

**HEALTH AND MENTAL HEALTH COMMITTEE  
MINUTES**

**TUESDAY, JUNE 21, 2022  
4:00 P.M.**

PRESENT: Peter V. Tuohy, Chairperson  
Glenn R. Ehlers, Thomas J. Faggione, Kevindaryán Luján, Janet Sutherland,  
Laurie R. Tautel

ALSO

PRESENT: James O'Donnell, Legislator  
Paul Ruskiewicz, Legislator  
Betsy N. Abraham, Legislative Counsel  
Carol A. Pierce, Deputy County Attorney  
Christopher Ericson, Deputy Commissioner of Health  
Jackie Lawler, Director of Epidemiology and Public Health Planning  
Darcie Miller, Commissioner of Social Services and Mental Health  
Laurence LaDue, Commissioner, Valley View Center  
Donna Strecker, Director of Finance, Valley View Center  
Kerry Gallagher, Acting Commissioner, Department of Finance  
Donna McCarey, Deputy Commissioner, Human Resources  
Alison Tyack, Director of Personnel Management, Human Resources  
Dina Sena, Budget Analyst  
Christopher McCarthy, Partner, O'Connor Davies LLP  
Michelle S. O'Reilly, Audit Engagement Partner, O'Connor Davies LLP

Mr. Tuohy opened the committee meeting at 4:08 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.

On the agenda was a Department Update from Darcie Miller, Commissioner of Social Services and Mental Health.

Ms. Miller addressed the committee and highlighted several key points in the update that was emailed to all legislators (see original minutes). They have conducted their first Opioid Settlement Funds Committee meeting. A Cross-Systems Meeting with the New York Public Welfare Association and New York State Office of Mental Health Commissioner was held to discuss how to better serve individuals who have needs across both systems. At a recent Orange County School Board Association meeting their Executive Committee requested they address how students' social and emotional needs have increased, what they are seeing with Orange County youth specifically and the stress being felt by faculty, administrators, and board members. They are focusing on preparing for the new school year and expanding prevention efforts, communication and partnerships with their school districts. During Youth In Government Day many students talked about their stress and anxiety and the need for a mental health day. In the past they have researched mental health days as some states have incorporated mental health days as an excused absence from school and they did move forward as a committee with that request to New York State and they have stated that it would be up to the district to decide if they want to add a mental health day as an excused absence. The intent

behind is not for children to take more excused absences but to send a message that it is okay if they are feeling anxious and/or overwhelmed to take a day and to ask for help. The Goshen Central School District will be the next to establish a satellite clinic location.

Ms. Sutherland asked if there would be any guidance for the school districts such as one mental health day a month or quarter. Ms. Miller replied that the number would be determined by the school district.

Ms. Tautel moved request to accept and appropriate year 4 funds in the amount of \$39,166.00 for the period of 4/1/2022-3/31/2023 from NYSDOH for Tuberculosis Prevention and Control Program, seconded by Ms. Sutherland.

Ms. Tautel asked for the annual number of cases treated in Orange County. Mr. Ericson replied approximately five or six.

Motion carried. All in favor.

Mr. Luján moved request to accept and appropriate funds from NYSDOH for the Performance Incentive Initiative Award in the amount of \$15,000.00 for the period of 1/1/2022-12/31/2022, seconded by Ms. Tautel.

Motion carried. All in favor.

Mr. Faggione moved request to accept and appropriate funds in the amount of \$271,833.00 from NYSDOH for the Public Health Emergency Preparedness Program Grant, seconded by Ms. Sutherland.

Motion carried. All in favor.

Mr. Faggione moved request to create one (1) Director of Regulatory Assistance, Grade 24, seconded by Ms. Tautel.

Mr. Ericson explained that the Department of Health has many regulations and are required to conduct investigations and inspections and those regulations can be difficult to understand for the person holding the permit. This will provide stronger communication to the business with the violation and to work with their department and commissioner to find ways to communicate better with the permit holder. They do not have a person in the position; however, they do have an assistant county attorney from the Law Department that works with them. That position would go back to the Law Department if this position were created with the position having some the same qualifications and critical thinking capacity of a lawyer.

