Legislative Agenda 2018

Ensure Stable Insurance Markets and Health Plan Oversight

As actions in Washington continue to erode the Affordable Care Act's (ACA) reforms of the insurance market, the Suburban Hospital Alliance urges strong oversight of the stability of New York's health plans and their market conduct. Federal efforts to allow association health plans, short-term policies and the sale of insurance products across state lines will further weaken providers' ability to collect on claims in a timely manner.

New York already has experienced the collapse of one health plan, Health Republic Insurance of New York, due in part to changing federal priorities and funding commitments. More than two years after the Department of Financial Services (DFS) forced Health Republic to shut down — but asked providers to continue providing care for months afterward — there has been no compensation for the outstanding claims, despite the Legislature acting to set aside funds for this purpose.

The conduct of managed care plans continues to be a primary concern for Suburban Hospital Alliance members. Managed care claim denials — particularly by Medicaid managed care plans — are once again on the rise. Our members report that plans are routinely failing to pay according to the terms of their contracts, failing to pay promptly, downcoding claims without notice and making it nearly impossible to reach provider representatives empowered to resolve routine issues. The DFS and Department of Health (DOH) have been slow to intervene even where there are clear violations of state managed care laws. This forces hospitals to devote a growing number of resources to filing appeals and chasing payment, while adding to the cash flow concerns of already fragile institutions. We urge you to:

- ***Fulfill the commitment to compensate providers for Health Republic losses.***
- ***Ensure out-of-state plans abide by New York regulations for prompt payment, prior authorizations, and dispute resolution.***
- ***Encourage stronger oversight by DFS and DOH of health plan conduct.***
- ***Support A.1129/S.3568, which would limit health plan denials for conditions that arise concurrent to an authorized treatment.***
- ***Support A.8063/S.5779, which would require health plans to make readily available information about the patient's specific insurance product.***

Balanced Malpractice Reform

Medical liability laws should balance patients' rights to fair compensation for genuine injuries against the need for rational procedures and limitations to make malpractice premiums affordable. Last year, the Legislature upset that balance with the passage of Lavern's Law. Other bills under consideration would continue this trend by raising trial lawyers' contingency fees or denying defense access to plaintiff's treating physicians.

We urge the Legislature to restore fairness to New York's malpractice laws. A more balanced approach to malpractice reform could include a cap on non-economic damages or support for alternatives to traditional litigation, such as special malpractice courts and "Sorry Works" programs. The Suburban

Hospital Alliance also endorses legislation that would establish a certificate of merit from a recognized medical expert to reduce the number of frivolous cases brought before the courts. We urge you to:

- ***Support S.7728, which would require an affidavit of merit from a qualified practitioner in order for a liability case to proceed.***
- ***Support A.1742, which would cap non-economic damages at $250,000.***
- ***Oppose A.1386/S.411, which would allow the award of damages for emotional pain and suffering to family, friends and others affected by the death of an injured patient.***
- ***Oppose A.9028, which would allow plaintiffs to collect more than a jury has awarded.***
- ***Oppose A.9030/S.243, which would prohibit defense counsel from interviewing the plaintiff's treating physicians.***
- ***Oppose A.9031/S.412, which would allow collection of judgments from third parties.***

Address Behavioral Health and Substance Abuse Crisis

Abuse of heroin and prescription opioids has reached epidemic proportions across the state, with the suburban counties ranking among the highest in rates of overdose deaths. This stresses a behavioral health system that is badly overburdened and underfunded. Emergency rooms are crowded with patients in crisis, for whom insufficient outpatient resources are available to address their needs. If admitted to inpatient care, hospitals frequently struggle to discharge patients to appropriate care settings due to lack of capacity.

Hospitals and health systems cannot shoulder the burden alone; the state needs to be a more committed partner in providing treatment to this population. The ongoing reduction of beds in state psychiatric facilities — and the failure to match those closures with new outpatient sites — is contributing to the crisis. Hospitals are frequently caught between state agencies with conflicting regulations, and become the *de facto* residences for group home or nursing home patients that state-licensed or state–owned facilities refuse to repatriate once a behavioral health diagnosis is made. Better coordination among state agencies is urgently needed.

At its root, the crisis in capacity is a crisis of funding. Medicaid, which covers the majority of behavioral health patients at most facilities, pays only a fraction of the cost of the provision of care. While many hospitals agree that treating these patients is important to their missions, continuing to provide behavioral health services jeopardizes their ability to meet other community needs. Behavioral health's drain on resources is unsustainable, which has resulted in the closure of inpatient programs across the state. Increasing Medicaid reimbursement would allow institutions to invest in increased capacity, both inpatient and outpatient. Increased regulatory flexibility to establish new models of care — such as psychiatric observation beds in hospitals, freestanding crisis stabilization centers, and more expansive use of mid-level practitioners — also would help to alleviate the crisis. We urge you to:

- ***Increase Medicaid reimbursement for behavioral health services.***
- ***Fulfill the commitment to match inpatient bed closures with new outpatient treatment sites.***
- ***Improve coordination between state agencies overseeing residential populations.***
- ***Allow acute care hospitals to establish psychiatric observation units to ease the strain on emergency rooms.***
- ***Support A.3895/S.5136, which would allow nurse practitioners to assess and voluntarily admit patients to acute psychiatric care.***

- ***Support the expansion of models like the Dutchess County Stabilization Center and a similar center planned for Suffolk County where patients can be triaged and admitted to appropriate services, diverting patients from overcrowded emergency rooms.***

Broad-Based Commitment to Healthcare Transformation

Suburban Hospital Alliance members are engaged in transforming their facilities, payment models, operations and workforce to achieve state and federal policy goals and meet the challenges of the marketplace. While the state has made significant investments in healthcare facilities, we remain concerned that these investments have not been made in a geographically equitable manner.

