



**Testimony, Joint Legislative Public Hearing
2017-2018 Executive Budget Proposals: Topic "Mental Hygiene"**

February 6, 2017

By:

Ed Snow

Statewide PEF/OPWDD Labor Management Committee Labor Chair

Good day distinguished Mental Health and Developmental Disabilities Committee Members. My name is Ed Snow, and I am the Statewide OPWDD/PEF Labor Management Committee Labor Chair. I have been employed By OPWDD since 1984 in an array of Direct Care Titles and my current title is ICF Program Manager 1.

This year's Budget includes an investment of \$120 million for OPWDD New Service Opportunity. The total investment of the \$120 million will be for the development of private provider services and will not provide for any state operated opportunities with this investment. Hence, diminishing the need for services, provided by members of the Public Employees Federation.

This year's budget proposes \$21 million to expand Crisis Services, including \$ 12 million to expand the START services in the downstate area (OPWDD has identified during a recent briefing to union representatives) that designated downstate location will be within the operation zone of the Long Island DDSO. OPWDD indicated, during the union's briefing, that the downstate START will be utilizing private sector workers, instead of PEF employees.

Our members had been an integral part of the START program in the Hudson Valley/ Capital area, which was part of last year's budget with a price tag of \$15 million. This program has utilized highly skilled and experienced members of the state workforce to reduce dependency on higher levels of services. *I would encourage OPWDD to continue to utilize the skill and experience of its workforce in the ongoing development of the START program turning to less experienced private agency staff.*

This year, OPWDD proposes to dedicate \$ 24 million to transition people to more appropriate community-based settings. According to OPWDD, 100 people will be transitioning from the remaining ICF's at the Long Island DDSO to private providers and a 56 person census decrease at the Sunmount DDSO Campus in Tupper Lake.

The Agency's long term plan was to reduce the Specialized/Intensive Treatment census to 150 (45 at Valley Ridge CIT/Broome DDSO in Norwich and 105 at Sunmount in Tupper Lake Campus) by March 31, 2017. The Census has been stable at Valley Ridge CIT with 45 for some time now. However, the Sunmount census remains at 140-150. It is unrealistic to think that OPWDD will be able to accomplish the 56 person census reduction at Sunmount. The need for intensive treatment specialized services is needed by this special population, yet there appears to be an unrealistic need to reduce this service in the OPWDD state delivery system.

Last year's budget included transition of the Rainbow Commons Court ICF's location in Dix Hills to private providers. The transfers, scheduled to be complete by December 31, 2016, never occurred due to OPWDD being unable to find provider agencies. This year's budget suggests a plan to transfer another 100 people at Long Island DDSO to voluntary providers and fund it in part with \$ 24 million of transition funds.

It would seem a better use of State funds to transfer all Long Island State operated ICF level of care people to State operated Individualize Residential Alternatives operated by OPWDD. PEF and CSEA represented employees have a long history in NYS of providing quality care to the most vulnerable population within OPWDD.

My Colleagues and I have seen many positive changes in our careers in the delivery system, where people with developmental disabilities have moved from restrictive environments to situations that served their needs in a less restrictive environment. However, we are most concerned about the failures and the reasons those failures have occurred. We believe that in the constant state of trying to transition state services to private providers, that recommendations of our members who are very talented and skilled in their professions are often disregarded. This is done in order to meet the goal of getting the state out of the care business and into the oversight business. We believe the rush to transition, at times, puts the people we serve, providers and the communities they live in, at unnecessary risk.

Justice Center

We at PEF continue to be concerned about the Justice Center and some of their practices that create disruption in the overall functioning of OPWDD programs. We certainly understand the need for all allegations of abuse and neglect to be thoroughly investigated and mitigated. Some of the practices of the Justice Center have had a negative impact on health care professions in the field, hence making it difficult for agencies who fall under the purview of the Justice Center to recruit and retain employees.

An area of great concern is the threat of Justice Center reporting to manipulate caregivers. Time and time again, money is squandered investigating baseless claims which tend to be so absurd, that there is no way they could be accurate. For example, our field services staff who represented five female professional staff from a particular unit. They were alleged to have performed a sexual act on a particular male recipient of services, in a common hall way with at least three other onlookers. This particular claim was investigated by the Justice Center, the staff named by the service recipient were all placed on restrictive duty, interrogated, and forced to walk on eggshells while the investigation dragged on.

This example is one of many investigated and unfounded allegations that are all too frequently made. The burden these cases puts on the system, including service disruptions to others needing services, the fiscal cost of replacement staff and the emotional stress to these staff and their families is problematic.

Justice Center involvement has placed many staff members in professional jeopardy and has caused many to undergo great financial and emotional hardships.

Thank you for taking time to consider the concerns and recommendations that I have brought forth for your consideration.