Mr. Tuohy asked if the assistant county attorney was on loan to the Department of Health. Mr. Ericson replied that it was an inter-department funded position. The person was positioned in their office but they paid the County Attorney's office for the position.

Mr. Anagnostakis asked if this person was a full-time employee and worked a full year at the Department of Health and what was their reimbursed salary. Mr. Ericson replied that they were full-time and the salary was budgeted for their department; however, he does not have the salary information.

Mr. Anagnostakis commented that the salary range is \$66,000.00 to \$109,000.00 and would it be filled internally. Mr. Ericson replied that the position would be filled internally and be the same salary and grade that the attorney was receiving which was in the middle range.

Mr. Tuohy asked that Mr. Ericson provide the committee with the attorney's salary.

Mr. O'Donnell asked if the Department of Health's total positions would increase by one in 2023. Mr. Ericson replied technically, yes.

Mr. O'Donnell commented that due to the increase in the Department of Health position count the County Attorneys office position count should decrease by one.

Ms. Pierce clarified that the County Attorney's office would not see a decrease in their position count as the position will remain in the County Attorney's office.

Discussion ensued on the number of positions in the County Attorney's office, possibility of eliminating the position in the County Attorney's office, attorneys assigned to various departments and chargebacks and additional details and the qualifications on the new position in the Department of Health.

Mr. Faggione added that this passed unanimously at the Personnel and Compensation committee meeting on Monday.

Motion carried. All in favor.

Mr. Faggione moved request to create one (1) Deputy Commissioner of Health for Environmental Health, Grade 26, seconded by Mr. Luján.

Mr. Ericson explained that the Department of Health is comprised of seven different divisions, and this would be a Deputy Commissioner for the Environmental Health Division. Matt Schleifer was the Director and oversaw the whole division. When he retired, they had people in and out of that position and in 2018, they did not fill the position. There are two units within the Environmental Health Division: Bureau of Sanitary Control (inspection of restaurants, pools, children's camps, etcetera) and Bureau of Engineering Control (plan reviews for engineering schematics for water, sewer, pool design, etcetera). Those divisions essentially operate individually at the present time and they do a great job but it has gotten complicated over the last few years with the number projects, restaurants and the expansion of Orange County and they would like to get someone back into that position and lead the division. They want to place a Deputy Commissioner that is a licensed engineer so that this division can rely on this individual would who be responsible for the entire division.

Mr. Tuohy asked if the position would be filled internally. Mr. Ericson replied that he did not see it being filled with existing staff.

Mr. Anagnostakis asked about the salary range. Mr. Ericson replied that they do not know at this time.

Mr. Anagnostakis asked for clarification that this position has not been filled since 2018. Mr. Ericson replied that this would be a new position but, in the past, they did have a Director of Environmental Health.

Mr. Anagnostakis asked if they have been doing good without this position since 2018, why now. Mr. Ericson replied that they have done fine but the stresses in that division have become apparent over the last several years. They thought they could do without the position, and they tried but they could do better, and by putting a leadership role in the position that can coordinate the two different bureaus will be helpful to the division and entire department.

Ms. Tautel asked if the vacant Director of Environmental Health position would be abolished. Mr. Ericson replied that the position has already been abolished.

Mr. Tuohy asked if it would have been beneficial to fill this position during the pandemic as opposed to filling it now. Mr. Ericson replied that over the last 18 months they have seen a great deal with the economy doing well and the number of projects and construction going up in Orange County. During the height of the pandemic this division was not in the field as much and the stress on that division was different.

Mr. Faggione commented that at the Personnel and Compensation committee meeting Mr. Ericson stated, "That both positions would help the public and make the Department of Health more efficient."

Motion carried. All in favor.

Legislator Sutherland left the meeting at 4:48 p.m.

On the agenda was a Department Update from Christopher Ericson, Deputy Commissioner of Health.

