CONTINUING CARE LEADERSHIP COALITION

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TESTIMONY OF SCOTT AMRHEIN
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JOINT LEGISLATIVE PUBLIC HEARING
ON THE SFY 2016-17 EXECUTIVE BUDGET PROPOSAL

Introduction

Good afternoon. I am Scott Amrhein, President of the Continuing Care Leadership Coalition (CCLC), which represents not-for-profit and public long term care providers in the New York metropolitan area and beyond. Our members represent the full continuum of long term care services including skilled nursing care, home health care, adult day health care, respite and hospice care, rehabilitation and sub-acute care, senior housing and assisted living, and continuing care services to special populations. We appreciate the opportunity to provide testimony to the Senate and Assembly Health Committees, the Senate Finance Committee, and the Assembly Ways and Means Committee regarding Governor Cuomo's Executive Budget proposal for State Fiscal Year (SFY) 2016-17.

Presentation Outline:

In this testimony, I will discuss the following:

- The Importance of a Stable Not-for-Profit Long Term Care System in New York State
- CCLC's Budget Comments and Recommendations

The Importance of a Stable Not-for-Profit Long Term Care System in New York State

Not-for-profit nursing homes and home care agencies are vital to the growth and sustainability of New York State's health care system. Not-for-profit providers are leaders and innovators in delivering high-quality long term care for New York's most

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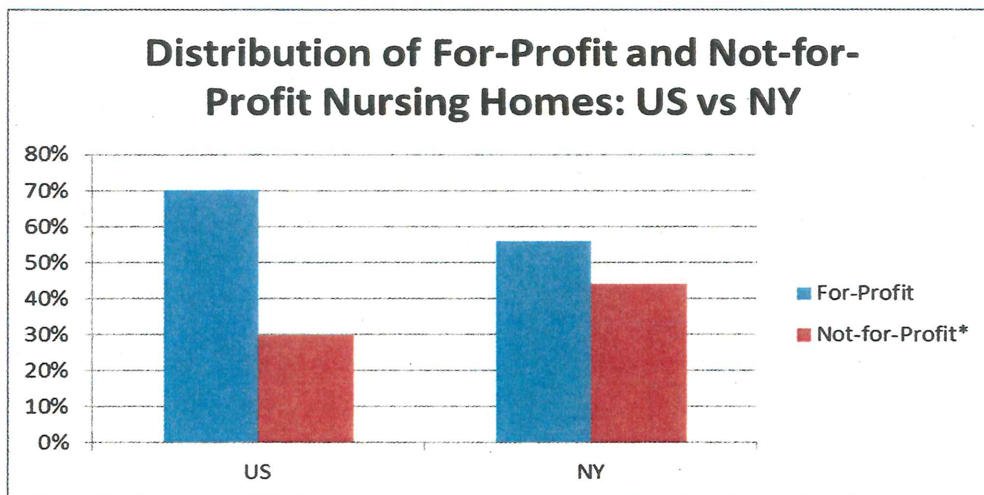
vulnerable residents. To achieve the goals of the Centers for Medicare and Medicaid Services' (CMS's) triple aim, which New York State supports and embraces, New York State must commit to sustaining a vibrant, robust, and stable not-for-profit long term care system. The three tenets of the triple aim – improving the patient experience of care, improving the health of the population, and reducing the per capita costs of care delivery – depend critically on the continued presence of a healthy not-for-profit long term sector.

As illustrated in Table I of my testimony, not-for-profit and public nursing facilities have historically made up a greater share of the nursing homes in New York State, as compared to the Unites States as a whole. Consistent with national studies showing the contribution of not-for-profit health care organizations to better quality outcomes, New York's quality profile on key measures as a result has soundly outpaced that of other States, with New York State performing 6% better than the U.S. on the CMS quality measures; performing 11% better than the U.S. in reducing the inappropriate use of antipsychotic medications; and having 11% more facilities achieve 5-star quality status than in the U.S. overall.

Table I



Within New York State, the importance of the not-for-profit sector in driving quality standards is readily seen. Data from New York State's Nursing Home Quality Initiative (NHQI) program – which measures each nursing home's performance against its peers in the domains of quality measures, compliance, and potentially avoidable hospitalizations – shows clearly that the not-for-profit sector is leading the state in achieving superior quality performance on key quality benchmarks, with fully 66% of all not-for-profits Statewide ranking within the system's top three quality tiers – a result 20% better than that achieved by facilities on the whole Statewide.

