



NEW YORK STATE ASSOCIATION OF COMMUNITY & RESIDENTIAL AGENCIES



NYS Senate Finance Committee  
NYS Assembly Ways and Means Committee

## **Mental Hygiene Budget Hearing**

Tuesday, February 11, 2014  
Legislative Office Building

**Testimony Delivered by:**

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Chairman DeFrancisco, Chairman Farrell, Chairwoman Gunther, Chairman Carlucci and distinguished members of the New York State Legislature.

Good morning/afternoon. My name is Ann Hardiman and I am the Executive Director of the New York State Association of Community and Residential Agencies (NYSACRA). Thank you for this opportunity to deliver testimony on the proposed 2014-15 Executive Budget, specifically the proposal for the New York State Office for People with Developmental Disabilities.

NYSACRA represents over 200 voluntary not for profit New York State agencies. These dedicated agencies provide direct services and support to thousands of individuals with intellectual and developmental disabilities and their families. The agencies are located in all communities across New York State and rely on more than 70,000 direct support professionals to provide these services.

I am pleased to join my colleague, Michael Seereiter, President and CEO of the New York State Rehabilitation Association (NYSRA). Our two associations collectively speak on behalf of the two largest statewide associations in New York State representing the interests of agencies who deliver services to people with disabilities.

Over 300 New Yorkers are participating in our joint legislative days, yesterday and today, here in Albany. Individuals with disabilities, parents and family members, direct support professionals and agency representatives have visited and will visit the Legislative Office Building and the State Capitol to meet with you and your colleagues on the issues most important to them. On behalf of our members, I wish to thank you for your continued support of our sectors.

### **Proposed 2014-15 Executive Budget for OPWDD – General Statement**

As always, NYSACRA appreciates the decision making which formulated the Executive Budget proposal and will highlight, in this testimony, the areas which we believe are major focal points of the Governor's submission. We support many of the provisions in this year's proposed budget and appreciate the Governor's continued commitment to the people our agencies serve.

Overall, NYSACRA is pleased the proposed 2014-15 Executive Budget for OPWDD contains important initiatives to promote the office's transformation agenda. NYSACRA embraces the formal transformation plan, the purpose of which is to implement new and innovative approaches to improve the health and well-being of all individuals with I/DD currently enrolled in Medicaid and to solidify a structure for future generations (I have included with my testimony a copy of NYSACRA's Statement of Principles on the OPWDD Transformation Plan for you). We do have a concern about the assertive pace of the transformation and the ability to provide more person directed community services well at that pace. In addition, the necessary up front investments must be made in more integrated, alternative models of service delivery that are desired as well as incrementally shifting existing resources necessary to make the new service models viable.

We applaud the State of New York and the federal Centers for Medicare and Medicaid Services (CMS) to implement reforms that seek to modernize the current system. As we have stated in the past, NYSACRA agrees that certain practices traditionally have limited independence, individuality and choice in New York's I/DD system. We are pleased the office continues to downsize the state's developmental centers and further affords people with opportunities in the community and expands job opportunities for people with I/DD who seek meaningful employment. The initiatives adhere to New York's agreement with CMS, promotes the state's Olmstead "plan" but most important, these initiatives are the right thing to do. (I have also included a copy of

NYSACRA's recommendations to the Governor on Olmstead with my testimony). Additionally, the proposed 2014-15 Executive Budget proposal seeks to repatriate our citizens back to their state of origin. We certainly want New Yorkers with I/DD, who currently live in out-of-state placements and are aging-out, to come back to New York and live in appropriate settings and therefore, we support the Governor's proposal.

NYSACRA is very pleased the Governor's proposal contains a very important amendment to current statute which allows direct support staff, in programs funded, authorized or approved by OPWDD, to perform certain tasks in non-certified settings. Such change will afford more individuals with opportunities to live self-directed lives, which is a cornerstone of the OPWDD transformation plan. We strongly support this proposal and ask the members of the State Legislature approve the Governor's recommendation.

We believe the proposed budget, released on January 21<sup>st</sup>, is positive as it contains relatively no reductions, though I wish to offer NYSACRA's thoughts on a key area that is relatively absent from the proposal, particularly NYSACRA's thoughts on the importance of investing in the I/DD system's workforce including an increase in compensation for the direct support workforce and the direct support professional credential.

