

# HANYS' SFY 2022-2023 state budget testimony

Joint legislative hearing of the Senate Finance  
and Assembly Ways and Means committees

February 8, 2022

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Good afternoon Chairs Krueger, Weinstein, Rivera and Gottfried, and committee members. I am Bea Grause, president of the Healthcare Association of New York State, representing nonprofit hospitals, health systems and post-acute care providers across New York. Thank you for this opportunity to discuss the 2022-2023 executive budget proposal.

It's been just shy of two years since we first identified and treated cases of a novel coronavirus infection (2019-nCoV) in New York state. We are now approaching the third state fiscal year in which the effects of COVID-19 will leave an indelible mark on the lives of thousands of New Yorkers, the healthcare workers on the front lines caring for them, and the hospitals and health systems that are still being battered by this ongoing pandemic.

Our commitment today remains the same as when I addressed you at the beginning of the pandemic two years ago: Keeping our doors open to care for the sick and injured and serving as the safety net for every single person needing care.

Together, we have made extraordinary achievements. New York hospitals and their care teams have treated more than 200,000 people diagnosed with COVID-19 as of January 2022. We have helped to ensure that more than 14 million New Yorkers are fully vaccinated against COVID-19.

These extraordinary efforts have taken a steep fiscal toll on our hospitals and health systems. In 2020, New York's nonprofit hospitals collectively recorded the lowest operating margin in 20 years (-1.4%) and a \$3 billion downward margin swing from 2019 to 2020.

These losses, extreme even in a normal year, were partially mitigated by federal support via the creation of the Provider Relief Fund. Without this federal support, our hospitals would have suffered an unfathomable statewide average operating margin of less than *negative 10%*.

Unfortunately, this vital federal support has expired and will not address fiscal challenges associated with our response to the delta, omicron and future COVID-19 waves.

While COVID-19 continues to present financial challenges for providers, the state's current and projected fiscal position is rebounding. The *Executive Budget Financial Plan* highlights the significant federal resources provided to the state via enhanced Federal Medicaid Assistance Percentage support and federal stimulus funds from the American Rescue Plan Act of 2021.

This federal support, combined with better than projected personal income tax receipts, has resulted in an unprecedented – and much-needed – availability of state resources.

With this fiscal backdrop, the state has an unparalleled opportunity this year to make needed and sustained investments in our healthcare system.

The executive budget proposal for state fiscal year 2022-2023 begins to right this course by investing in three core areas that must be addressed this year to ensure continued access to quality care for all New Yorkers:

- investing in our healthcare workforce;
- improving Medicaid payment and state supportive funding for hospitals and nursing homes; and
- reinvesting in the healthcare system infrastructure.

I am grateful to the governor for recognizing the critical importance of these issues and for advancing funding and policy proposals to address these needs. However, the governor's budget proposal does not go far enough.

The past two years have demonstrated that investing public funds in hospitals, health systems and post-acute and continuing care providers is not only imperative to maintain our frontline defense against the pandemic, it is also sound fiscal policy, through its ripple effect on our economy as we strengthen the health system in communities across the state.

Building upon the initial investments in the executive budget is the best way to begin solving the chronic problems that have challenged our healthcare system for years.

In this context, HANYS advances the following fiscal year 2022-2023 budget priorities for your consideration.

### Investing in our healthcare workforce

HANYS members are committed to providing quality care to all New Yorkers. Maintaining a robust and stable workforce is the cornerstone of providing this care. However, COVID-19 has had a devastating impact on the healthcare personnel who have provided care throughout this pandemic. Many are exhausted and burned out and, as a result, are making the difficult decision to leave the healthcare field. At the same time, the pipeline of new healthcare workers entering this field is not big enough to support current demand.

New York's healthcare workforce challenges existed long before COVID-19. However, the pandemic has exacerbated and accelerated the issue. This crisis is not limited to New York. Hospitals and continuing care providers across the country are increasingly desperate for staffing solutions to keep pace with the healthcare demands of their communities.

Hospitals and continuing care providers are employing every available tool to recruit new clinicians and support team members and retain their current personnel. Staffing shortages have led to a significant reliance on crisis staffing agencies, which increase staffing costs considerably for hospitals and continuing care providers. In many cases, staffing agencies can only provide a fraction of the staff — particularly registered nurses — who are needed and have been requested. Outside of contracting with a staffing agency, very few options exist to quickly employ clinical staff.

The governor's budget begins to address the myriad healthcare workforce challenges by committing to rebuild and grow the healthcare workforce by 20% over the next five years. To do so will require enactment and continued support of significant investments and policies that modernize and streamline the oversight of healthcare professionals practicing in the state.

**Healthcare worker bonuses:** The most significant short-term workforce investment in the executive budget is a proposal to provide one-time bonuses to frontline healthcare and mental hygiene workers.

Our members support recognizing and rewarding the tireless efforts and care their frontline care teams have provided. However, we must ensure the proposed bonuses reach all of the workers who deserve this recognition. We are concerned that, as constructed, the proposal sets one statewide annualized salary limit that could have the unintended consequence of reaching fewer frontline workers in some parts of the state due to regional wage differentials.

At the same time, this proposal must recognize the critical value, and reward the efforts, of a broad swath of individuals who work in healthcare settings. Numerous professions, from those providing direct care, to people providing food service, housekeeping and environmental services, are critical to the care and treatment individuals receive in hospitals and nursing homes.