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Virginia E. Davey

Statewide PEF/OMH Labor Management Committee Co-Chairperson

Good afternoon esteemed leaders. I thank you for taking the time to allow the Public Employees Federation to weigh in on the NYS Budget Proposal. PEF welcomes the opportunity, as always, to offer our insights and perspectives from the front lines of the battle to assure that the treatment needs of the most vulnerable individuals in NYS are not undercut due to financial considerations. Having a flat line budget to meet the rising needs of those seeking mental health challenges only makes it more difficult to achieve our intended goals. Despite this, achieving quality treatment in our OMH facilities is a worthy enterprise to embark upon. PEF does not envy OMH Commissioner Anne Sullivan for the challenging job she has to undertake. To make financial decisions, that assure that a limited pool of money has far reaching impact, is often an impossible feat. PEF respects Commissioner Sullivan, and thanks her for her proven commitment to those with mental health needs. We wish her well as she deliberates on the issues of how to best meet the needs of the patients we serve.

My name is Virginia Davey. I have been asked by PEF President Wayne Spence to speak on behalf of PEF. I serve as the PEF Co-Chair of the Statewide OMH-PEF Labor Management Committee. Serving in this capacity, has given me the opportunity to hear directly from professionally licensed Public Employees Federation members who proudly care for mentally ill patients. They share the challenges that they face in a world of dwindling state resources, that favors a growing emphasis on outpatient, privately administered, community-based services. While in theory there are convincing arguments to be made, that outpatient care is the panacea, there still remains great need for quality inpatient mental health care as well as state provided outpatient care. One could make a strong case that the shifting of resources from the inpatient to the outpatient realm has not always allowed for the best balance of care for individuals with mental health needs. At the same time, many would also make the case that the promise of

adequate outpatient care, private and state provided, has fallen far short of the mark. This balancing act is the reason that we are all here today. PEF hopes that we can help to impact the financial decisions to allow for a more measured and thoughtful consideration of the needs of NYS citizens who require quality mental health care.

OMH has proudly emphasized their downsizing (right-sizing) of inpatient beds in order to reinvest more resources in outpatient services. PEF employees have worked directly with many of the patients who were deemed “no longer in need of inpatient treatment” and instead, “ready to live in the community.” PEF would like to be able to stand before you and say that the transition, overall, has been a positive one for those who were accustomed to receiving OMH services. Sadly, this is not the general sense that we have taken away from working on the delivery side of services. Last year, at the budget hearing, PEF spoke about the floodgates being opened and the lack of available financial resources to expand OMH outpatient provided services. At the PEF/OMH Labor Management Committee meetings, PEF members have spoken frequently about their excessive caseloads.

Professionals have had to continually grapple with the struggle to maintain professional standards of practice under less than desirable circumstances. Counselors have shared their challenges with regard to scheduling due to having too many patients. They have spoken about their fear that patients will “fall between the cracks” because they have been unable to evaluate patients’ mental health needs as frequently as would otherwise be indicated. When there are no appointment slots available, it is difficult to provide assurances that patients will remain well enough to survive until their next appointments. In response to the ever-increasing caseload concerns being brought forward, OMH has questioned the productivity levels of employees.

The budget summary states that, “The Budget continues to improve quality and expand capacity of services in the community.” There is no doubt that there has been an

exhaustive expansion of community-based services; however, there have also been many legitimate questions and concerns brought forth regarding whether the services provided are of an improved quality-value. We would ask that the Mental Health and Developmental Disabilities Committees seek more concrete knowledge of these assertions and that they hold the Governor and OMH to a high standard of proof that these claims are consistent with what is happening at the ground level. We cannot get this wrong as people's lives depend on us getting it right. PEF believes that OMH should no longer be allowed to hide behind unrealistic productivity standards, while at the same time "downsizing" the workforce to levels that cannot possibly accommodate an ever-increasing demand for services. While focusing on productivity is a must for all managers, in this case many employees become scapegoats, and the smokescreen, for the lack of adequate staffing levels. While there may be no state workforce layoffs, it is projected that 521 members will be leaving state service due to attrition. Although 168 new fills are slated to occur, 353 represents a significant decrease in the state workforce. This is by far the largest net decrease of any of the major NYS agencies. Savings realized by attrition could be dedicated to increasing OMH's outpatient counseling workforce.

As OMH downsizes, it can no longer keep decreasing inpatient staffing in order to expand outpatient services. The well is running dry and patients will suffer the consequences. We ask that the number of cases that each of the Case Managers, Community Mental Health Nurses, Psychiatrists, Psychologists, and Social Workers have on their caseloads be revealed to the Mental Health and Developmental Disabilities Committee members for their consideration. PEF believes that transparency will shed some light on the need for more money to be allocated to the Mental Health Budget so that services can be maintained at quality levels.