Mr. Ericson addressed the committee and highlighted several key points in the update that was emailed to all legislators (see original minutes). Summer operational programs regulated by the Orange County Department of Health are starting to open. They include Pools, Beaches, Spray Parks, Children's Camps (overnight and day) in addition to Fairs and Festivals. They are seeing a large influx of engineering plans for review of community water systems in addition to subdivision and septic plan reviews. There are forty-seven engineering projects in their plan review queue and sixty-seven engineering water systems currently up for inspections. The Wastewater COVID-19 analysis project at six different wastewater treatment plants in Orange County continues. The Orange County Department of Health continues to hold COVID-19 vaccinations by appointment only in their Newburgh and Middletown Offices and the nursing division continues to provide booster vaccinations to homebound residents. The Health Department continues to conduct listening sessions and speak with residents about their health concerns and needs. Sessions have been completed in the cities Port Jervis, Middletown and Newburgh and the Towns of Blooming Grove, Chester and Cornwall. The next listening sessions will be held in the Towns of Crawford on June 29,

2022, and Goshen on June 30, 2022. They are currently scheduling the Towns of Monroe, Montgomery and Tuxedo. This will eventually culminate in compiling data for the Community Health Assessment and ultimately dictate the priority areas for their Community Health Improvement Plan (CHIP). Their Health Summit will be held on June 28, 2022, at the Rowley Center on the SUNY Orange Campus. Attendees will be asked to vote on the new priority areas for the Health Improvement Plan as well as participate in breakout sessions and they have over 100 people that have RSVP'd.

Mr. Tuohy asked about the recent graph that was posted on social media regarding the listening sessions. Ms. Lawler replied that the five priority areas are chosen by the New York State Department of Health and is called the Prevention Agenda and they are listed as follows: Prevent Communicable Disease, Prevent Chronic Disease, Promote a Healthy and Safe Environment, Promote Healthy Woman, Infants, and Children, Promote Well-Being and Prevent Mental and Substance Abuse Disorders. The prevention agenda is laid out for a five-year time period, and they must conduct a health assessment every three years and they will change the prevention agenda moving forward in 2024. The results they have seen on the thermometer posts are partly from the listening sessions but also from the Community Asset Survey which consists of only a few questions and basically asks what they need to work on, what are they doing well and what do they need to focus on in the next five years. It is very important to get community input for the Health Assessment in addition to reviewing all the secondary data and analysis. In addition, they do something called "Rock Voting" where they go to community events and have jars on the table and give anyone willing to participate rocks to place in the jars by choosing priority areas.

Mr. Tuohy requested the graph and a brief explanation on how the graph was composed and its methodology be sent to committee members.

Ms. Tautel asked that they include the Town of Highland Falls and the village of Highlands to their listening session locations. Ms. Lawler replied that they would be added to the list.

Mr. Luján asked about turnout for the listening sessions and what have they seen that was different from one area to another because not every community will have the same issues and/or concerns. Ms. Lawler replied that turnout has been low for the listening sessions; however, they have been quality conversations whether it's about health communications, water or maternal health. What they have seen across the various communities is mental health concerns and their Director of Health Equity has been running their listening sessions with many Public Health Fellows assisting due to the community health assessment process. The survey will close on July 15, 2022, and at that time they should be able to get some kind of breakdown. They also have a large survey that they will be doing with all seven of the Hudson Valley counties and is being powered by Sienna and their outreach in underserved and disadvantaged communities to ensure they are appropriately represented, and then weighing the data appropriately so that it is statistically represented for a countywide estimate.

Mr. O'Donnell commented on a recent news article on the listening sessions where a resident talked about issues with getting an elderly parent into a nursing home. The article stated that the person was referred to the Orange County Office for the Aging; however, they should have been referred to Valley View. He asked that this be addressed with the appropriate staff and that they follow-up with the Office for the Aging on this issue.

Ms. Lawler replied that they would follow-up with the Office for the Aging.

Mr. Luján asked if they had considered virtual listening sessions. Ms. Lawler replied that they would mention it to the Health Equity Director.

Mr. Luján asked about Monkeypox and if there were any cases in Orange County. Ms. Lawler replied that there are twenty-seven cases in New York State: twenty-five in New York City, and one each in Westchester and Sullivan counties. Monkeypox is similar to smallpox, and a vaccine is available.

Mr. Luján moved request to accept and appropriate COVID-19 Provider Relief Funds (PRF), \$3,216,144.23 from the Department of Human Services based on application submitted under phase (4), seconded by Ms. Tautel.

Motion carried. All in favor.