### **Investments in the I/DD System Workforce**

NYSACRA has long been the champion of the voluntary not-for-profit I/DD system workforce in New York State and is, and always will be, proud of the 75,000 direct support professionals who work 24 hours a day, 7 days a week to ensure that people with intellectual and development disabilities and their families receive the necessary supports and services in a professional, thoughtful and caring environment.

NYSACRA is proud of our history recognizing and promoting the necessity of providing a service delivery system for individuals with I/DD that has, at its core, a direct support workforce that provides the full continuum of services and supports in a professional, skilled and ethical manner.

As we stated in our principles document, a fundamental part of any transformation will embrace the direct support professional and highlight the core competencies important to a sector that is all about putting people first. Well trained, skilled direct support professionals:

- help build and maintain relationships;
- demonstrate ethical practices;
- support good health and safety; and
- support individuals with I/DD to have active and productive lives both at home and in the community.

To successfully attain core competencies, it will be necessary to include training, learning resources and incentives such as a credential and career ladder to promote the success of the direct support professional. Only by doing so will they be able to effectively promote success in the lives of individuals with I/DD.

We have been excited at the advances made by OPWDD over the past three years that have focused heavily on the promotion of the workforce. We are delighted that such advances are constructive and believe the profession is becoming a more valued cornerstone of the service delivery system. NYSACRA's message is one which promotes a strong, well trained and committed workforce. The Administration recognizes that a culture which promotes and reinforces the value of direct support professionals and front-line supervisors is an essential component to deliver excellent services and supports to individuals with I/DD.

The State Legislature recognizes the importance of the direct support workforce and the tremendous value placed on training and career advancement as the Assembly and Senate passed A.7313-A and S.5102-A, the Direct Support Professional credential pilot program bill late in the 2013 legislative session. Thank you Senator

Carlucci for sponsoring this important legislation and shepherding this bill through your house. I want to thank Assemblyman Abinanti for sponsoring the legislation in the Assembly and in concert with Chairwoman Aileen Gunther, ensuring the swift passage of the bill through the Assembly. The measure, if enacted, would have created a program, administered by OPWDD, to assess how the establishment of a state accredited direct support professional credential:

- promotes recruitment and retention efforts in the developmental disabilities field, notably the direct support professional position;
- enhances competence in the developmental disabilities field;
- yields quality supports and services to individuals with developmental disabilities; and
- advances health and safety requirements set forth by the State of New York.

The Governor vetoed the legislation in December of 2013. Through his veto message the Governor clearly articulated the Administration's support of increased professionalism of the direct support professional workforce and that funding for a credential pilot program should take place in the context of budget negotiations.

Therefore, on behalf of NYSACRA and the 75,000 direct support professionals throughout New York State, we ask the State Legislature to support the credential pilot program in the 2014-15 State Budget.

### **Closing Remarks**

On behalf of NYSACRA, thank you for this opportunity to deliver testimony to the State Legislature on the proposed 2014-15 Executive Budget proposal.





NEW YORK STATE ASSOCIATION OF COMMUNITY & RESIDENTIAL AGENCIES

## Statement of Principles

### TRANSFORMATION OF THE SYSTEM OF SUPPORTS AND SERVICE FOR INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES

The State of New York is undertaking an historic transformation of the service delivery system for care and services to individuals with intellectual and developmental disabilities (I/DD) and their families. The goal of this effort, designed by the Centers for Medicare and Medicaid Services (CMS), the New York State Office for People with Developmental Disabilities (OPWDD), the New York State Department of Health (DOH) and stakeholders, is to implement new and innovative approaches to improve the health and well-being of all individuals currently enrolled in Medicaid and to solidify a structure for future generations. As a catalyst and leading advocate on behalf of people with I/DD, their families and the agencies who deliver quality supports and services, the New York State Association of Community and Residential Agencies (NYSACRA) applauds plans to reform the supports and services that would modernize the current system. Certain practices traditionally have limited independence, individuality and choice.

As a policy framework, we start from the premise, which is recognized by all that the focus should be on the individual. In practice, we must all ensure, government and stakeholders alike, that this focus is maintained. To that end, NYSACRA offers the following principles as a guide to effectively and appropriately transform the service delivery system and in the transition to managed care:

#### Self-Direction

A hallmark of the I/DD system of supports and services is choice which, along with substantial decision-making authority, should be imbedded into the supports and services that would enable an independent lifestyle which includes engagement in and connection to the greater community. Individuals with I/DD are in the best position to know what they want and, through an individualized service plan, are capable of and should be entitled to live a life of their own making.

