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# **Testimony before the NYS Finance/Ways and Means and Mental Hygiene Committees**

## **Mental Hygiene Budget Hearing February 3, 2020**

Presented by  
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New York Association of Psychiatric Rehabilitation Services

On Behalf of NYAPRS Members and  
The NYAPRS Public Policy Committee  
Co-Chairs: Carla Rabinowitz, Steve Coe

NYAPRS Board of Directors  
Co-Presidents: Jeff McQueen, Peter Trout

*The New York Association of Psychiatric Rehabilitation Services represents a statewide partnership of thousands of New Yorkers who use and/or provide community mental health services and who are dedicated to improving services and social conditions for people with psychiatric disabilities by promoting their recovery, rehabilitation, rights and community integration*  
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Good morning. Thank you to the chairs and members of the committees for this opportunity to make my 25<sup>th</sup> budget testimony on behalf of the thousands of New Yorkers represented by the New York Association of Psychiatric Rehabilitation Services (NYAPRS).

Prior to starting in this position in 1995, I began my work in the field working at the local Capital District state psychiatric center in 1977, a time when a diagnosis of mental illness was considered a life sentence, when severe functional limitations and frequent relapses and readmissions were considered the norm, when medication and hospital and community institutions were the only major treatment options and when people were rarely considered capable of having good judgement and making sound choices.

Since the early 1980's, NYAPRS has joined together and supported several generations of courageous self-advocates, pioneering community providers and dedicated state officials to raise the bar for what could be expected for New Yorkers faced with these major challenges by advancing then new concepts of recovery and community integration, choice, dignity and social justice and to raise the bar for what should be expected from policy makers and providers.

NYAPRS is a very unique and nationally acclaimed partnership of both New Yorkers with major mental health, addiction, medical conditions and social needs and the community mental health professionals who support them in upwards of 85 community-based mental health agencies located in every corner of the state.

State mental health policy is a very personal matter for our NYAPRS community. Our members and many of our board members, staff and I all share a common journey of recovery that brings a unique passion and perspective to the concerns we bring before you today.

The lens through which we view state budget, legislative, regulatory and agency policies has always been based on a view that everyone, including people with the most daunting challenges, can recover, take on responsibility and deserve the dignity of an independent life in the community, in independent stable housing, a mix of employment and entitlements and access to a meaningful social and culturally relevant supports.

Our field now knows to voluntarily engage and serve people with the greatest need, regardless of their current level of functioning and level of trust, motivation and participation in services. That's a responsibility we take very seriously. We know how to provide effective state of the art crisis supports and innovative approaches that save countless lives and dollars by diverting people from avoidable relapses, ER visits and hospital admissions and to prevent homelessness, poverty and needlessly tortured lives in our criminal justice system.

In fact, New York has long been a national pioneer and leader in promoting these values and approaches, something we can all take some considerable pride in.

But much more is needed from the Administration and Legislature to help us keep pace with the need and the ever changing economic and healthcare environment and to deepen our commitment to social justice. It is through this lens that we view current state policy and proposals contained within the Executive Budget proposal.

## **FUNDING FOR COMMUNITY SERVICES AND THE WORKFORCE**

### **"3-for-5" Investment in NY's Human Services Sector**

Over the years, we have long urged the state to maintain its commitment to our community members by seeing that community nonprofits are adequately funded to offer quality services that keep up with system advances and ever rising costs and that are offered by a talented, stable and reliable workforce.

In that spirit, we are once more very grateful for a second round of pay increases for direct and clinical support staff in nonprofits funded via OMH, OASAS and OPWDD.

Yet, it has been 10 years since the state last provided a cost-of-living adjustment to pay for **all of the full costs of the operation** of New York's human services sector and, as a result,

- human services local aid has fallen by 5% annually since FY12,
- 39% of our agencies have less than three months of cash on hand,
- 60% of the workforce qualifies for some form of public assistance and
- 68% of human services nonprofits anticipate not being able to meet the the demands for services by their communities.
- Because wages have remained stagnant due to a lack of funding, the average human services worker is living at or below the poverty line.

As a result, NYAPRS is part of the Statewide #3for#5 campaign that is calling for a 3% increase in funding for not for profits in the human services sector every year for the next five years. This campaign is unprecedented in its scope through the inclusion of every major Statewide not for profit agency in the mental health, addiction disorder, developmental disabilities, child welfare, foster care and aging community.

We urge the Legislature to work with the Administration to address the full out crisis we face daily and to make this long overdue investment to allow us to adequately serve the vulnerable New Yorkers who rely on us and the state every day.

### **MEDICAID**

Due to lack of details in Medicaid budget and uncertainly about the recommendations that will be offered by a second Medicaid Redesign Team, we remain very concerned about the possibility of damaging cuts to Medicaid.

We are very grateful to the Administration for exempting mental hygiene services from January's 1% reductions in Medicaid funding and look for similar protections in the current and coming NYS budget.

Since so much relies on the work of the Medicaid Redesign Team, we want the state to ensure that there is significant representation from the mental health and broader disability community on the MRT, to allow for the level of active participation I was able to have in the past, both as a member of the MRT itself and the succeeding behavioral health and value based payment workgroups that followed.

