

**HEALTH AND MENTAL HEALTH COMMITTEE  
MINUTES**

**TUESDAY, JUNE 18, 2019  
4:00 P.M.**

PRESENT: James D. O'Donnell, Chairman  
Mike Anagnostakis, Janet Sutherland, Laurie R. Tautel, Peter V. Tuohy

ALSO

PRESENT: L. Stephen Brescia, Chairman  
Katie Bonelli, Majority Leader  
Michael D. Paduch, Minority Leader  
Leigh J. Benton, Legislator  
Barry J. Cheney, Legislator  
Rob Sassi, Legislator  
Antoinette Reed, Legislative Counsel  
Harold J. Porr, III, Acting County Executive  
Irina Gelman M.D., Commissioner of Health  
Christopher Ericson, Deputy Commissioner of Health  
Laurence LaDue, Commissioner, Valley View Center  
Donna Strecker, Director of Finance, Valley View Center  
Christian Farrell, Director of Veterans' Services  
Kerry Gallagher, Deputy Commissioner of Finance  
Deborah Slesinski, Budget Director  
Colleen Grogan, Chief Budget Analyst  
Gretchen Riordan, Budget Analyst  
Christopher McCarthy, Partner, O'Connor Davies LLP  
Chris Kopf, Partner, O'Connor Davies LLP  
Michelle S. O'Reilly, Partner, O'Connor Davies LLP  
Tiffany Wisniewski, Manager, O'Connor Davies LLP

Mr. O'Donnell opened the committee meeting at 4:10 p.m. and asked everyone to stand for the Pledge of Allegiance. All committee members were present with the exception of Legislator Amo who was absent.

Ms. Sutherland moved request to accept and appropriation funds from the NYSDOH for the Maternal and Infant Community Health Collaborative (MICHS) – Community Health Worker Expansion Project for the period 8/1/19 – 9/30/20, \$134,993.00, seconded by Mr. Tuohy.

Motion carried. All in favor.

Ms. Tautel moved request to accept and appropriate funds from the NYSDOH for the Public Health Emergency Preparedness Program grant for the period 7/1/19 – 6/30/20, \$235,654.00, seconded by Ms. Sutherland.

Dr. Gelman addressed the measles outbreak. Orange County has 51 confirmed cases with 5 highly suspect cases and 24 cases that are being worked on currently, Rockland County has 268 and New York City was at over 500. Commissioners orders have been distributed to camps and they are in the process of issuing conditional permits. In addition, new legislation has been signed into law with respect to eliminating medical exemptions in schools.

Ms. Tautel asked about a recent lawsuit filed in Sullivan County against the summer camp order and have they had any issues in Orange County. Dr. Gelman replied no, and that action was brought against New York State.

Motion carried. All in favor.

Mr. O'Donnell asked for an update on the morgue. Mr. Ericson replied that the contract has been signed.

On the agenda was a review of the 2018 Financial Report by O'Connor Davies LLP.

Mr. McCarthy addressed the committee with an overview of the Valley View 2018 Financials (see original minutes) for the year ending December 31, 2018 and distributed a handout, **Valley View Center for Nursing Care and Rehabilitation, Report to the Honorable Legislature** (see original minutes) which highlights the Financial Report. He reviewed the engagement status, filing of medicaid cost report on May 31, 2019 and the RHCF-4 medicaid cost report which is due on or before July 29, 2019, O'Connor Davies' responsibilities, responsibilities of Valley View Management, scope and significant audit areas, patient account receivables and resident revenue, third party payer reimbursement challenges, proposed change in computing medicaid case mix effective July 1, 2019, preparation for new medicare PDPM reimbursement effective October 1, 2019. Value of a one point change in medicaid case mix at Valley View, statement of net position and statement of revenues and expenses and changes in net position.

Mr. McCarthy added that there are approximately 13,000 nursing homes across the country with New York State having roughly 620 skilled nursing facilities. Medicaid rates are the highest rates paid with Valley View averaging \$615.00 per day for medicare Part A and generally short stay patients. Valley View averages between 12% and 15% in medicare Part A patients and they are running higher than the state average of approximately 10%. The medicaid rate per day is \$280.00 per day and for any dollar that a nursing homes spends caring for a medicaid patient they are paid about .80 cents for that dollar with the medicaid reimbursement being less than the cost for care with part of the difference found in the traditional medicare rate of \$615.00 per day. There are four key components to medicaid reimbursement: Direct at 66%, Indirect at 26%, Capital at 5% and Non-comparable at 3%. From 2012 to the present they are being reimbursed for costs expended by the facility in 2007 funds with no inflation factor. Case mix is based on the scores given to a patient and drives the direct component of the medicaid rate with Valley View and all other nursing homes scoring patients twice a year. Valley View has a very impressive case mix and they are higher than other not-for-profit and municipally operated facilities, something they generally do not see with a municipally operated facility.

