

COMMITTEE OF THE WHOLE LEGISLATURE MEETING MINUTES  
December 27, 2017

The Broome County Legislature met for a Committee of the Whole Legislature meeting to discuss a proposal to accept \$2.7 million in funding from the New York State Office of Alcohol and Substance Abuse Services (OASAS) for a new Medically Supervised Withdrawal Inpatient facility at the former Broome Developmental Center on Wednesday, December 27, 2017 in the Legislative Conference Room, Sixth Floor, Edwin L. Crawford County Office Building, Binghamton, New York.

Members Present: D.J. Reynolds (Chair), S. Flagg (Majority Leader), M. Whalen (Minority Leader), C. O'Brien, M. Kaminsky, R. Weslar, R. Keibel, G. Baldwin, D.D. Reynolds, J. Shaw, R. Heebner, M. Pasquale, K. Wildoner, M. Sopchak, S. Baker

Others Present: A. Martin, J. Bertoni, R. O'Donnell, Legislature; J. Garnar, K. McManus, H. McCrory, C. Kramer, County Exec's Office; R. Kaufman, Health Dept.; J. Knebel, S. Kane, OMB; N. Williams-Frank, S. Bennett, K. Saunders, Mental Health; R. Behnke, County Attorney; R. Kent, OASAS; J. Klemanski, L. Mancini, K. Gaffney-Babb, SBH; S. Cornwell, J. Worhach, District Attorney's Office; F. Akshar, NYS Senate; C. Crouch, D. Lupardo, NYS Assembly; R. David, City of Binghamton; P. Garey, Endicott P.D.

The Committee of the Whole Legislature meeting was called to order by Chairman Reynolds at 4:00 PM.

At the Chairman's request, Mr. Robert Kent, Chief Counsel of New York State OASAS, Mr. Jeremy Klemanski, Executive President and Chief Executive Officer of Syracuse Behavioral Healthcare, Ms. Kathleen Gaffney-Babb, Executive Vice-President of SBH and Ms. Lisa Mancini, Chief Clinical Officer of SBH introduced themselves as the Legislature's invited speakers for the meeting.

Chairman Reynolds stated that the Legislature previously provided questions to OASAS and SBH in advance. The questions posed by the Legislature are attached to the minutes.

Responding to the Legislature's first previously provided question, Mr. Kent stated the Level of Care for Alcohol and Drug Treatment Referral (LOCADTR) tool was designed as a needs-oriented, web-based level of care set of questions that assesses an individual's need for Substance Abuse Treatment and then locates a facility. Though potential patients will be able to access the admissions tool on a "Walk-In" basis at the proposed facility, the patient is not automatically eligible to receive or be admitted into the Medically Supervised Withdrawal Inpatient level of care.

Ms. Mancini further stated that patients entering this level of care typically show indicators of experiencing active withdrawal from substance abuse, may have other existing medical or psychiatric conditions or have had medical complications withdrawing from substance abuse in the past in a Medically Monitored setting. The proposed facility will not be admitting individuals unless found to be clinically qualified under OASAS regulations.

Responding to a question, Mr. Kent stated the LOCADTR tool can exclude individuals from a high-level, bedded and supervised facility such as this if immediate withdrawal or a risk thereof did not exist in the individual's profile. Mr. Kent further stated it is unlikely that a patient would be admitted into the proposed level of care if the LOCADTR had previously recommended a different level, unless the recommended level of care is unavailable.

Responding to a question, Mr. Klemanski stated that SBH will coordinate with area hospitals, Emergency Departments and existing local providers to establish standing agreements and protocols to move patients in and out of the proposed facility.

Responding to a question, Mr. Kent stated that NYS OASAS has eliminated prior authorization procedures for Medically Supervised level of care in order to make Detoxification Services more accessible to the public.

Responding to the Legislature's second previously provided question, Mr. Kent stated that OASAS determined this level of care to be appropriate for Broome County because the specific level is not currently offered locally. He further stated that the 50-bed amount is intended to be a not to exceed amount that the State subsidy can accommodate.

Mr. Kent stated that the program would not open at a 50-bed capacity but would rather incrementally increase from 25 up to 50 on an as-needed basis. Mr. Kent presented the Committee with the following data from 2016: there were over 700 Broome County residents to leave the County for all levels of OASAS-certified treatment, 240 opioid-related Emergency Department visits, 57 overdoses in Broome County reported to the Department of Health and over 470 naloxone administrations.

Responding to a question from the Committee, Mr. Kent stated OASAS routinely monitors utilization rates at treatment centers and may reduce the funding and number of beds SBH is licensed to operate in Broome County if necessary.

Responding to another question, Mr. Kent stated OASAS did not engage the Community Services Board with the proposed project in advance because the unique set of circumstances surrounding the proposal required an accelerated procurement process that bypassed some of the typical procedures.

Responding to a question, Mr. Klemanski projected that the proposed facility could be operational at a 25-bed capacity by April or May.