### **HOUSING**

Stable, decent housing with individualized supports is fundamental to promote the health, safety, dignity and a meaningful life in the community for New Yorkers with psychiatric disabilities, and to help prevent avoidable, costly and potentially frequent readmissions to inpatient and other institutional settings. There is no health, no recovery and no community integration without decent stable housing.

In this spirit, we are very grateful to the Executive and the Office of Mental Health for boosting long deficient housing rates by an additional \$20 million and investing \$50 million in capital funds to help us make essential improvements in our housing stock.

### **COMMUNITY REINVESTMENT FUNDING**

Since 1994, several hundreds of millions of dollars of community reinvestment funds that have been derived state hospital downsizing has been the lifeblood of our state's recovery service system, paying for essential non-clinical innovations that have not been achievable or allowable via the Medicaid program. These have included a broad array of crisis services, peer and family supports, rehabilitation, employment and educational services as well as specialized supports for children and youth.

Should there be additional downsizing in the coming year, we look once again for a portion of the savings to be once more reinvested to allow for further expansion of our precious recovery sector.

### **INCREASING CAPACITY IN STATE AND COMMUNITY EMERGENCY DEPARTMENTS**

The Executive budget's proposal to extend reimbursement by one day for crisis services in local emergency and Comprehensive Psychiatric Emergency programs misses the point of what's most needed here.

Far too many New Yorkers wait for days in often traumatizing emergency settings primarily because due to insufficient staffing and inadequate space in those facilities. What's most needed here is a major state investment that ensures that people in major states of crisis get a prompt assessment in a more humane setting that leads to a much more timely, appropriate and effective discharge plan.

## **PERMITTING THE USE OF MEDICAID IN INSTITUTIONAL SETTINGS**

The Executive proposes a major, momentous change here by permitting the use of Medicaid in institutional settings. Historically the 'IMD exclusion' has prohibited the use of Medicaid for residential settings that are over 16 beds to enjoin states to serve people in less costly and more appropriate settings, and in keeping with federal 'Olmstead' requirements to serve people in the most integrated arrangement.

While the goal of creating improved 'step down' transitional services on the Kingsboro PC campus is rather laudable, applying for a new federal waiver to capture federal funds via an expansion of the Medicaid authority takes us down a very slippery slope, one that is being used by other states to take us back to the past by using Medicaid to ramp up institutional inpatient and large residential programs.

This proposal needs much further consideration and study before it is approved.

## **INCREASE COMMUNITY TRANSITIONS FOR ADULT HOME RESIDENTS**

Over the past 3 decades, New York State policy encouraged the placement of people leaving state hospitals and others needing community housing into for profit adult care facilities that were intended to serve 'frail elderly' individuals.

After a 2002 investigation by The New York Times showed that many had "devolved into places of misery and neglect, just like the psychiatric institutions before them," lawsuits were filed that sought to win the residents' rights to live in the most integrated community settings, in accordance with their rights under the Americans with Disabilities Act.

After years of court battles, the state reached a settlement that called for residents with psychiatric disabilities to be assisted to move to supportive housing and be given rental assistance and access to community-based services that promote their inclusion, independence and full participation in community life.

Although the state was to resettle as many as 4,500 residents by now, less than 20% have done so.

While we fully support this budget's allocation of \$12.5 million to boost the rate of transition, we urge and look to work more actively with the state to permit hundreds more residents to enjoy full lives in the community in the coming year.

## **ENHANCE VOLUNTARY OUTREACH AND ENGAGEMENT SERVICES**

The Legislature should continue its very laudable policy of expecting that community-based engagement of people with major mental health and related needs should be achieved voluntarily, using all of the understanding and skills we now have acquired.

## **CRIMINAL JUSTICE REFORMS**

Tragically, people with behavioral health conditions are dramatically overrepresented in the criminal justice system. This is a systemic problem that begins in the community, where New Yorkers with such disabilities are especially vulnerable to homelessness, poverty, trauma and despair. Compounded by the symptoms of their mental illnesses and addictions, they all too often come to the attention of the criminal justice system, a great deal of the time for minor or misdemeanor related infractions.

American prisons and jails housed an estimated 356,268 inmates with extensive mental health conditions in 2012. 1 in 12 inmates with a mental health condition reported at least one incident of sexual victimization by another inmate over a six-month period. Among female inmates with a mental disorder, almost 1 in 4 are sexually victimized. Suicides and suicide attempts are common. Washington State study: 77% of prisoners who attempted suicide had a "chronic psychiatric problem," compared with a rate of 15% among the rest of the jail population

This year, we continue to advocate for a three-point plan to divert our community members from needless incarceration, and to create better treatment and appropriate release options for those who have been incarcerated.

### **CRISIS INTERVENTION TEAMS**

The pathway to a life in the criminal justice system begins with encounters with law enforcement. Too often, police officers are called on to intervene in circumstances with people in mental distress for which they have not been adequately prepared, too often leading to avoidable incarcerations and tragedies. At least 25% of people who were fatally shot last year had a mental illness, according to the Washington Post.