Mr. Tuohy asked about the decrease in case mix over the last two periods. Mr. LaDue replied that it was due to lower scoring residents than in those periods.

Mr. Anagnostakis liked the graph on page 16 which detailed Valley View's standing versus the state. In the past, Valley View was below the average of a county nursing home; however, with new management and practices they were able to get above the average for county nursing homes and close to proprietary facilities. While they have dropped back down to the average for nursing homes it might only be a temporary setback.

Ms. Strecker noted that there were several errors in the handout from O'Connor Davies on page 9, under Patient Accounts Receivable and Resident Revenue. Mr. McCarthy replied that a corrected page would be sent to the committee.

Mr. McCarthy briefly addressed the proposed change in computing medicaid case mix.

Mr. LaDue added that the New York State budget required the New York State Department of Health to convene a workgroup to make recommendations on the case mix adjustment methodology. The group includes LeadingAge NY, several members, and other associations and providers to develop and present consensus recommendations to the New York State Department of Health.

Mr. Anagnostakis asked what kind of compromise could be made. Mr. LaDue replied that they are currently working on those details but ultimately New York State has a figure they would like to reach.

Mr. McCarthy added that in all probability it would be random, but the hope is that the negotiations will be more of a "cap" on how much to take out of the industry. They have recommended to their clients that they take snapshots of their case mix of medicaid patients during the period of July 2018 to March 2019 to get an average.

Mr. LaDue added that they now treat every day as a case mix day because they do not know when the next period will be.

Mr. Benton complimented Mr. LaDue and his staff on the work they have done.

Mr. Anagnostakis pointed out that while they are paid less due to the old methodology the purpose of the IGT payments is to supplement what they are not receiving from medicaid patients.

Mr. McCarthy agreed.

Mr. McCarthy referred to the **Valley View 2018 Financials** (see original minutes), he explained that because they did not conduct the audit last year this is a single year audit.

Mr. Anagnostakis asked for clarification that because they did not conduct the audit last year, it was not included. Mr. McCarthy replied yes, and they made reclassifications to how things were being presented.

Mr. McCarthy referred to page 4, Statement of Revenues and Expenses and changes in Net Position, and highlighted operating revenue of \$46.3 million, operating expenses of \$55.7 million resulting in a loss from operations of \$9.3 million and other change in net position (cumulative effect of change in accounting principle) of a negative \$101 million. The negative \$101 million represents

the actuary's evaluation of the impact of what the value is of all the benefits over years being recognized in one year, resulting in a change in net position before other change of \$370,585.00 net income.

Mr. Benton asked if the bad debt expense of \$1.5 million was high. Mr. McCarthy replied for the facility, yes, but with the transition of traditional medicaid patients into the managed long-term care programs those insurance companies are now managing the care of those beneficiaries. Those insurance companies should be paying the facility the benchmark medicaid rate; however, they have not been paying in a timely manner resulting in several significant unpaid balances from two insurance companies. Valley View and many other nursing homes are seeing an increase in accounts receivable and collectability. They have suggested that management increase the allowance to doubtful accounts in order to recognize the fact that they may not collect dollar for dollar for the services they rendered to those beneficiaries.

Mr. LaDue addressed the bad debt expense. At the Health and Mental Health committee meetings they have reported the issues they were having with managed long-term care and have since ended all of their contracts with them. While they were successful with Fidelis and WellCare, Evercare has the longest outstanding balance.

Mr. O'Donnell requested an overview of bad debt at next month's committee meeting.

Mr. Benton asked if there was a government guarantee on these insurance companies. Mr. McCarthy replied no.

Mr. LaDue explained that they have submitted complaints to the New York State Division of Insurance on their outstanding cases who then contact the insurance company.

Mr. McCarthy referred to page 3, Statement of Net Position, and highlighted Due from other funds of \$54 million, accounts receivable of \$9.3 million and capital assets of \$10 million, postretirement health care benefit obligation (OPEB) liability obligation of \$177 million for total liabilities, deferred inflows of resources and net positions of \$88.2 million.