We also are deeply troubled by efforts to advance a single-payer health plan. Every hospital and health system in the state has to shift costs to commercial insurers to make up for Medicare and Medicaid patients that fail to cover costs — Medicare pays about 87 cents for every dollar of care provided; Medicaid pays approximately 73 cents on the dollar. In a purely public payer environment, providers would lose the ability offset those losses with higher commercial insurance reimbursements, but their costs would not significantly decrease. All of the state's efforts to invest in health system transformation, encourage consolidation, and promote value-based care would be upended, putting at risk the 160,000 hospital and health system jobs in the suburban regions. The goal of reform instead should be universal coverage, not a universal payer.

New York must be adequately prepared for the potential for significant changes in federal policy and funding, including deep reductions in Medicaid funding and perhaps the end of the DSRIP waiver. Although given a temporary reprieve by Congress, devastating Disproportionate Share Hospital (DSH) cuts will be implemented in October 2019. The state already faces significant reductions in federal support for its Essential Plan and cost-sharing reductions that make premiums on the New York State of Health exchange affordable for families with modest incomes. The state budget failed to address these threats directly.

Despite the state's substantial gains in reducing the number of uninsured and modest successes in shifting toward value-based care, a significant percentage of the population remains uninsured, underinsured or disconnected from appropriate and continuing community-based care. Hospitals continue to be the last refuge for these patients, not just during crises like a flu epidemic, the Ebola pandemic or the aftermath of a hurricane, but for the daily influx of patients who have nowhere else to go. As the healthcare system transforms, there still will be a need to provide support for institutions that are geographically isolated or serving disadvantaged populations.

The 2018-19 state budget set aside $2 billion over four years for a Healthcare Transformation Fund, as well as an additional $525 million for healthcare capital projects. While these investments are welcomed, they will provide targeted injections of funds at best. Opportunities to provide broad-based support, through the restoration of the Medicaid trend factor and an increase in the global cap, were off the table; instead $425 million was shifted out of the global cap and Medicaid rates will remain the same as they have been for a decade — effectively a cut to providers of more than 15 percent. We urge you to:

- ***Support sustained investment, not one-shot funding mechanisms.***
- ***Address looming federal shortfalls.***
- ***Ensure regional parity in distribution of transformation funds.***
- ***Support universal coverage, not single-payer health system.***

Representing the advocacy interests
of hospitals and health systems on Long Island and the Hudson Valley

About the Suburban Hospital Alliance of New York State

The Suburban Hospital Alliance of New York State, LLC, is a consortium of 51 not-for-profit and public hospitals advocating for better health care policy for all those living and working in the nine counties north and east of New York City – Nassau and Suffolk counties on Long Island and Westchester, Rockland, Orange, Sullivan, Putnam, Dutchess, and Ulster counties in the Hudson Valley.

The Suburban Hospital Alliance, also known as SHANYS, was informally founded in 2006 by the Northern Metropolitan Hospital Association (NorMet) and the Nassau-Suffolk Hospital Council (NSHC). In 2012, these two organizations officially formed the Suburban Hospital Alliance. NSHC represents hospitals on Long Island and NorMet represents hospitals in the Hudson Valley. The Suburban Alliance ensures that the specific concerns of suburban hospitals from the Hudson Valley region and from the Long Island region are heard in Albany and Washington. Issues related to work force, managed care, patient safety, capital financing, medical malpractice, and reimbursement dominate the agenda and differ in subtle as well as more significant ways from these same and other issues facing rural and urban areas. The Alliance offers strength in numbers and has been influential in securing positive legislative and regulatory reforms for hospitals, especially in the area of managed care.

Blythedale Children's Hospital
Brookhaven Memorial Hospital Medical Center
Catholic Health Services of Long Island
- Good Samaritan Hospital Medical Center
- Mercy Medical Center
- St. Catherine of Siena Medical Center
- St. Charles Hospital
- St. Francis Hospital
- St. Joseph Hospital

Eastern Long Island Hospital
Ellenville Regional Hospital
Greater Hudson Valley Health System
- Catskill Regional Medical Center
- Orange Regional Medical Center

Health Quest System
- Northern Dutchess Hospital
- Putnam Hospital Center
- Vassar Brothers Medical Center

Keller Army Community Hospital
Montefiore Health System
- Burke Rehabilitation Hospital
- Mount Vernon Hospital
- New Rochelle Hospital
- Nyack Hospital
- St. Luke's Cornwall Hospital
- White Plains Hospital

Nassau University Medical Center
Northport Veterans Affairs Medical Center
Northwell Health
- Glen Cove Hospital
- Huntington Hospital
- LIJ Valley Stream Hospital
- Mather Hospital
- Northern Westchester Hospital Center
- North Shore University Hospital
- Peconic Bay Medical Center
- Phelps Hospital
- Plainview Hospital
- Southside Hospital
- Syosset Hospital

New York-Presbyterian Regional Hospital Network
- Helen Hayes Hospital
- New York-Presbyterian Hudson Valley Hospital
- New York-Presbyterian Lawrence Hospital
- New York-Presbyterian Westchester Division

NYU Winthrop Hospital
South Nassau Communities Hospital
St. Joseph's Medical Center
St. Vincent's Hospital
Stony Brook Medicine
- Stony Brook Southampton Hospital
- Stony Brook University Hospital

VA Hudson Valley Health Care System
Westchester Medical Center Health Network
- Bon Secours Community Hospital
- Good Samaritan Hospital
- HealthAlliance of the Hudson Valley
- MidHudson Regional Hospital
- St. Anthony Community Hospital
- Westchester Medical Center