That's why NYAPRS has long advocated for the use of Crisis Intervention Teams (CIT) across New York. CIT is a highly acclaimed model that matches police training with improved local systems collaboration that has been replicated in 2,700 cities across the United States, including Philadelphia, Houston, San Diego, Los Angeles and Chicago.

Over the past 3 years, state legislative leaders have heard our call and responded with \$4.8 million in onetime funds to bring Crisis Intervention Team and other diversionary models to a number of jurisdictions across the state.

We are extremely grateful to our mental health committee chairs Senators Carlucci and Ortt and Assemblywoman Gunther for their generous support over the past 3 years, and urge the Legislature and the Governor to bring another complement of critically needed CIT initiatives to a new set of jurisdictions this year.

Accordingly, we seek a \$1.5 million allocation to bring the Crisis Intervention Team model to additional counties across New York.

**HALT' THE TORTURE IN OUR PRISONS: PASS THE HALT BILL (A.2500 / S.1623) '**  
Imprisoned people in solitary confinement (known also as disciplinary confinement, Special Housing Units (SHU), and Keeplock) spend twenty-three to twenty-four hours a day in barren concrete cells.

Many of these individuals have mental health needs: a recent federal study found that "29% of prison inmates and 22% of jail inmates with current symptoms of serious psychological distress had spent time in restrictive housing in the past 12 months."

"Despite experiencing the ravages of psychiatric symptoms, such vulnerable prisoners are subjected to sensory deprivation, social isolation, and enforced idleness - conditions that are extremely harmful to anyone's mental health but devastating, and even life threatening, for people with psychiatric disabilities."

In 2008, NYAPRS joined with over 60 other groups within Mental Health Alternatives to Solitary Confinement to successfully advocate for the enactment of the SHU Exclusion Law, which put some restrictions on the placement of prisoners with serious mental illness in disciplinary confinement. Yet the torture continues for upwards of 900 New Yorkers with mental health conditions who spent time in 'the box' in the last year.

That's why we are once again joining with MHASC to urge your support for 'HALT' legislation sponsored by Assemblyman Jeffrion Aubry and Senator Luis Sepulveda that will end the torture for a majority of New Yorkers. This legislation will:

- Prohibits segregation of young and elderly people, people with physical or mental disabilities, pregnant women, new mothers, LGBTQI individuals.
- Ends long term solitary confinement: places a limit of 15 consecutive days and a limit of 20 total days in a 60 day period on the amount of time any person can spend in segregated confinement.
- Enhances conditions in segregated confinement, including additional out-of-cell time, congregate recreation, access to essential services, and bans on orders depriving basic necessities, including restricted diets.
- Creates new Residential Rehabilitation Units as a more humane and effective alternative that provides meaningful - human contact and therapeutic, trauma-informed, and rehabilitative programs.
- Requires training for Residential Rehabilitation Unit staff and hearing officers, public reporting on the use of segregation and oversight of the bill's implementation.

Despite widespread support in both houses, the bill was rejected in favor of a last minute arrangement between the Governor and Legislature that fails to implement most key elements of the legislation.

The Legislature must pass and the Governor must sign HALT legislation into law this year and restrict if not ban the use of barbaric solitary confinement in place of more appropriate, effective and human rehabilitative treatment.



### **Restarting Medicaid 30 Days before Prison/Jail Discharge**

Finally, I want to express our deep gratitude to the chairs and the Legislature for authorizing New York to seek federal approval to restart Medicaid 30 days before prison or jail discharge to allow for a proactive release plan and connection to appropriate community services. We eagerly await federal action to permit such a policy to proceed, allowing New York to be among the first states in the nation to greatly extend and improve pre-release engagement and discharge planning advanced by Medicaid funded transition staff and immediate access to healthcare in the community.

### **Make New York a Trauma-Informed State!**

The impact of trauma on behavioral health has become increasingly apparent in recent years with studies suggesting that over 90% of people with psychiatric diagnoses identify themselves as survivors of trauma.

Unresolved trauma as a result of Adverse Childhood Experiences (ACEs) can negatively impact development across the life span and intergenerationally; contributing to substance misuse, child abuse, poverty, and incarceration.

Increasingly, national efforts have attempted to change the narrative around trauma from one of negative outcomes based on past experiences to an opportunity to create positive outcomes through prevention, treatment, and outreach programs that are based on effective trauma-informed approaches, shifting the focus from illness to wellness--to hope, recovery, and resilience.

Executive Orders have been passed in Oklahoma, Oregon, Utah, Wisconsin and Delaware requiring state agencies to create trauma-responsive communities, organizations, and schools.

We urge the Legislature and the Governor to follow the lead of those and a number of other states and demonstrate New York State's commitment to becoming a trauma-informed state by declaring May 22, as "National Trauma-Informed Awareness Day".

### **CONCLUSION**

Throughout the past 3 decades, NYAPRS has enjoyed a close and collaborative relationship with our friends in the state legislature, who have a long tradition of initiating or approving groundbreaking new initiatives and landmark legislation on behalf of our community. We look forward to another productive year together.

Thank you for this opportunity to share our community's concerns, hopes and recommendations.