**The governor's proposal comes with equity and operational challenges. We urge the Legislature to consider the following:**

- remove or revise the salary cap to reward frontline workers equally statewide;
- revise the definition of frontline to be more expansive so that employers are not forced to reward some workers and leave behind others; and
- streamline implementation so that employees are expediently rewarded and employers are not overburdened and/or penalized under broad state audit authority for unintentional errors when implementing this policy in good faith.

**Staffing flexibility:** Throughout the COVID-19 pandemic, the state has issued numerous Executive Orders (EOs) to relax statutory and regulatory provisions to give healthcare providers critically needed staffing flexibilities.

These temporary suspensions and modifications have greatly assisted providers with getting needed staff and increasing the efficiency of staff working tirelessly to provide care. These EOs have also shined a bright spotlight on what has been known for a long time: New York's healthcare workforce is in desperate need of greater flexibility and modernized oversight.

**The executive budget includes a number of proposals that would begin to address the chronic healthcare workforce challenges facing New York and we strongly encourage the Legislature to include these measures in the enacted budget.**

Building the pipeline of workers entering the healthcare workforce will take years. Those efforts could be greatly enhanced by swift adoption of several proposals that would have a meaningful impact upon enactment:

- **Temporary practice permits:** The executive budget proposes to permit qualified, high-need healthcare professionals who hold a license in good standing from another state to request a temporary practice permit after applying for licensure in New York state. This measure would have a demonstrably positive impact on the ability of hospitals and health systems to recruit for positions that have been extraordinarily challenging to fill. At the same time, this measure would help address delays in licensure for high-need healthcare professions. **HANYS supports this measure and encourages the Legislature to adopt it in the final budget.**
- **Multi-state licensure compacts:** Another measure included in the executive budget would authorize New York state to join the Interstate Medical Licensure Compact and Nurse Licensure Compact. In doing so, New York would join 34 other states that are part of the IMLC and 39 other states that have joined the NLC. We believe this measure would increase access to healthcare, particularly for patients in underserved areas where chronic healthcare professional shortages have existed for many years. With many professionals recently deciding to leave the healthcare workforce, it is imperative that we consider bold initiatives, including those that have been dismissed previously. **We urge the Legislature to support this proposal this year.**

## Improving Medicaid payment and state supportive funding for hospitals and nursing homes

New York's Medicaid program is a lifeline for the more than seven million residents who rely on it to access a multitude of healthcare services. Over one-third of all New Yorkers depend on Medicaid for healthcare coverage, making the Medicaid program the predominant insurer, payer and safety net in New York. As such, we cannot overstate the importance of the program to those who access their care through Medicaid and to the healthcare providers who are reimbursed by the program for the care they provide.

While the state has taken important steps over the past several years to expand eligibility for the Medicaid program and to increase covered services, the rate of reimbursement for the provision of care has remained flat. In fact, in recent years, the state has adopted numerous measures that have reduced healthcare provider reimbursement rates.

This trend and the resulting decrease in the value of Medicaid reimbursement must end. HANYS' most recent analysis shows that the Medicaid program reimburses providers just 61 cents for every dollar of care provided in hospitals. This underpayment has a ripple effect across the healthcare system and ultimately diminishes access to care for all patients.

The executive budget acknowledges that Medicaid rates need to be improved via a revised global cap, a reversal of a 1.5% across-the board Medicaid cut and a 1% increase in Medicaid fee-for-service rates, but the Legislature must go further.

The provider reimbursement rates for the Medicaid program, which is a predominant insurer in the state, have simply not kept pace with costs. As HANYS has relayed consistently, providers have not had a Medicaid trend factor (cost-of-living adjustment) applied to rates in more than 12 years. Meanwhile, the pandemic has fundamentally changed the cost structure of hospitals and health systems forever – especially in the area of staffing, their single largest expense.

The executive budget identifies the significant surpluses available to the state and proposes to commit considerable funding into a reserve or “rainy day” fund. Shoring up state reserves for a potential economic downturn is a laudable goal. However, this pandemic has demonstrated that investing in our healthcare system today to ensure a robust and quality healthcare system for tomorrow must be a top priority for the state.

**Leveraging these resources or others, HANYS strongly urges the Legislature to restore a meaningful and persistent Medicaid trend factor to payment rates for hospitals and nursing homes on a go-forward basis.**

I would also like to acknowledge and applaud the governor’s continued support via updated supportive funding programs for distressed/high Medicaid hospitals as well as federally designated Critical Access and Sole Community Hospitals. HANYS supports these efforts and, given the persistent shortfall in Medicaid payment levels, will explore options in this budget to go further. Proposals regarding Medicaid payment rates and supportive funding must support all of New York’s hospitals and health systems statewide.

### **Reinvesting in the healthcare system infrastructure**

Through prior capital funding support, the state has long recognized the tremendous importance of providing resources to hospitals, health systems and post-acute and continuing care providers to help modernize and transform New York’s healthcare system. The state’s previous multi-year funding commitment helped to facilitate numerous healthcare transformation activities. Many of these activities were part of the New York’s Delivery System Reform Incentive Payment program, the central mechanism for implementing the terms of the state’s Medicaid 1115 waiver demonstration program.