Table II

Not-for-Profit Leadership in Overall Quality Performance

	% in Top Tier	% in Top Two Tiers	% in Top Three Tiers
Statewide	19.1%	37.1%	55.0%
Not-for-Profit	24.4%	46.1%	66.4%

Source: NYS Nursing Home Quality Pool Benchmark Data, 2013.

Sustaining and stabilizing the not-for-profit sector is vital to New York State residents. With a rapidly growing over-65 population in New York – one projected to rise to 1.35 million in 2030, a 44.2 percent increase over a thirty year period – not-for-profits will be critical to meeting the population's need for quality care and offering choices that ensure that those in need get the best possible care, in the most appropriate setting, delivered with respect and attention to each individual's personal preferences. At the health system level, not-for-profits have uniquely distinguished themselves as leaders in managing complex clinical issues at the site of care and thus preventing avoidable hospitalizations, and in so doing have created an asset critical to New York's DSRIP goals and the performing provider systems (PPSs) charged with achieving them.

Of great concern, New York State has experienced a precipitous decline in numbers of not-for-profit and public providers in recent years. CCLC is deeply concerned that this trend - if unchecked – will fundamentally change New York's status as a state with superior long term care options and outcomes. Between the years of 1996 and 2010, over 5,000 not-for-profit nursing homes beds were lost. As Table III of my testimony illustrates, New York lost 41 not-for-profit and public nursing homes during this period, and the number of closures and conversions since 2010 has continued at an alarming rate. Intervention to mitigate this trend is essential. Absent change, these patterns will undermine New York's quality position, stall efforts to proliferate community-based care options, and slow the adoption of person-centered long term care models in our State.

Table III

Number of Nursing Facilities by Year and Sponsorship, New York State

	1996	2000	2005	2010
For-Profit	312	313	310	310
Not-for-Profit	295	298	290	258
Public	48	51	49	44
Total	655	662	649	612

Source: RCF4 nursing facility cost reports filed with the New York State Department of Health, 1996-2010, obtained through HANYS/FACETS.

CCLC's Budget Comments and Recommendations

The Executive Budget is a critical document for establishing policies and priorities to ensure that providers across the continuum remain strongly positioned to meet the needs of those in need. In comments below, we will highlight areas of importance to the post-acute care community, whether reflected in the formal executive budget proposal, or not addressed within the budget but nevertheless critical to the environment of care for providers and patients in New York. The recommendations

discussed are vital to the health of the long term care community, and in turn essential to providing superior health outcomes to New York's most vulnerable citizens.

Investments in Provider Stability and Capital Funding

The proposed Executive Budget would continue and expand the State's commitment to sustaining vulnerable, at-risk, and safety-net providers and expanding funding for capital initiatives vital to such providers, by extending funding for the Vital Access Provider (VAP) program and related programs, and by establishing the Healthcare Facility Transformation Program. Noting that virtually all long term care providers are effectively "safety-net providers," delivering care to populations that are almost exclusively dependent on public payer sources, and disproportionately dependent on Medicaid, CCLC is appreciative that the Executive Budget fully funds the State's Vital Access Provider program's commitments for SFY 2016-17, and, likewise, that the budget envisions making available at least $195 million in capital funding through the Healthcare Facility Transformation Program. Given that the Vital Access Provider program is one of few that meaningfully can be utilized to support vulnerable long term care providers, we strongly urge that funding and support for the program is provided on a sustained basis beyond the 2016-17 fiscal year. We also urge that the State undertake a careful assessment of capital and other fiscal needs facing the State's long term care sector, and develop a balanced portfolio of options for meeting these needs. To this end, to the extent to which such needs cannot fully be met through programs such as the Healthcare Facility Transformation Program, we urge consideration of the following supplemental strategies:

- **Enhancement of Existing Quality Incentive Payment Models.** Existing programs such as the Nursing Home Quality Initiative (NHQI) are funded through offsetting reductions to otherwise applicable provider rates, and in the case of NHQI, related incentive payments have yet to be received by providers that have met the quality benchmarks of the program. CCLC urges members of the Legislature to increase funding meaningfully for quality incentive payments available to both facility- and community-based long term care providers to

increase the magnitude of the quality incentive without the need for offsetting reductions to reimbursement rates for such providers.

- **Establishment of a Post Acute Care Health IT Investment Initiative.** Interoperable technology and the use of electronic health records are lagging in nursing homes and home health agencies, in large part because such providers were never made eligible for the health information technology incentives offered to other providers under the Federal "meaningful use" program. The ability to communicate and coordinate effectively is critical to the delivery of high quality of care, but resources are needed to support the necessary investments at the post acute provider level. CCLC urges the Legislature to consider the establishment of a Post Acute Care Health IT Investment Initiative as a direct means of funding technology needed to support full participation of the post-acute community in the vital work of improving population health in New York.