Mr. O'Donnell asked about a specific number going forward on the number of people that have retired. Ms. Strecker replied the number is seen through the actuarial report provided by the Department of Finance. The accounting standard changed this year and previously they only had to report the pay-as-you-go portion but not the entire liability. However, the accounting standard changed for all municipalities and they will not see the large hit next year.

Mr. McCarthy clarified that it was one shot deal and an approximate \$3.2 million annual charge.

Mr. O'Donnell asked for clarification that they would be seeing over \$100 million in that line going forward. Mr. McCarthy replied yes, and it will be adjusted every year for the current employees as they are earning the benefit now to tap into later.

Ms. Strecker added that there is a pay-as-you-go portion to the benefits that Valley View pays annually and for 2018, it was approximately \$4 million.

Mr. Anagnostakis referred to pages 3 and 4, on page 4 he noticed a new line called: Interest income for \$583,404.00 and was that the interest earned from page 3, Due from other funds for \$53 million that Orange County is holding of Valley View funds. Mr. McCarthy replied yes.

Mr. Anagnostakis asked if they are required to book the interest as income for Valley View. Mr. McCarthy replied that it has been added in the past, but it may have been netted in the previous financial statements. This was one of the reclassifications on how things were now being presented.

Mr. McCarthy addressed the notes on pages 11 through 22: (4) Capital Assets, (5) Payable to Third Party and Private Payors, (6) Long-Term Liabilities (7) Resident Service Revenue, (8) Related Party Transactions, (9) Retirement Incentives and Other Pension Obligations, (10) Other Post Employment Benefit Obligations, (11) Concentrations of Credit Risk and (12) Commitments and Contingencies.

Mr. LaDue referred to page 4, County indirect cost allocation of negative \$1.5 million and asked that Mr. McCarthy address it. Mr. McCarthy replied that they are still being paid based on 2007 with no adjustment to their reimbursement rate regardless if it is a county allocation or increased salaries. The only way to change the rate is through case mix.

Mr. Anagnostakis asked if O'Connor Davies audits other nursing homes in New York State. Mr. McCarthy replied that they have in the past.

Mr. Anagnostakis asked if any other county nursing home has an allocation like the \$1.5 million mentioned by Mr. LaDue. Mr. McCarthy replied yes.

Mr. Anagnostakis asked for their names. Mr. McCarthy replied that he would get them to the committee and because of Freedom of Information they have access to those cost reports.

Mr. Benton added that it encompassed a large legal department allocation but did not include settlements.

Mr. McCarthy referred to page 32, Internal Control over Financial Reporting in the handout and because of HIPPA regulations, they performed additional IT audit related work. They are recommending their IT audit division come before the committee and present their findings.

Legislative Counsel Reed asked if this was above and beyond the program they have for Corporate Compliance with the Bonadio Group. Mr. McCarthy replied that it could as it is something they do for their healthcare organizations as part of the audit.

Mr. Porr replied that it was separate.

Mr. O'Donnell asked that Mr. McCarthy forward a copy of the IT Report to him and they will decide when they can come before the committee.

Mr. McCarthy added that they are comfortable stating that the information provided by the staff at Valley View can be relied on.

Mr. Anagnostakis asked for clarification that the \$3.2 million OPEB charge is still a non-operating cost as opposed to the \$4.9 million pay-as-you-go portion. Mr. McCarthy replied that the \$4.9 million is part of the actuary's calculations and part of the \$20 million in employee benefits. However, the \$3.2 million is not paid for and has not changed.

On the agenda was the monthly report on Valley View.

Ms. Strecker explained that other revenues were at \$14.8 million and \$3 million in additional revenues would be posted to the June general ledger. On the personal service side, personal services were at \$9 million, overtime was at \$805,988.00, equipment at \$24,377.00, contractual was at \$3.5 million, employee benefits at \$8.2 million and serial bond interest at \$53,252.00.

Ms. Strecker added that the occupancy rate for May was at 93.37%. Medicaid utilization was at 59.27%, medicaid (HMO) at 15.58%, medicare at 15.94% and private pay at 8% and today's occupancy is at 95.83%.