New York is working to secure a new 1115 waiver agreement with the federal Centers for Medicare and Medicaid Services. Building off the success of prior investments, the executive budget would establish and implement a new \$1.6 billion Statewide Healthcare Facility Transformation Program IV for eligible healthcare providers. HANYS believes this capital program could complement the overarching goals of the state’s waiver proposal, including addressing health disparities and related healthcare delivery issues, while also advancing other longstanding delivery system reform goals.

**HANYS supports the executive budget’s commitment to provide much-needed access to capital for healthcare providers. We urge the Legislature to consider enhancing this funding opportunity to include both bonded and non-bonded resources that are flexible for providers at all stages of healthcare transformation.**

## Preserving access to care

In addition to the proposed investments in our healthcare workforce, Medicaid rates and supportive funding, and infrastructure, HANYS also urges the Legislature to support these measures that would help preserve access to care:

- **Telehealth payment parity:** Telehealth increases access to healthcare services for patients who face challenges in receiving in-person care, whether due to geographic limitations in underserved areas, provider shortages or restricted patient mobility. Over the last two years, providers have invested scarce resources into telehealth equipment, staff training and overall telehealth infrastructure to expand telehealth offerings and meet the growing demand for the service.

Recognizing the importance of telehealth for expanding and ensuring access to care, the executive budget includes a proposal to require telehealth payment parity, a policy that requires reimbursement for telehealth services to be equal to rates paid for comparable in-person services. By enacting telehealth payment parity, providers would be empowered to sustain their investments, strengthen the state's telehealth infrastructure and ultimately expand the availability of telehealth services offered to patients. **We urge the Legislature to support this proposal.**

- **Nursing home staffing support and resources:** Staffing shortages exacerbated by the COVID-19 pandemic have forced many nursing homes to temporarily pause admissions or significantly reduce staffed bed capacity. The inability to discharge patients from a hospital to a nursing home due to inadequate staffing has significantly increased the lengths of hospital stay in parts of the state suffering from an acute labor supply shortage. Extended lengths of stay result in adverse financial, operational and quality outcomes.

Last year, the governor signed into law (Ch. 156 of the Laws of 2021) a measure requiring nursing homes to maintain 3.5 hours of nursing care per resident, per day. Due to the ongoing statewide healthcare staffing shortage emergency, nursing homes currently do not have the staff needed to meet the law's minimum standards. In recognition of the severe staffing challenge nursing homes are facing and its impact on their ability to provide critical care, Executive Order 4.4 suspended the required Jan. 1 implementation of this requirement and another related staffing-focused mandate. Both measures are suspended through March 1.

At the same time, the executive budget would increase the funding available to certain nursing homes to assist with meeting the minimum staffing standards. HANYS appreciates and supports the executive budget proposal that increases the funding included in last year's enacted budget, which is insufficient to support nursing homes in meeting these new staffing requirements. However, rebuilding the staffing levels in nursing homes and other healthcare settings will take time. Delaying the law would provide the requisite time needed to grow the state's healthcare workforce and enable nursing homes to recruit and retain adequate staffing levels to meet the law's standards. **We urge the legislature to support a delay in these standards.**

## Conclusion

Since the start of the pandemic, our healthcare professionals have been there for New York, providing lifesaving care amid extremely difficult, arduous circumstances, often putting themselves at risk. The pandemic has shown our strength and resilience. But it has also highlighted longstanding problems like workforce shortages and infrastructure deficiencies that have caused major disruptions in our efforts to fight the pandemic.

As our hospitals, health systems, continuing care providers and frontline staff at all of these facilities continue to battle COVID-19, we need to know the state has our back. We can't just defeat COVID-19 and move on; we must bolster our healthcare system so we can be prepared for the next emergency.

To ensure a sustainable healthcare system in New York, we must invest in and strengthen our state's healthcare workforce and capital infrastructure and make long-overdue improvements to reimbursement and state support for hospitals and nursing homes for the care they provide.

HANYS is committed to working with state government and all healthcare stakeholders as we pursue our common goal: ensuring that the highest quality care is accessible and affordable to all New Yorkers. We appreciate the support of the Legislature and governor and look forward to continuing the progress we have made together.

Attached is HANYS' summary chart outlining key healthcare provisions of the proposed executive budget for 2022-2023.



Issue/topic	Governor's executive budget proposal	HANYS' comments
<b>Global funding provisions</b>		
<p><b>Medicaid global cap growth metric modification and extension</b></p>	<p>Would modify the calculation of the year-to-year growth of the Medicaid global spending cap, changing from a 10-year rolling average of the medical component of the Consumer Price Index to the five-year rolling average of Medicaid spending projections within the National Health Expenditure Accounts produced by the CMS Office of Actuary. The proposal would also extend the global cap policy through SFY 2023-2024.</p> <p>For SFY 2022-2023, this change would grow the cap by 4.7% as opposed to 2.9% under the current method, allowing for \$366 million more in cap spending. For SFY 2023-2024, the new methodology would allow for \$899 million in additional spending.</p>	<p>HANYS supports this proposal. Structural changes to the global cap would allow for spending growth in areas directly impacting Medicaid patient coverage, access and care. HANYS supports moving to a new measure because it would allow for new investments in needed areas such as workforce and provider payment rates. Continual consideration of this spending metric is critically important to New York's Medicaid program.</p>
<p><b>Reversal of 1.5% across-the-board Medicaid reduction and increase of Medicaid rates by 1%</b></p>	<p>Would restore the 1.5% across-the-board Medicaid reduction implemented in prior fiscal years and increase the rates of DOH Medicaid payments by an additional 1%. This increase is intended to allow providers to respond to market needs and compete in the labor market. The increase would take effect April 1, 2022, and be in effect for SFY 2022-2023 and SFY 2023-2024.</p>	<p>HANYS appreciates and supports any increase to the Medicaid rate, which fails to cover the cost of caring for patients. HANYS will continue to strongly advocate for a true and permanent trend factor increase that accounts for the ever rising costs of delivering care.</p>