Responding to a question, Mr. Klemanski stated they do not intend to treat patients from too far outside the area because if the catchment area becomes too spread out geographically for Detox services then engaging patients and connecting them to the next level of aftercare becomes too difficult, threatening a patient's recovery and SBH's reputation for offering quality service.

Responding to another question, Mr. Klemanski approximated that there were over 7,000 substance abuse related Emergency Room visits in Broome County in recent years.

Responding to a question, Mr. Klemanski confirmed that SBH would not actively seek out patients from outside the area and that a substantial portion of the patients at their existing facilities are local residents of those counties.

Responding to a question, Mr. Klemanski confirmed that the proposed facility would have more Medically Supervised Withdrawal Inpatient beds than their Syracuse and Rochester locations.

Responding to a follow-up question, Mr. Klemanski stated SBH files monthly data reports to OASAS concerning utilization.

Responding to a question, Mr. Kent stated that funding allocations are determined annually by conducting performance reviews with the Local Government Unit that consider the following: utilization, patient outcomes, Against Medical Advice discharge numbers. He further stated that utilization is the driving factor when determining a facility's funding amount.

Responding to a question, Mr. Kent stated that the State subsidy is needs-based not provider-based. He further stated that the funding will be held in perpetuity.

Responding to a question, Mr. Kent stated renovations are currently underway despite the pending County approval and are authorized by New York State, as the former Broome Developmental Center is a State-owned property. He further stated that there is no similar procurement process underway at the state-level and that the RFP process at the state-level typically lasts 12 to 18 months.

Responding to another question, Mr. Kent stated that the Erie County Executive has expressed an interest in the State subsidy in the event that the proposal was voted down in Broome County.

Responding to a question, Mr. Kent stated OASAS is actively pursuing opening programs in areas all over the State, not only in Broome County.

Responding to a question, Mr. Kent stated that the majority of OASAS-certified treatment offered in New York is provided by private, not-for-profit providers like SBH. OASAS currently operates twelve 20-60 bed state-run Addiction Treatment Centers.

Responding to a question, Mr. Kent stated that the beds recently opened in Erie County were different types of beds than those being proposed in Broome County. The proposed beds are OASAS Part 816.7 Medically-Supervised Inpatient Withdrawal beds.

Responding to the Committee's third previously provided question, Mr. Kent stated there is no defined territory for any program in New York State. To restrict patients from entering an OASAS-certified facility based upon where they reside would violate Federal Medicaid statute. He further stated that he believed most patients, for this level of care, come from within the County in which the facility is located. Mr. Kent stated SBH will not be allowed to market this facility in other regions of the state. Mr. Klemanski then confirmed he does not expect patients for the service to come to Broome County from outside the region for this service.

Responding to a question, Mr. Klemanski stated the initial program capacity projection provided to the Legislature was intended for the purposes of finalizing their budget with OASAS officials to represent the maximum number of patients that a fully-operational facility can treat at the OASAS standard rate of 90% utilization. However, despite the 3,285 admissions originally projected, Mr. Klemanski estimated the proposed facility will be operating at a much lower utilization rate with 1,500-2,300 admissions annually. He projects the proposed facility will be able to admit 700-1,100 patients during their first fiscal year, as the program grows into full maturity.

Responding to a follow-up question, Mr. Kent stated the program will be certified at 50-beds, however they will likely not reach that amount of beds for several months, if not for the first full year. He further stated that in the event OASAS is mistaken or has overestimated the need for these services in the region, OASAS can decrease the certification, reduce funding for the program and re-distribute to other existing programs operating within the County.

Responding to a question, Mr. Klemanski stated that the percentage of patients to leave SBH's existing facilities 'Against Medical Advice' (AMA) fluctuates but is low, estimating between the low single digits to the low teens.

Responding to a question, Mr. Klemanski stated the programs in Monroe County are continually advocating for higher capacities in their facilities.

Responding to a follow-up question, Mr. Klemanski confirmed that SBH's other facilities in Monroe and Onondaga Counties serve much larger population bases with far lower program capacities for the Medically Supervised Withdrawal services.

Responding to a question, Mr. Klemanski stated that SBH is currently licensed to operate hundreds of beds in Onondaga County at varying levels of care.

Responding to a question, Mr. Kent stated OASAS has released a statewide RFP to expand this level of care across New York State.

Responding to a question, Mr. Kent stated that in the last year, Opioid Addiction numbers have surpassed Alcohol Addiction.

Responding to a question, Mr. Kent stated OASAS did not wish to limit the program capacity on the front end and then have restart the procurement process to adjust the program certification, though in reality the program may in fact be operating at a much lower capacity than OASAS assessed originally.

The Chairman stated that there were outstanding concerns regarding the capacity of the facility and the projected number of annual admissions, despite Mr. Kent's statement that NYS OASAS was committed to right-sizing the facility in the future as needed.

Responding to a question, Mr. Kent stated he did not see any advantage to capping the program at 25 beds and then re-certifying the program at a later date, as opposed to the current plan to certify the program at 50 beds but starting a lower capacity and increasing the number incrementally as needed.