Mr. Luján moved to request supplemental appropriation for proposed 2022 capital expenditure for the water sewer treatment plant, \$135,000.00, (bonding) seconded by Ms. Tautel.

Mr. LaDue explained that these funds are primarily for emergency repairs. In addition, they have a project manager/construction manager RFP that is about to be awarded and that person will be assisting with their outstanding large capital projects including the analysis and engineering for the sewer plant.

Motion carried. All in favor.

Mr. Faggione moved to request supplemental appropriation for proposed 2022 capital expenditure to continue upgrading patient care mechanical lifters, \$70,000.00, (bonding), seconded by Ms. Tautel.

Mr. Tuohy asked if the lower census would extend the life of the mechanical lifters. Mr. LaDue replied that they could get another year or two out of some of the mechanical lifters, but they want to use the most up to date equipment for both resident and employee safety.

Mr. Anagnostakis commented that when Valley View was a big issue in the county and money was not being spent on the mechanical lifters, they had a high number of Workers' Compensation cases. However, with the upgrading of mechanical lifters they are seen that number decrease significantly.

Motion carried. All in favor.

Ms. Tautel moved to request supplemental appropriation for proposed 2022 capital expenditure to continue with residential unit refurbishments, \$40,000.00 (bonding), seconded by Mr. Luján.

Mr. LaDue explained that this is done annually and will be used if needed to replace televisions, handrails and signage on the units.

Motion carried. All in favor.

On the agenda was the monthly report on Valley View.

Ms. Strecker explained that IGT funding was at \$2.1 million, other revenues at \$14.3 million and emergency disaster assistance at \$3.2 million which will be moved to the modified budget. There are specific guidelines for provider relief funds and a great deal will be used for lost revenues. Personal services were at \$7.5 million, equipment at \$21,903.00, contractual at \$3.2 million and employee benefits were at \$6.9 million. Census for May was 68.90% and their year-to-date average was 68.88%. Medicaid utilization was at 80.30%, medicaid (HMO) at 1.60%, medicare at 11.05% and private pay at 6.97%.

The committee discussed Personal Protective Equipment (PPE) at Valley View.

Mr. Anagnostakis commented that in 2021 Workers' Compensation was at \$1.56 million and in 2022 they are at \$1.25 million. In 2011 and 2012, those Workers' Compensation figures were at between \$3.5 million and \$4.5 million.

Discussion ensued on recruitment and the survey and discussions that are being held with CNA staff regarding interest in being an LPN, cost of schooling, possibility of county paying the tuition if they commit to five years at Valley View, and they are looking to do the same program for LPN's that want to be RN's, contacting both SUNY Orange and Mount St. Mary's College on programs, national nursing crises, planning for the new normal, possibly lowering bed count at Valley View, budgeting at 70% for 2023, building relationships with local colleges, enacting the proposed program sooner rather than later, competing against area nursing homes for staff and an up to date salary survey.

On the agenda was a Department Update from Laurence LaDue, Commissioner of Valley View.

Mr. LaDue addressed the committee and highlighted several key points in the update that was emailed to all legislators (see original minutes). Valley View's census on June 17, 2022, was 68.61%. They have three units closed but are accepting short-term admissions and the CHHA census is at twenty-three. Two employees have tested positive for COVID-19 and two residents have tested positive. No units are currently on precautions and visitation is still allowed. They continue to struggle with recruiting new nursing staff. A preliminary analysis of their staffing compared to the New York State Minimum Staffing Standards which shows that they are just reaching minimum staffing levels.

On the agenda was a review of the 2021 Financial Report by O'Connor Davies LLP.

Christopher McCarthy, Partner, O'Connor Davies LLP and Michelle S. O'Reilly, Audit Engagement Partner, O'Connor Davies LLP presented an overview of the Valley View 2021 Financials (see original minutes) for the year ending December 31, 2021 and power point entitled, **Valley View Center for Nursing Care and Rehabilitation, Report to the County Executive, Steven**

**Neuhaus and Honorable Legislature of the County of Orange, New York** (see original minutes) which highlights the Financial Report. They reviewed the engagement status, filing of the medicare cost report, the RHC4-4 medicaid cost report which is due on or before July 11, 2022 and the additional audit under uniform grant guidance that is due on or before September 30, 2022 and O'Connor Davies' responsibilities, responsibilities of Valley View Management and Those Charged With Governance (TCEG), audit scope and approach, third party payor overview, industry overview, new for 2022, financial statement highlights, required communications and communication of Internal Control Matters.