Issue/topic	Governor's executive budget proposal	HANYS' comments
<b>Capital funding</b>	<p>Would establish and implement a new \$1.6 billion Statewide Healthcare Facility Transformation Program IV for eligible healthcare providers.</p> <p>The capital funding would support initiatives including:</p> <ul style="list-style-type: none"> <li>• \$750 million for healthcare delivery transformation via grants to healthcare providers;</li> <li>• \$450 million for eligible projects submitted, but not funded, under SHCFTP III;</li> <li>• \$200 million to modernize emergency departments of regional significance;</li> <li>• \$150 million to support IT and telehealth infrastructure; and</li> <li>• \$50 million to support implementation of community-based and alternatives to the traditional nursing home care model.</li> </ul> <p>The purpose of these funds is to transform, redesign and strengthen quality healthcare services in alignment with community need, and in the ongoing pandemic response.</p>	<p>HANYS supports the executive's commitment to provide much-needed access to capital for healthcare providers.</p>
<b>Hospitals</b>		
<b>Inpatient rate rebasing delay</b>	<p>Would extend the statutory requirement to rebase and reweight Medicaid inpatient acute rates from July 1, 2022, to no earlier than Jan. 1, 2024.</p>	<p>HANYS supports this proposal. The data collected during the COVID-19 emergency is anomalous and could result in large swings in rate reimbursement.</p>
<b>Distressed and other supportive funding programs for hospitals and health systems</b>	<p>Would continue and expand various supportive funding streams including:</p> <ul style="list-style-type: none"> <li>• a \$1 billion reserve in state funds to support multi-year investments in healthcare transformation; and</li> <li>• support via updated programs for distressed/high Medicaid hospitals as well as federally designated Critical Access and Sole Community Hospitals.</li> </ul>	<p>HANYS supports the maintenance of the distressed and other supportive funding programs. Proposals regarding Medicaid payment rates and supportive funding must support all of New York's public and voluntary hospitals and health systems statewide.</p>

Issue/topic	Governor's executive budget proposal	HANYS' comments
<b>Distressed Provider Assistance Account</b>	Would make permanent the \$250 million Distressed Provider Assistance Account, which supports financially distressed providers.	HANYS supports this fund, which recognizes the importance of ensuring the fiscal stability of critical safety net hospitals and nursing homes.
<b>Insurance, managed care and Medicaid coverage</b>		
<b>National Cancer Institute-designated cancer centers</b>	Would require Medicaid managed care, Essential Plan and Quality Health Plans to contract with any NCI-designated cancer center within the health plan's service area that is willing to agree to provide cancer-related inpatient, outpatient and medical services to the plan's enrollees. Such contract would be under the prevailing terms and conditions that the plan requires of other similar providers included in the plan's provider network but must include reimbursement of at least the fee-for-service Medicaid rate and methodology applicable to the center's inpatient and outpatient services.	HANYS supports adequate access to cancer-related services, and is currently reviewing the impact of this proposal.
<b>Child Health Plus reforms</b>	Would make several changes to the Child Health Plus program to: <ul style="list-style-type: none"> <li>• better align CHP benefits with Medicaid benefits to include additional covered services such as medical supplies, ambulance services and certain substance abuse services;</li> <li>• eliminate the \$9 per month premium for eligible children whose family household income is between 160% and 223% of the non-farm federal poverty level; and</li> <li>• transition rate setting authority from Department of Financial Services to DOH to better align with Medicaid managed care plans.</li> </ul>	HANYS supports expanding coverage for CHP enrollees but is currently reviewing the impact of transitioning the rate setting authority from DFS to DOH.
<b>Essential Plan reforms</b>	Upon receiving federal approval, would expand eligibility for the Essential Plan program by raising the FPL income limit from 200% to 250% and would allow individuals and newborns to receive coverage for one year post-partum regardless of any income changes. Additionally, this proposal would expand the definition of healthcare services under the Essential Plan program to include certain services and supports provided to enrollees who have functional limitations and/or chronic illnesses.	HANYS supports this proposal, which would expand access to covered services.