Responding to a question, Mr. Kent stated 138 Broome County Medicaid Recipients did in fact receive Detoxification services in 2016 but that this number cannot account for the number of individuals that did not seek treatment because the proposed services were not available at the time.

Responding to the Legislature's fourth previously provided question, Mr. Kent stated that the RFP originally excluded hospitals such as United Health Services from responding, but was revised to allow hospitals to respond to the RFP at a later date. He further stated he believed the proposed level of care would supplement the existing treatment offered in Broome County, as opposed to taking away from local providers.

Responding to a follow-up question, Mr. Klemanski stated that SBH is sensitive to the risk posed to local providers concerning staffing shortages. SBH plans to host job fairs and work with local employment agencies to advertise for the positions they need to fill. Mr. Klemanski further stated SBH facilitates internal training programs and scholarships that may help bolster the community's substance abuse workforce and certified CASAC's.

Responding to the Legislature's fifth previously provided question, Mr. Kent stated that as the licensing agency OASAS will ultimately have final oversight and fiscal responsibility for the proposed facility. As a pass through LGU, information will be made available for review and Broome County will be continually and regularly updated. Mr. Klemanski further stated that Broome County will need to sign off on any operational changes, as needed, though OASAS is the ultimate authority. He also stated that as a provider he considers SBH accountable to the LGU and that the LGU has more responsibility than some think, for example the LGU has the authority to make budget changes.

Responding to a question, Mr. Kent stated that OASAS does not track their patient trends in relation to Department of Social Services or Public Assistance benefits. Mr. Klemanski stated that it is SBH policy to connect their clients with the next level of care and that they will employ drivers when necessary to return clients that come to treatment from outside the area.

Responding to a question, Mr. Kent stated that Phase II will not automatically follow Phase I as has been suggested and that the decision to initiate Phase II of the RFP, Residential Services, will be determined following a review of the utilization, efficiency and performance of Phase I. Responding to a follow-up question, Mr. Kent stated that Phase II, if initiated, will be brought to the Community Services Board during stages of development.

Responding to a question, Mr. Kent stated that Phase II would be a longer term, residential and stabilization setting to complement the proposed front-end services of Phase I.

Responding to a question, the Commissioner of Social Services stated that Broome County is a Medicaid Managed County and that DSS has the capability of tracking if potential patients have existing Medicaid claims in other counties, but only if they already exist in the statewide system.

Responding to a question, Mr. Klemanski stated they measure success in this specific level of care by following a certain rubric and the completion of the following steps: grab, hold and deliver. Mr. Kent stated OASAS monitors the Against Medical Advice (AMA) discharges monthly, which is a typical indicator of whether a program is operating effectively. OASAS determines success at this level of care by examining if patients enter the facility, complete stabilization and enter another level of care.

Responding to a question, Mr. Klemanski stated SBH is willing to enter into an agreement with the District Attorney so that patients could be referred directly into the proposed facility as needed. He further stated he would be open to establishing agreements with the Sheriff's Office to assist inmates in connecting to the appropriate treatment levels upon their release. Mr. Kent stated this is supported by OASAS and should include all existing local providers offering different levels of care, as inmates are unlikely to be appropriately placed at the proposed facility upon completion of a jail sentence.

Responding to a question, Mr. Klemanski stated that SBH has a successful completion rate in both their Syracuse and Rochester Detox facilities of approximately 83% based on this percentage of patients enter into a follow-up level of care. He further stated that SBH cannot accurately track relapse statistics.

Responding to a question, Mr. Klemanski stated that SBH does not track the data of individuals to be treated in their facilities more than once and that SBH encourages re-admissions.

There being no further business to come before the Committee at this time, a motion to adjourn was made by Mr. Flagg, seconded by Ms. O'Brien. The meeting adjourned at 6:00 PM.

### **Preliminary Questions for Committee of the Whole Legislature Meeting**

1. Please explain in detail the Level of Care for Alcohol and Drug Treatment Referral (LOCADTR) tool and the specific steps for admission into the proposed facility.
2. Please explain the methodology behind the OASAS determination that 50 Medically Supervised Inpatient Withdrawal beds was the appropriate number of beds and level of care to best serve local residents.
3. Please define the territory from which the proposed facility will draw its patients.
4. How does OASAS reconcile the disparity between the 240 regional recipients that were referred to detox in 2016 and the number of patients SBH plans to treat annually (3,285 per year)?
5. On numerous occasions in information disseminated by OASAS, State and County officials, it has been promised that there will be no cost at all to the local taxpayers of Broome County. Can OASAS confirm this to be accurate?
6. What entity (such as OASAS or Broome County) has responsibility for oversight of the proposed facility? What specific areas of operation would OASAS and/or Broome County have the responsibility to oversee?
7. What impact does OASAS/SBH expect the proposed facility to have on existing local providers? Please explain how OASAS will ensure the local providers will not be negatively impacted by the new facility, including from a staffing standpoint?