Mr. Anagnostakis asked about the decrease in revenues of approximately \$320,000.00 and the increase in expenses of \$415,000.00 as compared to last year resulting in the facility being down about \$740,000.00 as compared to last year. Ms. Strecker replied that part of the decrease in revenues could be a result of footnote (2), Additional Revenues totaling \$3,751,112.00 for the May billing cycle that will be recognized in June.

Mr. Anagnostakis asked about the increase in expenses. Ms. Strecker replied that overtime which is included under personal services was at \$805,988.00 as compared to last year at \$650,573.00. There has been a change in overtime in that they used to pay straight time; however, with the new collective bargaining agreement the previous straight time is now overtime. In addition, the associated benefits also changed. They rely on reimbursement and they are always challenged to keep revenues ahead of the pace of personal services and benefits. Whenever benefit costs increase and salaries increase, they have to find ways to make up that revenue.

Mr. LaDue added that vacancies in some of their higher cost positions has attributed to the overtime.

Mr. Tuohy asked about CHHA expenses. Ms. Strecker replied that they are separate with the only expense being for the CHHA's Deputy Commissioner.

On the agenda was a discussion on anti-marijuana legislation.

Mr. O'Donnell expressed his displeasure on the possible passing of recreational marijuana legislation in New York State. As a parent he is very concerned with the world they are leaving to their children. The costs are unknown, and a legitimate study has not been conducted in New York. For tax revenue reasons they are rushing it through before the state legislature recesses. Law enforcement agencies oppose legalization, it is a gateway drug that Governor Cuomo admitted to last year. Does anyone believe this will lead to less drug addiction, safer highways, better parenting and more responsible human beings. They are already discussing the legalization of prostitution and its impact on sex trafficking and if recreational marijuana is legalized, prostitution will not be far behind. Earlier this year Smart Approaches to Marijuana New York (SAM) conducted a

presentation with the emphasis on counties opting out of the legalization of marijuana and the sharing of revenues. Numerous counties passed resolutions opting out; however, both the Assembly and Senate are doing away with the ability for counties to opt out.

On the agenda was an update on the Opioid Addiction Committee.

Mr. Sassi agreed with Mr. O'Donnell's sentiments on recreational marijuana and prostitution. These legislators should be talking to family members who have lost loved ones to drug addiction. He has personally contacted Assemblyman Miller and Senator Skoufis and encouraged them to reach out to agencies such as Catholic Charities, Alcoholism and Drug Abuse Council (ADAC), Access, Cornerstone and constituents who have lost loved ones and then base their vote on whether they want to legalize marijuana or not.

Mr. Sassi commented that the Orange County Legislature held a press conference and passed a resolution on Fentanyl "Analogues" and they have confirmed that both the Senate and Assembly passed separate bills adding analogues. The 311 number is close to completion with the hang up being with the different phone companies and once in place he will be coming back to the legislature to appropriate funds in order to "blitz" the 311 number through a marketing campaign. In his opinion, that would be the best way to spend the money, time and effort. New York State received an \$86 million grant that will be dispersed amongst 16 counties but split 8 and 8.

Ms. Miller added that according to Columbia University they should know by the end of June as to whether they will be in the first round of eight counties or the second round. National Institute for Drug Abuse (NIDA) has selected a company out of North Carolina who will randomize the selection of the counties with the first group of counties being funded in October 2019 and the second group 22 months later. All sixteen counties will be given funding to hire a director and Epidemiologists and the counties not selected in the first round will be collecting baseline data while the other counties will be implementing change, but they hope to be in the first eight selected.

Mr. Tuohy asked how the sixteen counties were chosen. Ms. Miller replied that they had to meet a certain criterion of deaths per 100,000. The goal of the National Institute for Drug Abuse (NIDA) is to reduce deaths by 40%; however, their goal is to reduce it by 100%.

Mr. Sassi added that in New York State, Orange County ranks high in overdose deaths.

Mr. Sassi pointed out that there are many great people and organizations who are doing great things to fight this battle and they are bracing for the nightmare if recreational marijuana is legalized. In addition, Hope Not Handcuffs now has fifteen police departments signed up.

Mr. O'Donnell asked if there was anything, they could do to move the 311 number forward. Ms. Miller replied that Commissioner Casey and his team at the Department of Emergency Services are working on it.

Mr. O'Donnell commented that they need to write a letter and address this with the phone companies because the longer the phone companies procrastinate the more people are dying.

Mr. Sassi added that at a recent drug court graduation in the city of Middletown there were five graduates.

The meeting adjourned at 5:26 p.m.