Issue/topic	Governor's executive budget proposal	HANYYS' comments
<b>Medicaid FFS utilization threshold program</b>	Would change the Medicaid FFS utilization threshold program to a post-payment review process, thus eliminating the need for requests to increase the benefit limits for both providers and recipients.	HANYYS supports this provision as it would create a post-payment review process and reduce administrative burdens.
<b>Telehealth payment parity</b>	Would require MMC and commercial health plans to reimburse providers for the services delivered through telehealth on the same basis and at the same rate as services provided in person. Additionally, this proposal would require the health plan to ensure its network is adequate to meet the telehealth needs of insured individuals for services covered under the policy when medically appropriate.	HANYYS supports telehealth payment parity, which would ensure adequate reimbursement for telehealth services rendered. HANYYS is concerned that requiring providers to specify the location of the provider and/or patient for each telehealth claim may impose an unnecessary administrative burden on hospitals and health systems.
<b>Competitive bid process for MMC plans</b>	Would authorize DOH to competitively procure Medicaid managed care plans and to contract with HIV special needs plans without a competitive bid process.	HANYYS is reviewing the impact of this proposal.
<b>Commercial coverage for abortions</b>	Would codify prior regulatory language to require individual and group health plans to provide coverage for abortions. Abortion services would not be subject to copayments, coinsurance or annual deductibles (unless it is a high-deductible health plan). Exemptions would be provided to group policies that provide coverage to religious employers.	HANYYS does not have a position on this proposal.
<b>Maternal health coverage expansion under Medicaid</b>	<p>Would expand maternal health coverage under the Medicaid program to:</p> <ul style="list-style-type: none"> <li>• include prenatal and postpartum care as standard coverage for Medicaid reimbursement, subject to federal approval;</li> <li>• extend postpartum Medicaid eligibility for pregnant individuals to one year following the last day of pregnancy;</li> <li>• extend standard Medicaid coverage to pregnant individuals with incomes below 200% FPL who otherwise wouldn't qualify for coverage based solely on immigration status; and</li> <li>• repeal the extended postpartum insurance coverage program enacted in SFY 2021-2022 (these individuals would now be allowed to stay on Medicaid coverage).</li> </ul>	HANYYS participated in and supports the recommendations of the Maternal Mortality and Postpartum Care task force. These proposals are consistent with the task force's findings and industry best practices.

**Surprise billing**

Would align New York’s out-of-network laws with the Federal No Surprises Act and implement recommendations from the DFS Administrative Simplification Workgroup report. Specifically, this proposal would:

- amend the dispute resolution process to require disputes to be submitted to an independent dispute resolution entity within three years of the date the health care plan made the original payment on the claim;
- repeal the provision of law exempting certain Current Procedural Terminology (CPT) codes from the dispute resolution process;
- expand the scope of the out-of-network law by changing “physician or hospital” to “provider”;
- expand the criteria the IDR entities can consider when determining a reasonable rate to include the median in-network rate for similar services;
- eliminate the requirement for an assignment of benefits; requires plans to pay providers directly;
- clarify that the IDR entity must make a determination within 30 business days;
- repeal a section of law exempting safety-net hospitals from the dispute resolution process;
- authorize providers to require a contract provision that mandates health plans bear financial responsibility for providing inaccurate network status information to an enrollee;
- require providers to make publicly available surprise billing prohibitions under federal and state law;
- require plans, upon request, to make available and disclose to facilities their application procedures and minimum qualification requirements and to complete the review for facility credentialing within 60 days (provided an additional 21 days if additional information is needed); and
- require HMOs to comply with the limitation on medical record requests.

HANYS opposes adding the median in-network rate as a factor for consideration in the state out-of-network dispute resolution process. This particular change is not required under the No Surprises Act and is inconsistent with how New York’s law has operated for years. In addition, HANYS opposes providers bearing financial responsibility for plans’ directory errors.

HANYS supports the provisions implementing the recommendations from the Administrative Simplification Workgroup report.

Issue/topic	Governor's executive budget proposal	HANYYS' comments
<b>Medicaid coverage for seniors and disabled individuals</b>	Would eliminate the Medicaid resource test and raise the income limit to 138% of the federal poverty level for Medicaid eligibility for vulnerable seniors and individuals with disabilities.	HANYYS supports this expansion of coverage.
<b>Medical malpractice</b>		
<b>Physician excess medical malpractice program</b>	Would extend the Physician Excess Medical Malpractice program for an additional year through June 30, 2023, with \$102.1 million provided to cover current premiums. However, the executive budget would modify the program to require a participating physician or dentist to directly purchase the excess coverage. The physician or dentist would be reimbursed 50% of the premium at the end of the contract year and the remaining 50% would be reimbursed the following year.	HANYYS supports fully funding the Physician Excess Medical Malpractice program. However, we are concerned that both requiring practitioners to purchase the coverage directly and delaying reimbursement could create a disincentive to purchasing excess coverage and lead to an increase in medical liability.
<b>Interest on judgements</b>	Would require the annual rate of interest paid on judgments to be calculated at the one-year U.S. Treasury bill rate.	HANYYS strongly supports this more reasonable and commonly used standard.
<b>Medical Indemnity Fund</b>	Would provide level funding (\$52 million) to support the New York State Medical Indemnity Fund for neurologically impaired infants.	HANYYS supports this program and measures aimed at ensuring its fiscal solvency.
<b>Post-acute and continuing care</b>		
<b>Nursing home minimum spending requirements</b>	Would amend Part G of Chapter 57 of the Laws of 2021, which requires nursing homes to spend minimum of 70% and 40% of revenue on direct patient care and staffing, respectively. Specifically, this proposal would modify the definition of "revenue" to exclude provider assessment revenue for all nursing homes. The proposal would also exclude the capital per diem portion of reimbursement rates for all homes with a 4- or 5-star rating, and on a case-by-case basis for nursing homes with a 3-star rating.	HANYYS supports this proposal, which exempts certain revenues from the direct patient care spending calculation. HANYYS supports additional modifications to this requirement to ensure revenue and expenditures are appropriately defined.

