2024 New York State budget** for the continuation and expansion of the comprehensive statewide training program, known as the Veterans Mental Health Training Initiative (VMHTI). The program educates both community mental healthcare providers and primary care healthcare providers on veteran-specific mental health issues, including combat-related post-traumatic stress disorder, traumatic brain injury, suicide in veterans, substance use, military culture, and women veterans' mental health conditions including the impact of military sexual trauma. To date, the initiative has trained more than 10,000 community primary care and mental health practitioners.

The funding requests for each organization are as follows:

NYSPA	\$150,000
MSSNY	\$150,000
NASW-NYS	\$150,000

The VMHTI has two pathways: one led by the NASW-NYS, providing an accredited education and training program for community mental health workers, and one led by NYSPA and MSSNY training primary care physicians and health practitioners from across the primary care specialties, including internal medicine, family practice, emergency medicine and OB-GYN. The trainings are also of benefit to psychiatrists whose practices have seen a dramatic influx of combat-related mental health problems. The program educates both community mental healthcare providers and primary care healthcare providers on veteran-specific mental health issues including service-related post-traumatic stress disorder, traumatic brain injury, substance use disorders, suicide and suicide prevention, as well as enhancing competency on military culture.

The VMHTI has worked side-by-side with veteran peers including the Joseph P. Dwyer Peer to Peer Program (Dwyer Program). The Dwyer Program has a specific charge of peer support for veterans and their families. Peer support covers many areas including connection to concrete services, peer-based group and individual support as well as service activities. The Dwyer Program does not provide medical or mental health clinical services. The VMHTI seeks to close the gap between Dwyer Programs and clinical services by working together to create a referral system for veterans seeking medical and mental health care. This expansion of VMHTI will provide wrap around support for veterans by providing a direct connection to trained clinicians.

For the above reasons, NYSPA **strongly supports** additional funding for the VMHTI, which goes hand-in-hand with the proposed investments to expand the Dwyer program to all counties in New York State.

II. AREAS NYSPA OPPOSES

1. NYSPA OPPOSES ELIMINATION OF PRESCRIBER PREVAILS (PART D, S4007/A3007)

NYSPA urges the Legislature to reject the proposed repeal of the authority of physicians and other qualified prescribers to make a final determination regarding medication prescribed to individuals covered under Medicaid Fee-for-Service and Medicaid Managed Care, commonly referred to as "prescriber prevails." Repealing this critical patient protection would jeopardize patient care as well as undercut initiatives the State has undertaken to reduce unnecessary and avoidable hospitalizations. A key component in sustaining and accelerating such a trend is assuring individuals are able to obtain the medications prescribed by their physician to alleviate the symptomatology of their physical and/or mental health conditions. We thank the Senate and Assembly for standing up for patients and rejecting this proposed change in previous budget years and urge you to do so again.

The repeal of the longstanding prescriber prevails provision is particularly troublesome as the pharmacy benefit for those enrolled in mainstream Medicaid Managed Care (MMC), Health and Recovery Plans (HARPs), and HIV-Special Needs (SNPs) will transition back to fee-for-service as of April 1, 2023. This is an important patient

protection that cannot be repealed amidst this transition. During the ninety-day transition period between April 1, 2023 and June 30, 2023, “NYS Medicaid members will be able to obtain a one-time fill for medications that are non-preferred in NYRx without the normal PA requirement. This will allow additional time for prescribers to switch NYS Medicaid members to a NYRx preferred medication (no PA required) or obtain a PA for the non-preferred medication.” This makes maintaining prescriber prevails essential.

2. NYSPA OPPOSES SCOPE OF PRACTICE PROPOSALS (PART W, S4007/A3007)

NYSPA urges the scope of practice proposals in this part including independent practice for physician assistants be removed from the budget.

As stated in a letter co-signed by NYSPA, “Physician Assistants (PA), Nurse Practitioners (NP), and pharmacists all play absolutely essential roles in the delivery of patient care in our health care system. However, we are very concerned that each and all of these Executive Budget proposals would adversely impact patient care by completely removing the important oversight and coordination role which a trained physician plays in overseeing a patient’s care, particularly as it relates to the ordering of diagnostic tests, the evaluation of the effectiveness of various prescription medications and treatments and the ongoing assessment of the patient’s response to treatment.” Patients are best served by a team-based approach with a skilled physician overseeing care from a variety of health care providers. “Despite the good intentions of Part W, the Budget proposals contained within Part W would adversely impact care by facilitating ‘silos’ in our health care system instead of coordinated care and treatment.” These provisions deserve further study and review outside of the budget process.

NYSPA is also concerned with the proposal to create the mental health associate credential as proposed in Part GG to assist “...in all phases of delivery of services to persons who are suffering from mental health issues.” NYSPA recognizes the values of peers with lived experiences but seeks further clarity to better understand the role of mental health associates which is not defined under the proposal.

3. NYSPA CONCERNS WITH PROPOSAL REGARDING OVERSIGHT OF MATERIAL TRANSACTIONS (PART M, S4007/A3007)

NYSPA is concerned with Part M of the 2024 Executive Budget (S4007/A3007), which would establish Department of Health oversight of “material transactions” involving health care entities, including physician practices, management services organizations or similar entities by requiring notice and application through a process that is akin to the Certificate of Need process. As stated in the legislative intent, there is a concern that the State has little or no insight into sectors of health care delivery that are increasingly being supported by private equity investment, and the impact on access, cost, quality, equity and competition. The timeline and process for adoption of the budget does not provide adequate time for the thoughtful deliberation that is needed to evaluate, develop, and enact a well-balanced statutory and/or regulatory policy framework around private equity investment and the appropriate level of oversight to assure access to care and quality are safeguarded. As such, NYSPA urges this part be removed.