



NEW YORK STATE

OFFICE OF THE ATTORNEY GENERAL

Testimony of  
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Before the  
New York State Assembly Standing Committee on Alcoholism and Drug Abuse

Public Hearing on the availability of services for individuals with a substance use disorder in  
light of the COVID-19 pandemic and beyond

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Good morning Chair Steck and other distinguished committee members. Thank you for your tireless work combatting the disease of addiction and for your partnership in ensuring that we passed into law an opioid settlement fund lockbox law, so every dollar the state receives in settlement funds goes not into the general fund to be used for any purpose, but must *by law* be used for prevention, treatment, harm reduction and recovery services related to substance use disorders and co-occurring mental illnesses.

The addiction epidemic is not a natural, inevitable phenomenon, but a catastrophe of callous, corporate greed. That's why I made a promise to hold Big Pharma accountable and bring back funds to help our state heal. That is why in 2019, my office sued six manufacturers of opioid drugs and four distributors. And, with the settlements we've already secured, we're delivering as much as \$1.5 billion to New Yorkers. And we're not done, the trial is ongoing along with the hope that more funds will be coming from more upcoming settlements or judgments.

The lockbox law—which will ensure that those funds go where they are needed most—represents the best of what government can do when we all work together in good faith to achieve the best result for the people of New York. It was a true bipartisan, all-stakeholders effort which passed both houses unanimously and won and kept the support of localities, service providers, public health experts, advocates, and victims' families through multiple different versions.

That is not to say the process was easy, with months of intense negotiations that went right down to the end-of-session wire. But, out of those negotiations, each version of the bill was better than the last. And when the bill passed out of the People's Chamber, the Members who rose to speak

in its support represented the ideological, demographic, racial, and geographic diversity of this great state and reflected the universality of this terrible epidemic.

Without that law, the historic settlements my office secured shortly thereafter would not have been possible. It also quickly became a national model for other states looking to ensure that settlement dollars are directed to abatement and treatment. So, thank you for your leadership and your partnership in helping us secure these historic settlements and passing this transformative law to ensure that every dollar goes to fight this crisis and that no community in any corner of our state is left behind.

But, as this committee well knows, when you talk about a crisis of this scale, the work is never done. My office, for instance, is currently engaged in efforts to prevent the federal government from seeking to claw back Medicaid funds from these settlements. We are also reviewing the legal and regulatory landscape and evaluating potential roadblocks to implementation that may require additional legislative changes. We look forward to continuing to work with the legislature and the public health and addiction experts, service providers, advocates and individuals with lived experience who know these issues best, to help identify the most pressing areas in need of reform as we move forward.

In the immediate term, however, I have identified preliminary priorities I believe must be part of New York's next steps addiction agenda:

First, I would strongly urge Governor Hochul to immediately sign legislation, passed by both houses each of the last two sessions, which would eliminate the prior authorization for Medicaid Assisted Treatment for New Yorkers who are insured by Medicaid, ending a two-tiered system where the poorest and most vulnerable among us face a dangerous barrier to care, while those who can afford private insurance can readily access life-saving treatment. I believe that any arguments about the potential costs are short-sighted when treatment or hospitalization following a relapse will ultimately cost the state significantly more than simply allowing ready access to essential medication. However, this is a matter of life and death; so even if the fiscal cost were high, the human cost of failing to enact this law are far higher. We must end this two-tiered system and end it now.

There are also structural administrative changes that I believe are necessary to ensure holistic treatment and continuity of care for all New Yorkers. Chief among these is finally effectuating a carefully-managed merger of OMH and OASAS to create a new agency with a patient-centered approach, dedicated to eliminating gaps in coverage, providing wraparound services and moving us closer to parity. We also must look at measures that provide these agencies, both pre and post-merger, with oversight of addiction and other related services within correctional institutions.

There is also still more work to be done to ensure that the promise of parity matches reality. Among the promising options still available to us are measures like insuring parity in reimbursement rates, a critical step toward addressing the workforce crisis, further strengthening prompt pay laws, further limiting or eliminating preauthorization for time-sensitive and essential care and treatment, and creating a private right of action for parity enforcement.

I also believe that we must follow the overwhelming evidence and move away from the failed War on Drugs carceral model that has served as an excuse to criminalize poverty and perpetuate systemic racism to an evidence-based, harm-reduction inclusive, public health approach that writes into law what experts have known for decades: addiction is a disease, not a moral failing. We have finally begun taking some critical steps in this direction with measures like syringe decriminalization and MAT for incarcerated individuals, but there is still so much work to be done.

It is past time, for instance, to authorize the establishment of Overdose Prevention Centers, which will reduce the spread of blood-borne illnesses like Hepatitis C and HIV, prevent fatal overdoses and injection-related hospitalizations, and increase access to medical care, addiction treatment and social services. And, if we are truly serious about ending the overdose epidemic, that means looking hard at moving away from the carceral model entirely.

The obvious next step is decriminalizing buprenorphine, a proven, effective treatment of Opioid Use Disorder which can be self-administered and carries a markedly lower risk of diversion and misuse than methadone. However, I also believe that it is time to look seriously at broader decriminalization of the possession of controlled substances. Substance Use Disorder *is* a disease. The War on Drugs has not only failed to curb that disease, it has destroyed countless additional lives and communities in its failure. Decriminalization, when coupled with significant investment in harm-reduction and other services, has been proven effective when it has been tried. It is time to look at the evidence and ask what value incarcerating individuals for having a disease has brought us as a society. And it is time to put every option on the table in our fight against this epidemic.

Finally, I wanted to touch briefly on the upcoming FY 2021-22 budget. As a general matter, I believe that it is necessary that we seek broad public input to best understand the current landscape of evidence-based prevention, harm reduction, treatment, recovery and other substance use related services to determine where gaps exist in each community's access and ensure the best use of settlement and other funding to fill those. In particular, we must actively and aggressively seek input from those communities hardest hit by the overdose epidemic and those that have been historically underserved, especially communities of color and rural communities. None of us have all the answers. Doing this right will require hard work and collaboration between all stakeholders. I look forward to continuing to work closely with this committee as we move forward.

Thank you.