Issue/topic	Governor’s executive budget proposal	HANYS’ comments
<b>Funding for nursing home minimum staffing standards</b>	Would increase the funding available to nursing homes that minimally spend 70% and 40% of revenue on direct patient care and staffing, respectively, to increase resident facing staffing services in compliance with mandated minimum staffing standards (Ch. 156 of the laws of 2021). Specifically, the budget would increase the total funding available from \$62 million to \$187 million.	HANYS supports sufficient funding to cover the full cost of implementing minimum staffing standards in nursing homes. At the same time, HANYS will continue to urge DOH to ensure nursing homes that are unable to meet the law’s minimum standards due to aggravating circumstances are not unfairly penalized.
<b>Nursing home quality pool funding</b>	Would expand the methods of funding authorized to support the nursing home quality pool to include Medicaid rate adjustments, state appropriations or a combination of both.	HANYS is reviewing the potential impact of this proposal.
<b>VAPAP eligibility expansion</b>	Would expand the definition of “eligible facilities” that can receive temporary rate adjustments through the Vital Access Provider Assurance Program to include financially distressed nursing homes, adult care facilities, independent practice associations and accountable care organizations.	HANYS supports ensuring VAPAP is fully funded to cover the cost of expanded eligibility.
<b>Certified medication aides</b>	Would authorize trained certified medication aides to perform certain medication-related tasks under the supervision of and as assigned by a registered nurse employed by a residential healthcare facility. Medication-related tasks would include the administration of medications that are routine and pre-filled or otherwise packaged in a manner that promotes relative ease of administration but would exclude the administration of medications by injection, sterile procedures and central line maintenance (with some exceptions). RNs would be authorized to revoke any assigned medication-related task from a certified medication aide for any reason.	HANYS supports this proposal, which would help alleviate staffing shortages in nursing homes. Currently, a similar model has been adopted in at least 28 other states.



Issue/topic	Governor's executive budget proposal	HANYS' comments
<p><b>Managed Long-term Care program reforms</b></p>	<p>Would make several MLTC program reforms to:</p> <ul style="list-style-type: none"> <li>• expand the provider directory for Medicaid fee-for-service private duty nursing to include private duty nursing services offered to medically fragile adults;</li> <li>• increase Medicaid managed care reimbursement rates for PDN services that are provided to medically fragile adults; and</li> <li>• establish a separate licensure process for Programs for All-Inclusive Care for the Elderly plans.</li> </ul>	<p>HANYS supports expanded coverage for private duty nursing services.</p>
<b>Workforce</b>		
<p><b>Healthcare workforce bonuses</b></p>	<p>Would provide for bonuses of up to \$3,000 for health and mental hygiene workers with an annual base salary of \$100,000 or less, based on 2021 payroll data.</p> <p>Medicaid providers would be required to identify eligible employees and track the average weekly hours worked by the employees during two “vesting periods” based on the employee’s start date with the employer. The amount of the bonuses would be based on the average weekly hours worked. The employer would be required to claim the appropriate bonuses from DOH and pass the bonuses on to eligible employees no later than 30 days after receipt by the employer.</p> <p>Employees would receive bonuses for both vesting periods but the vesting periods in total would not exceed one year in duration, and the total bonus received by an employee could not exceed \$3,000. Employers who claim bonus payments inappropriately or otherwise fail to comply with the requirements of the law, would be subject to audit and sanctions by the Office of Medicaid Inspector General.</p>	<p>Healthcare workers are the backbone of New York’s healthcare system and fight against the COVID-19 pandemic. HANYS supports significant investments in our state’s healthcare workforce, including flexible funding that could be used to support the specific workforce demands of hospitals and health systems. HANYS will work with the Executive to better understand the mechanics of this proposal and minimize inequities within the workforce ecosystem.</p>
<p><b>Interstate Medical and Nurse Licensure Compacts</b></p>	<p>Would authorize New York to join the Interstate Medical Licensure Compact and Nurse Licensure Compact. These provisions would expand the number of physicians and nurses who are authorized to practice in New York state.</p>	<p>HANYS supports measures aimed at increasing the number of qualified healthcare professionals who are authorized to practice in New York.</p>



Issue/topic	Governor's executive budget proposal	HANYS' comments
<b>Temporary practice permit for high-need healthcare professionals</b>	Would authorize qualified, high-need healthcare professionals who hold a license in good standing from another state to request the issuance of a temporary practice permit after applying for licensure in New York state. Such an applicant would need to work under the supervision of a New York state licensee. If granted, the permit would be valid for six months or until ten days after notification that the applicant does not meet the qualifications for licensure. Authorizes SED to grant an additional six months extension upon a determination that the applicant is expected to qualify for the full license.	HANYS supports this proposal, which would help address delays in licensing high-need healthcare professionals.
<b>Nurses Across New York</b>	Would provide \$2.5 million in funding to create a NANY program to provide loan forgiveness to nurses who commit to working for three years in underserved communities.	HANYS supports this provision and other proposals aimed at incentivizing individuals to pursue a career in nursing.
<b>Doctors Across New York</b>	Would provide \$15.9 million in funding for DANY, an increase of \$6.8 million over last year's funding amount (\$9 million).	HANYS supports this provision and increase in funding, which would further incentivize individuals to pursue a career in medicine and practice in underserved areas.
<b>Empire Clinical Research Program</b>	Would provide \$3.45 million in funding for ECRIP. These funds support teaching hospitals that promote training of physicians in clinical research in order to advance biomedical research in New York state.	HANYS supports this program.
<b>Diversity in Medicine</b>	Would provide \$2.4 million in funding for Diversity in Medicine. These funds support post-baccalaureate and other programs that provide a pathway to medical school for students from backgrounds that are underrepresented in medicine.	HANYS supports this program. Additionally, HANYS urges continued funding for the Diversity in Medicine Scholarship program.
<b>Area Health Education Centers</b>	Would eliminate funding for AHECs. AHECs address healthcare workforce needs of medically disadvantaged communities and populations through partnerships with institutions that train health professionals.	HANYS opposes this funding elimination and urges restoration to the SFY 2022 level (\$2.2 million).
<b>Rural Healthcare Access and Network Development</b>	Would provide \$9.41 million to support the Rural Healthcare Access and Network Development program, which increases access to care and improves coordination of services and resources for patients and providers.	HANYS supports fully funding the Rural Healthcare Access and Network Development program.