Mr. McCarthy addressed their audit procedures which included: the audit being conducted remotely, sharing of a workpaper portal to keep information secure and to maintain an inventory of received and analyzed workpapers and frequent communication between management and the audit team through TEAMS calls, ZOOM calls and e-mail to discuss analyses and audit issues.

Ms. O'Reilly explained the significant audit areas that were looked at during the audit which were as follows: provider relief funds, residents account receivables and revenue, due from other funds, accounts due to/from third party payers, capital assets, accounts payable, accrued vacation and accrued payroll, long-term debt, net pension liability, other postemployment benefit obligations payable, payroll and related expenses, subsequent events, commitments and contingencies, related parties, fraud and illegal acts (of which there were none) and audit procedures under Government Auditing Standards.

Mr. McCarthy referred to pages 11 and 12, Patient Accounts Receivable and Resident Revenues, and highlighted accounts receivable of \$4.032 million a change in accounts receivable of (\$1.085 million) and resident revenues of \$37.2 million and a change of (\$1.2 million). The decrease in accounts receivable was due to improved collections and the decrease in revenue was primarily due to a decrease in the overall census days of approximately 12% from the prior year. If they had not increased their case mix the revenue loss would have been greater. Census for the facility in 2021 was 74.8%; however, in 2020 it was 84.3%. Out of six hundred plus nursing homes in New York State there are twenty-one county-owned nursing homes.

Mr. Anagnostakis asked if this is the new normal regarding census or will it go back to what it was previously. Mr. McCarthy replied that while everyone would like to remain in their homes, there will definitely be a need for skilled nursing homes. Nationwide, New York State has always been better in regard to occupancy and Valley View was at about 93%. While they are a county-owned facility they are along the lines of a non for profit and they were in the 90% range before COVID-19. Across the country typical skilled nursing facilities specifically publicly traded ones was around 80% occupancy. They are also shooting for medicare business of about 25% to 30% with medicare being the highest of all the rates; however, 80% of Valley View's patients are from medicaid which is their lowest rate and the lowest rate among nursing homes across New York State.

Mr. McCarthy referred to page 14, Due to/from Third Party Payor Overview including reimbursement opportunities and challenges. Traditional medicare reimbursement was approximately \$675.00 a day and traditional medicaid was at \$285.00 a day. Effective April 2020 and continuing through 2021, medicaid reduced the capital component of all Skilled Nursing Facilities by 5% (impact to Valley View was a revenue reduction of approximately \$60,000.00 for 2021). Effective April and continuing through 2021 medicaid implemented a "1.5% sequestration" payment reduction (impact to Valley View was a revenue reduction of approximately \$275,000.00 for 2021) this was

eliminated with the New York State April 1, 2022, budget. New York State implemented a change to computing medicaid case mix effective with the July 2021 rates with minimal impact to Valley View. Valley View has received approximately \$757,000.00 in additional funds from medicaid appeals over the years 2012 to 2015 (it takes approximately 7-10 years for medicaid to process such appeals). The New York State Office of the Medicaid Inspector General has restarted its reimbursement audits across the nursing home industry (including Valley View) and includes auditing the recently processed appeals.

Mr. Anagnostakis asked how private pay compares to medicaid rates and is their rate competitive. Mr. LaDue replied that they are not the highest in the county, but they are not the lowest but about in the middle. They annually conduct a study and bump the figure modestly.

Mr. Anagnostakis asked if they should be higher. Ms. Strecker replied that if people have the funding to pay privately by the time that person comes to the nursing home those funds will be spent down until they become eligible for medicaid.

Mr. McCarthy referred to page 16, Industry Overview, staff hiring and retention challenges that have worsened and are a nationwide problem. Census is still an issue for nursing homes nationwide with some beginning to rebound but not many to pre-pandemic levels, reduced revenue and increased labor costs continue and medicare recently proposed a 4.6% downward adjustment to rates.