- **Expansion of Shared Savings Opportunities for Nursing Facilities that Refinance Their Capital Debt.** The final State budget for SFY 2015-16 authorized the Department of Health to adjust nursing facility capital reimbursement rates after April 1, 2015, so that facilities undertaking refinancings could share in the resulting savings generated for the State. CCLC urges the Legislature to reconsider the time parameters of this initiative to expand the number of facilities eligible for shared savings resulting from refinancing activities. From the early stages of the Medicaid Redesign Team (MRT) recommendation development process – as far back as early 2011 – there have been public discussions about establishing incentives for nursing homes to refinance, as part of efforts integral to the MRT process to achieve State Medicaid savings. Providers that undertook refinancings in this environment should be carved into the shared savings model, so that their contributions may be rewarded with resources that will support stronger and more sustainable facilities and programs for Medicaid beneficiaries. CCLC encourages the State legislature to consider more flexibility in the program to allow the opportunity for more providers to access the opportunities available.

Minimum Wage Recommendations and the Need for Full Funding

CCLC recognizes the value of a strong, fairly paid, and well trained workforce to the delivery of quality care to the people of our State. We appreciate, therefore, the inclusion of a recommendation in the Executive Budget calling for a raise in the minimum wage, but voice deep concern that the budget proposal, as offered, does not contain the funding to pay for corresponding increases in provider payment rates to offset the costs of the proposed minimum wage increase. The estimated fully-phased-in costs to providers will be significant, as shown in Table IV of my testimony.

Table IV

Minimum Wage: Estimated Fiscal Impact When Fully Implemented	
Home Care	>$1.7 Billion
Nursing Homes	$600 Million
Hospitals	$570 Million

Absent a reliable funding commitment to fully cover these costs, long-term care providers, nursing homes, and home care agencies will be unable to meet them, resulting in potentially severe impacts to beneficiary programs and services and exacerbating the already fragile financial condition of essential providers. CCLC calls upon the Legislature to work with Governor Cuomo to guarantee the provision of a sound funding plan that fully funds any minimum wage increase, and to ensure that the funding provided is made available outside of the Medicaid Global Cap, or, if within the cap, to ensure that the cap is increased by a corresponding amount to avoid putting pressure on other vital Medicaid spending within the system.

Home Health Payment System Relief

CCLC was deeply concerned that a home health episodic payment system (EPS) rebasing was undertaken in October 2015 without provision being made to provide for a phased transition from the pre-rebased rates to the post-rebased rates. As a result, many home health agencies sustained abrupt, significant payment reductions that have created severe financial challenges for agencies. The services of home health providers are critical to achieving State and Federal reform goals, and CCLC strongly encourages the Legislature to work with the Governor to develop budget language and related measures to ameliorate the impact of the manner in which the EPS rebasing was implemented.

Advanced Home Health Aide Legislation

CCLC is pleased that the Governor Cuomo expressed a commitment to advance legislation in 2016 to establish an Advanced Home Health Aid Program. Such a program would establish a certification process for home health aides to perform advanced tasks such as dispensing routine and prefilled medications with appropriate training and supervision by a registered nurse in home care and hospice settings. We believe this initiative will offer much needed support to caregivers and people with disabilities by enabling them to live in their homes and communities longer. Residents of New York who choose to "age in place" should have the support they need to be allowed to do so. This program, which would assist with that goal and keep residents in their communities longer, has our strong support.

Mandated Staffing Standards

CCLC strongly echoes the concerns of others in the provider community that the mandating of fixed staff ratios is inappropriate in today's healthcare environment and would be severely damaging to the ability of healthcare providers to make staffing decisions appropriate to the distinctive populations that they serve. In the long term care sector, in particular, there is an immense variety in the types of patients served and in the clinical needs of the patients served. With some facilities focusing almost exclusively on high-intensity sub-acute services, and others specializing in tailored services for unique populations such as children, those with HIV/AIDS, those requiring ventilator assistance, among others, the imposition of mandated staff ratios would

interfere in highly damaging ways with the ability of provider organization leadership to make appropriate staffing decisions. We therefore strongly urge the Legislature to reject language or legislation establishing such standards in either the budget or legislative process.

Conclusion

I appreciate the opportunity to provide these perspectives and recommendations today. CCLC looks forward to working in partnership with the Senate, Assembly, and Office of the Governor in ensuring that essential long term care services remain strong and available to our State's elderly and disabled as the demand for these services grows in the years ahead.