Issue/topic	Governor's executive budget proposal	HANYS' comments
<b>COVID-19 testing flexibility</b>	Would create additional COVID-19 testing flexibility by: <ul style="list-style-type: none"> <li>• authorizing a physician or nurse practitioner to prescribe and order a non-patient specific regimen to a registered nurse for administering tests to determine the presence of SARS-CoV-2 or its antibodies, influenza virus or respiratory syncytial virus; and</li> <li>• authorizing any individual, under the supervision and training of a physician, nurse practitioner or RN, to administer tests to determine the presence of SARS-CoV-2 or its antibodies, influenza virus or respiratory syncytial virus.</li> </ul>	HANYS supports this proposal, which would streamline testing for COVID-19.
<b>Nurse Practitioner Modernization Act</b>	Would make permanent the Nurse Practitioners Modernization Act; would exempt nurse practitioners with over 3,600 hours practicing in primary care from the requirement to have physician collaboration agreements and from certain other requirements; would remove the requirement to file written practice protocols with DOH within 90 days of the commencement of the practice.	Nurse practitioners are critical providers of healthcare services and HANYS supports efforts to appropriately streamline barriers to such care.
<b>Pharmacist point of care testing</b>	Would designate pharmacists as qualified healthcare professionals for the purpose of directing a limited service laboratory for point of care testing.	HANYS supports this additional testing flexibility.
<b>Oversight of healthcare professions</b>	Would transfer oversight of healthcare professions from the State Education Department to DOH effective Jan. 1, 2023.	HANYS strongly supports efforts to ensure oversight and regulation of healthcare professionals in New York is streamlined, adept and well-resourced.
<b>Non-compete and no-poach agreements</b>	Would prohibit employers from seeking, demanding, requiring or accepting a non-compete agreement with an existing or prospective employee. Additionally, this proposal would prohibit employers from entering into an agreement that prohibits or restricts any employer's ability to solicit or hire another employer's current or former employees.	HANYS is currently reviewing the impact of this proposal.

Issue/topic	Governor's executive budget proposal	HANYS' comments
<b>Behavioral health</b>		
<b>Human services cost of living adjustment</b>	Would enact a 5.4% COLA for all specified programs under the Office of Mental Health, Office for People With Developmental Disabilities, Office of Addiction Services and Supports, Office of Temporary and Disability Assistance, Office of Children and Family Services and State Office for the Aging from April 2022 through March 2023.	HANYS supports much-needed reimbursement increases for all healthcare providers as Medicaid reimbursement regularly fails to cover the cost of care, including labor costs.
<b>9-8-8 Suicide Prevention and Behavioral Health Crisis Hotline system</b>	Would establish a framework for a 9-8-8 suicide prevention and behavioral health crisis hotline system. This hotline would connect individuals to crisis counselors, mobile crisis teams and crisis stabilization centers. The program would be jointly overseen by OMH and OASAS as part of the National Suicide Prevention Lifeline.	HANYS supports this proposal.
<b>Recovery and reinvestment of behavioral health funding</b>	Would require savings realized through the recovery of managed care organization premiums, based on medical loss ratio requirements and premium targets agreed to in the shift from Medicaid fee-for-service to managed care, to be reinvested in community-based behavioral health services.	HANYS supports the overdue recapture and reinvestment of these premium dollars. Investments in community behavioral health and residential services improve patient outcomes and reduce discharge delay.
<b>Expand access to opioid antagonists</b>	Would require pharmacies that maintain a stock of and directly dispense controlled substance medications to maintain a minimum stock of a 30-day supply of both an opioid antagonist and an opioid partial agonist medication.	HANYS appreciates the intent of this proposal and is currently reviewing its impact.
<b>Establish certification for recovery residences</b>	Would develop a new voluntary certification process for recovery residences, otherwise known as sober homes.	HANYS supports this proposal and its potential to improve addiction recovery.
<b>OASAS capital program reforms</b>	Would allow for an expedited process on capital projects for voluntary-operated addiction service programs. The proposal would allow OASAS and the Dormitory Authority to assume responsibility for capital projects related to OASAS providers. Additionally, the proposal would allow the state to purchase properties for development of voluntary-operated addiction service facilities and create a means to transfer facilities to service providers.	HANYS supports much-needed investments in healthcare infrastructure and reduction of administrative hurdles.
<b>Behavioral health Ambulatory Patient Group rate extension</b>	Would extend the requirement for MMC plans to pay behavioral health providers the APG rates for outpatient behavioral health services until March 31, 2027. The proposal also requires the plans to pay the APG rates to crisis stabilization centers.	HANYS supports this proposal.