Mr. Luján asked what they are seeing aside from sign on bonuses to recruit new employees. Mr. McCarthy replied that he has not discussed this with other nursing homes, but they could be hiring third party staffing to fill the void. However, this is a national and regional issue.

Mr. LaDue added that they are currently contracted with six or seven agencies, and they have no one.

Mr. McCarthy referred to pages 17, New for 2022, NYS 70/40/5 Rule, the New York State budget now requires skilled nursing facilities to: spend at least 70% of revenue on direct resident care, of the 70%, at least 40% must be spent on resident-facing staffing, underspending will be subject to recoupment by Medicaid, revenue that exceeds operating and nonoperating expenses by greater than 5% will be subject to recoupment by Medicaid. "Revenue" is defined as total operating revenue from or on behalf of residents, government payers or third-party payers **less** cash receipts assessment revenue (change resulting from 2022-2023 Executive Budget). Excluded from the revenue definition is the **capital per diem portion** of the rate for CMS four- and five-star facilities that are not attributable to a capital expenditure made to an entity with a common familial ownership. Compliance with the 70% and 40% rules were suspended by Governor Hochul through March 31, 2022, but are now in effect beginning April 1, 2022 and the 5% rule was not suspended and went into effect on January 1, 2022. There is current litigation regarding these new regulations.

Mr. McCarthy referred to page 18, Minimum Nurse Staffing Requirement (continued), the New York State budget requires that skilled nursing facilities maintain daily (including weekends and holidays) average nurse staffing hours equal to 3.5 hours of care per resident per day, consisting of: 2.2 hours of certified nurse aide, 1.1 hours of registered professional nurse or licensed practical nurse, 0.2 hours of "other" (RN, LPN or CNA). If the average staffing hours per resident day for the quarter is less than 3.5 hours, penalties are \$2,000.00 per day for each day out of compliance. New

York State has the ability to levy penalties on noncompliant facilities as of April 1, 2022. Enforcement was temporarily suspended by Governor Hochul through March 31, 2022; however, it is now effective as of April 1, 2022. There is currently litigation regarding this regulation.

Mr. LaDue added that a recent law was presented and should pass that all healthcare facilities will be penalized on any nurses that are mandated for overtime.

Mr. McCarthy referred to page 20, Impact of Benefits on Change in Net Position, operating revenues in 2021 were at \$38.056 million compared to \$38.683 million in 2020 which was driven primarily by the reduction in census, operating expenses were at \$62.987 million, non-operating revenue and other changes were at \$6.176 million resulting in a change in net position of \$(18.755 million). Adjustments based on actuarial reports were as follows: Pension at \$(1.429 million) and Other Post-Employment Benefits (OPEB) at \$13.731 million. GASB requires the liability that an individual is earning be recorded now and not when they are retired and they begin paying that individual and/or continue to pay their health insurance and skews the income statement of a typical government run nursing home because any not for profit or profit are not required to do so. The closest would possibly be a defined benefit pension plan.

Mr. Anagnostakis commented that this is a complete picture of the bottom line. They have backed out the Other Post-Employment Benefits (OPEB) at \$13.731 million because GASB requires they record it in the income statement when it is not an actual hit to the county as they are not paying it as a book entry.

Mr. O'Donnell asked for clarification on the discrepancy between page 20, Impact of Benefits on Change in Net Position, Other Post-Employment Benefits (OPEB) and page 5, of the Valley View Financial Statements. Mr. McCarthy replied that they were trying to simplify the bottom line by addressing the non-book entry of Other Post-Employment Benefits (OPEB).

Ms. O'Reilly referred to pages 23 through 27, Required Communications, and highlighted the Provider Relief Fund (PRF) payments, Allowance for Doubtful Accounts, Depreciation Expense, Other Post-Employment Benefits (OPEB) and Net Pension Liability and notes (6) Long-Term Liabilities, (9) Retirement Incentives and Other Pension Obligations, (10) Other Post Employment Benefit Obligations and (12) Commitments and Contingencies.

Ms. O'Reilly referred to pages 29 through 31, Internal Control Over Financial Reporting, if during the audit they were to find a deficiency in internal controls that would be considered a "material weakness" or "significant deficiency" they would be required to communicate that, but they had no such findings.

The meeting adjourned at 6:51 p.m.