A system that embraces a person-centered philosophy affords one the opportunity to:

- develop and hone individual strengths;
- realize personal desires; and
- achieve self-determined goals.

A truly transformed system of supports and services to individuals with I/DD will only be accomplished through investment in self-direction. The more self-direction that is successfully in place, the more individuals and families will seek these opportunities.

#### Workforce

NYSACRA has a history of recognizing and promoting the necessity of providing a service delivery system for individuals with I/DD that has at its core a direct support workforce that provides the full continuum of services and supports in a professional, skilled and ethical manner.

A fundamental part of any transformation will embrace the direct support professional and highlight the core competencies important to a sector that is all about putting people first. Well trained direct support professionals:

- help build and maintain relationships;
- demonstrate ethical practices;
- support good health and safety; and
- support individuals with I/DD to have active and productive lives both at home and in the community.

To successfully attain core competencies, it will be necessary to include training, learning resources and incentives such as a credential and career ladder to promote the success of the direct support professional. Only by doing so will they be able to effectively promote success in the lives of individuals with I/DD.

## **Deinstitutionalization and Community Housing**

Supporting individuals in the most integrated setting possible is a cornerstone of transformation in the I/DD sector and one that NYSACRA wholeheartedly supports. NYSACRA's over 200 member agencies successfully support individuals in the community to live, work, thrive and succeed each and every day.

As we continue on the path to provide each and every person community-based services, accessible housing with appropriate supports and employment opportunities to enable individuals to live productive lives in the communities, we must:

- implement a realistic plan to ensure such opportunities are readily available, accessible, safe and secure;
- provide appropriate, individualized planning;
- acknowledge available resources; and
- be realistic and recognize the need for personalized planning -- not what's quick, easy and convenient, but what is right for the person.

While transformation recognizes the importance of moving individuals from state facilities to the home of their choice, it is important to incorporate planning for the growing unmet need as more individuals enter the system, people live longer and require more intensive supports and services and the ever growing population of youngsters that are diagnosed with I/DD requiring community-based services.

## **Employment**

Meaningful employment is empowering, connects individuals with I/DD economically and socially which leads to greater independence. The I/DD system has made great strides to support individuals with I/DD in the community through various employment opportunities. NYSACRA firmly believes that employment is a key component of community and agrees that employment is a natural and appropriate expectation for individuals with I/DD and families.

Supporting individuals in systems transformation through increased competitive and supported employment is a remarkable opportunity that must be met through:

- appropriate job skills training;
- job coaching;
- job readiness;
- support from the business community; and
- the implementation of blended funding streams.



Wrap-around supports, unique to each individual, must be available to ensure the success of attainable employment goals. Transportation is a vital part of this support that is frequently needed to engage in employment. It should be accessible, available and it could be shared among other service delivery systems.

While employment is a goal that should be discussed and incorporated in all planning for people with I/DD, it is also possible that volunteering is another option. We must also be mindful that retirement serves as an option for people with I/DD.

## **Rate Reform**

NYSACRA supports rate reform that creates a modernized fiscal platform that balances the existing rate and reimbursement system with a system that promotes the transformation agenda of putting people first. NYSACRA recognizes the importance of restructuring rates to balance system inequities which were a product of past public policy objectives. It is essential to move toward a more person directed system that can fluidly change course with a person's changing needs. Systems should be in place to respond quickly to normal day to day life issues.

NYSACRA agrees that a new reimbursement strategy must be created that is:

- fair and equitable;
- portable;
- efficient;
- simple and practical; and
- one that promotes network stability and structural reform.

The current system was not put in place overnight, but rather was built over decades. Implementing an entirely new system should be done at a measured-pace with a methodical and balanced approach, especially as we transition to a managed care environment.

Transitioning to a newly revised reimbursement methodology must incorporate a glide path over the course of several years to allow for natural balancing of rates to occur. Such a multi-year phase-in must be assessed on an annual basis to ensure a consistent and smooth transition of rate restructuring which coincides with appropriate transformation of supports and services that appear seamless to individuals and families and continues to promote the safety, health and well-being of people being served.

As we embrace these principles of fair and equitable, simple and practical, we must also realize that the system of supports and services to individuals with I/DD should:

- fulfill the highest priority of putting people first;
- assist people to lead fuller richer lives through the very supports that are person-centered;
- promote independence in the least restrictive community-based settings; and
- support voluntary not-for-profit providers that have a natural partnership with individuals with I/DD and their families to accomplish their goals.