Issue/topic	Governor's executive budget proposal	HANYS' comments
<b>Kendra's Law</b>	<p>Would extend Kendra's Law (Assisted Outpatient Treatment) through June 30, 2027. Additionally, this proposal would:</p> <ul style="list-style-type: none"> <li>• allow an examining physician who recommends AOT to testify via videoconference at the hearing;</li> <li>• add criteria for court-ordered assisted outpatient treatment to include a substantial increase in symptoms of mental illness following the expiration of a previous order within the last six months; and</li> <li>• require OMH-operated or licensed providers to share clinical records and other information deemed necessary to appropriately assist with an active AOT order.</li> </ul>	<p>HANYS is reviewing the extent to which this proposal would increase administrative burdens but supports the base extension of Kendra's Law.</p>
<b>Additional provisions</b>		
<b>Emergency medical service expansion</b>	<p>Would greatly expand the definition of EMS to authorize the delivery of care in various settings, including the person's home, scene of injury, healthcare facilities and other locations. The expanded definition would further define the types of care an EMS professional is authorized to provide.</p> <p>The proposal would require each Regional Emergency Medical Services Council to advise the State Emergency Medical Services Council and DOH on certain EMS-related issues. The proposal would also require SEMSCO to advise DOH on such issues, which would include the recommendation, periodic revision and application of rules and regulations, appropriateness review standards, treatment protocols and quality improvement standards.</p> <p>Additionally, this proposal would create an EMS Quality and Sustainability Assurance Program that would create certain standards and requirements to be followed by EMS agencies and require each EMS agency to perform regular and periodic review of the quality of the care provided. The proposal would also require the development of a statewide comprehensive emergency medical system plan to provide for a coordinated emergency medical system in New York and an emergency medical systems training program.</p>	<p>HANYS supports added flexibility to allow EMS personnel to treat patients in various settings, such as the patient's home or in the facility setting. However, additional review of this proposal is needed to assess its full impact.</p>

Issue/topic	Governor’s executive budget proposal	HANYS’ comments
<p><b>Certificate of Need application review</b></p>	<p>Would makes several changes to the CON application review process for hospitals, nursing homes and other healthcare facilities to:</p> <ul style="list-style-type: none"> <li>• add “controlling persons” to the list of individuals whose character and competence the Public Health and Health Planning Council must approve as part of the establishment application, decrease the lookback period for character and competence reviews from 10 to seven years and add additional facility affiliations the applicants must disclose; and</li> <li>• make transfers of stock, sole proprietorships, not-for-profit corporations and corporations subject to the PHHPC approval process; extend provisions related to transfers of less than 10% of a partnership or limited liability company to all “operators”; clarify that persons, members or stockholders previously approved by PHHPC do not require PHHPC approval for transfers, nor are they subject to a public need assessment.</li> </ul>	<p>HANYS opposes proposals that would increase delays in CON application processing, which could result in increased construction costs and delayed patient access to modern treatment modalities and facilities. HANYS continues to advance proposals aimed at streamlining the CON process.</p>
<p><b>New York Power Authority energy services</b></p>	<p>Would authorize the New York Power Authority to finance, design, develop, construct, implement, provide and administer energy-related projects, programs and services for general hospitals. Currently, unless a general hospital is a government entity or a NYPA power customer, it is not eligible to access NYPA Energy Services.</p>	<p>HANYS is reviewing the impact of this proposal.</p>
<p><b>Delivery System Reform Incentive Payment program waiver authority</b></p>	<p>Would extend, for another three years (until 2025), the authority of DOH, OMH, OPWDD and OASAS to waive any regulatory requirement necessary to allow providers involved in DSRIP projects or replication or scaling activities to avoid duplication of requirements and allow efficient scaling and replication of DSRIP promising practices.</p>	<p>HANYS supports this proposal and urges the governor and Legislature to consider making such provisions permanent.</p>
<p><b>School-based health centers</b></p>	<p>Would maintain funding for school-based health centers at previous year spending levels.</p>	<p>HANYS supports the full funding of these programs and the vital services they provide in the community.</p>

Issue/topic	Governor’s executive budget proposal	HANYYS’ comments
<b>Prescriber prevails</b>	Would eliminate the prescriber’s ability to make a final determination in both Medicaid fee-for-service and managed care.	HANYYS opposes this proposal.
<b>Office of Health Equity</b>	Would rename the Office of Minority Health to the Office of Health Equity. The Office will work collaboratively with other state agencies and affected stakeholders and representatives of underserved populations in order to set priorities, collect and disseminate data, and align resources within DOH and across other state agencies.	HANYYS supports this provision and other efforts aimed at improving health equity.

*The information contained in HANYYS’ Detailed Overview of the State Fiscal Year 2022-2023 Executive Budget is for general guidance on matters of interest only. This summary is provided “as is”, with no guarantee of completeness, timeliness or of the results obtained from the use of this information, and without warranty of any kind, express or implied. In no event will HANYYS, its related affiliates or subsidiaries, be liable for any decision made or action taken in reliance on the information in this summary.*

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