NEW YORK STATE ASSOCIATION OF COMMUNITY & RESIDENTIAL AGENCIES

**New York State Association of Community and Residential Agencies  
Comments/Recommendations on New York's Olmstead Implementation and Plan Development**

Olmstead vs. L.C. is a landmark Supreme Court ruling that requires states throughout the nation to eliminate unnecessary segregation of individuals with disabilities and ensures persons with disabilities receive services in the most integrated and appropriate setting according to their wishes and needs.

In 2012, Governor Andrew Cuomo affirmed the State of New York's commitment to uphold the Supreme Court's decision in the annual State of the State address to the State Legislature. Most recently, he issued Executive Order 84 to establish the Olmstead Plan Development and Implementation Cabinet. Serving individuals with disabilities in the most integrated setting is a top priority for the Governor. Developing, and implementing a plan to address integrated housing, employment, transportation, community services and other key areas is vital to ensuring the State of New York fulfills the spirit of the Supreme Court decision.

Recognizing the decision is specific in its ruling that "most integrated" and "appropriate" settings are based on reasonable accommodations to be made by the State, and that integration into community settings is based on an individual's choice, it is important to acknowledge that balance and thoughtful decision making is key when crafting public policy to uphold and implement Olmstead. Such a plan must acknowledge available resources, be realistic and recognize the need for individualized and personalized planning as the fundamental principle when moving people to less restrictive settings. One size does not fit all and not all circumstances might be as they seem; the most integrated setting might not be living at home with a parent and/or caregiver and living on one's own in an integrated setting will not be an option for some. The Olmstead Implementation Plan must be crafted such that implementation is thoughtful, with great consideration given to the consequences of decisions, and fostering accomplishments appropriately, not by what can be done easily, quickly and conveniently. The State's Plan must allow for meaningful planning that takes the opportunity to invest in people and peoples' lives.

The New York State Association of Community and Residential Agencies (NYSACRA) praise Governor Cuomo for his ongoing commitment to individuals with intellectual and developmental disabilities (I/DD) and looks forward to collaborating with key stakeholders in the Administration and field to develop a meaningful Olmstead Implementation Plan.

While we understand the State's Olmstead Implementation Plan will likely serve as a framework for addressing integration and accessibility, we are pleased to have the opportunity to share thoughts and recommendations that are in depth and somewhat specific in scope. NYSACRA's thoughts and recommendations highlight the following:

- **New York's communities are key**
- **Integrated housing**
- **Integrated employment**
- **Transition planning, assessments and monitoring**
- **Transportation**
- **Leadership**

## **New York Communities Are Key**

Governor Cuomo is committed to moving individuals from institutional settings into communities throughout New York State. This commitment is demonstrated as the Administration has announced plans to close the state's Developmental Centers under the auspice of the New York State Office for People with Developmental Disabilities (OPWDD) over the course of the next several years. New York's voluntary provider community is well prepared to partner with the Administration on deinstitutionalization efforts and provide individuals with opportunities in integrated community-based settings – *providers are part of the fabric of many families and respective communities*. The key is “community” and the focus must be on the individual and on the community in which s/he is to become a part of. It will be optimal for communities to embrace the notion of integration in terms of housing, employment, supports and services, recreation and engagement. Communities should work as extensions of families. Systems do not support people, people support people. While resources may be limited, the spirit of Olmstead must be adhered to and the more we are a society that values our intrinsic humanity, the more likely we will be to endeavor to find ways to include, support and embrace people.

NYSACRA strongly urges the development of an Olmstead Implementation Plan that recognizes the need to assist individuals with I/DD to live healthy and active lives in their communities as well as foster people's abilities to become part of the fabric of their communities. Communities need to be engaged, educated, supportive and prepared. Communities must include the continuum of options, range of supports and services necessary for individuals with I/DD to thrive.

### **Access to the Most Appropriate Community-Based, Integrated Housing**

As a result of Olmstead, the state must ensure within the necessary resources, the availability of community integrated services; access to less restrictive community-based housing opportunities. NYSACRA underscores the importance of the Olmstead decision with regard to appropriate setting, availability of resources and individual choice and maintains that many people with I/DD wish to live as independently as members of their respective communities in housing options which most fit their need.

As part of the Olmstead Implementation Plan, formal inventory of identified need should be correlated with available housing options. New York has been a leader in developing housing options for individuals with I/DD; we must continue to recognize an individual's origins, understand the individual's concept of “home” and respect the transition when taking inventory. The formal inventory may include a review of options currently in place and identifying whether individuals are in fact living in the right setting, receiving the right services, at the right time. Such an inventory is a key hallmark of People First Waiver.

NYSACRA is fully supportive of individuals with I/DD moving from institutional to community settings with appropriate resources. Such resources shall also include educational components: community education and preparing individuals to live independently, life and safety skills, proper health care, and homemaker support skills when individuals will be living on their own or with limited support.

Likewise, NYSACRA suggests a consensus definition of “integrated housing” and integrated employment” be adopted and adhered to.

## **Access to and Appropriate Accommodation for Fair Participation in the Competitive Workplace - Integrated Employment**

Key to integrating individuals with I/DD into New York's communities is affording people the opportunity to explore what one wants out of life. Most often this includes the opportunity to make a real contribution to society through meaningful employment. While New York State has made strides to employ individuals with I/DD, we can build upon our successes. Through the Olmstead Implementation Plan we have the opportunity to engage all stakeholders in the public and private sectors in embracing integrated employment for individuals who wish to obtain meaningful work.

Individuals while in school based settings must engage in the process of transitioning to employment establishing the expectation of successful employment early. The State of New York might incentivize school districts to transition students with I/DD from school-based programs to employment training. An expectation of integrated employment and the availability of opportunities may serve as a means to ensure successful transition and success in the workplace.

Likewise, private sector employers represent a vital resource in our communities and we must promote resources to engage and incentivize employment, assist employers to create and foster integrated employment, and develop strong partnerships with the business community.

We must be creative and maintain flexibility to replicate best practices such as customized employment which yields greater job retention and can support people with complicated disabilities who want to be employed. Development of entrepreneurial models to transform pre-voc can be incentivized. We must also allow for job training, job coaching and teaching the importance of work ethic.

### **Appropriate Transition Planning, Assessments and Monitoring**

Appropriate planning is essential to the success of the quality of an individual's life and his/her safety as individuals move to community-based settings. The State's Olmstead Implementation Plan should recognize the need for careful, appropriate transition planning to less restrictive settings, proper assessments and ongoing monitoring. A two-pronged approach may be valuable: ongoing and outcome driven model for self assessment coupled with government oversight that reflects the intention of Olmstead. Health, safety and the achievement of personal outcomes should be fashioned in a more dispersed and individualized environment.

A cohesive, strategic transition plan must be developed with a strong team of leaders to guide systems transformation, improve the efficient use of resources, create alternative organizational and agency financing structures within the context of person-centered planning. Best and promising practices should be adopted which enable individuals with I/DD to transition successfully into community-based settings with comprehensive emergency management and crisis intervention resources in place when needed. Successful transition planning must also take into consideration and recognize the impact of generational issues.

Reliable and valid assessments to determine levels of support are also essential components of successful transitioning. Families and caregivers must also be part of the transition, with an ongoing assessment and to the extent of the individual's wishes.

Ongoing monitoring to ensure successful transition is taking place and keeping people healthy and active in the community is fundamental. A path must be available to people who are able to advance and move forward, likewise, allow a safety net for individuals in need, perhaps into an integrated settings as needs change.

The availability of a strong and skilled workforce is important. There is extreme pressure as more and more people with disabilities (including the elderly choosing to age in place), select from a demographically shrinking pool from which direct support workforce is draw. This means a skilled, agile and efficient worker must be available to those in the community. This is a fine career and resources will need to be invested to provide training in technology to aid them, provide for skill acquisition and adequate compensation and benefits.

### **Transportation**

Transportation is a necessary component of successful integration. The ability to move from one location to another is a most vital support. Almost every facet of life relies upon reliable transportation.

Investment in transportation opportunities is necessary and should coincide with an Olmstead Implementation Plan. Accessibility is a main issue, especially in rural areas of the State of New York where transportation options are limited and accessible transportation is nonexistent. Mass transit opportunities must also be considered and transportation opportunities with regard to work should take into account part time schedules.

### **Leadership**

The State of New York is in an excellent position to serve as a leader in the nation as the Olmstead Implementation Plan is crafted. NYSACRA firmly believes the Olmstead Implementation Plan must serve as a living strategic plan that can be updated and revised as needs change. The Plan should serve as a springboard for systems transformation, foster innovation and acknowledge that a continuum of services is necessary for successful integration of all individuals with disabilities. Balance is also central.