OMH is looking for opportunities to consolidate services, either by shifting responsibilities to private providers or by joining forces with other state entities. At the same time, OMH has committed to involving all of the local stakeholders in discussions regarding the delivery of mental health services in their communities. OMH has faced much opposition for some of their proposed changes due to the community's reliance on a familiar, stable, and predictable source of mental health services. When the swell of public outcry is impassioned, loud, and sustained, it is a signal that a community is invested in the mental health services currently being provided. The proposed transformation is an unwelcomed transformation at this point. PEF believes that it would behoove us all to listen and adjust financial plans accordingly. The Western Children's Psychiatric Center's services, including the current building and location, are indispensable in the minds of the stakeholders in that community. At a time when we need buy-in from those with mental health needs, we cannot allow finances to undercut the people's faith in receiving quality mental health treatment on their own terms, and with the confidence that keeps them engaged in the treatment process.

PEF would ask that the Mental Health and Developmental Disabilities Committees seek to have a moratorium issued on the movement of the Western Children's Psychiatric Center to the Buffalo Adult Psychiatric Center and, that to that end, work with the Governor to find additional funds to keep the hope of these children and families alive. In addition, PEF would encourage OMH to continue to keep its promise to consult with local stakeholders and to enter discussions with an open mind and with a commitment to reconciliation and compromise when a community demonstrates that it needs and values the services that OMH provides.

As was outlined in the Budget Proposal, there is an effort underway to revamp the services provided by the Hutchings Children's Psychiatric Center. Although some details of the possible revamping have been shared with PEF, those details were lacking in specificity due to

the discussions being considered preliminary at this time. Again, PEF would advocate that all stakeholders be provided an opportunity to weigh in on any potential change in the delivery of mental health services, whether it is with another state entity like SUNY Upstate Medical or with other private healthcare providers. PEF members continue to be some of the staunchest advocates for people with mental illnesses who have often been caught in the crosshairs of the shift of mental health services to other than state providers. PEF has worked with patients, families, and support systems for many years in order to resolve issues related to their patients' needs. For that reason, PEF welcomes the opportunity to be included in stakeholder discussions, as advocates, to assure that patients and their family members have an opportunity to weigh in on matters that impact their quality of care.

One of OMH's most recent efforts to shift patient care from OMH hospitals to the Department Of Corrections and Community Supervision facilities is not viewed as one that fully appreciates the mental health needs of the individuals who require mental health treatment. PEF, having several experts among its ranks who work for both OMH and DOCCS, believes that patients awaiting restoration to competency are best served when they receive services that are not found behind the razor fences of a jail or prison. Those who are best equipped to provide services that result in mental health stability and restoration to competency are found at the Office of Mental Health. Although it may be the case that many patients require repeat admissions to OMH hospitals while awaiting trial, that is the nature of mental illness and not a legitimate reason to treat a patient in a jail or prison rather than in a psychiatric center. Patients and their advocates should be the ones "volunteering" or not "volunteering" to receive specialized residential treatment in a jail or prison. For this reason, PEF suggests that the Executive Budget instead include the same investment amount of \$850,000 to assist OMH in improving the training and infrastructure for providing the same treatment within the nurturing

walls of OMH facilities. The proposed specialized training that would have been provided to professionals in the specialized residential treatment units in DOCCS would serve a dual purpose in OMH. This allocation of funds would allow for the cross training of professionals to better provide services to patients who have served jail and/or prisons terms, when they require ongoing mental health treatment. PEF has been having ongoing discussions with OMH due to health and safety concerns related to insufficient training/infrastructure (secure wards) for the increasing acuity levels of patients being admitted into OMH facilities. This type of investment in OMH could be a win-win for patients and employees if undertaken.

PEF continues to be concerned about the recruitment and retention of professionals in OMH. The very professionals that are essential to the survival of OMH are becoming harder and harder to recruit and retain. Although the ongoing recruitment and retention of psychiatrists and nursing professionals is the most obvious challenge for OMH, there are other professionals who are serving in hard to recruit titles. OMH has increased compensation packages significantly, yet they have not been able to offer packages that have matched what the private sector has been willing to offer to their employees. This has greatly disadvantaged OMH's recruitment efforts. The same is the case for doctors. Another complicating factor in the recruitment and retention effort has been the fact that people who have worked understaffed on an ongoing basis, have grown weary of waiting for the day when full staffing would be achieved. The continuous cycle of hiring new recruits and processing departures has left many facilities woefully understaffed for extended periods of time. Much money is lost in the training process as people decide to separate from state service.

Despite the No-Mandatory Overtime Law, many nurses have been serving multiple overtimes in the span of a week, both voluntarily and involuntarily. Many nurses have filled out protest of assignment forms due to safety considerations but to no avail. In addition, because of

the shortages of nurses, employees have had difficulty getting time off, even for wellness checks. Many have indicated that their families have been unable to function as a healthy family unit due to having to devote so much time and energy to their jobs. The No-Mandatory Overtime Law was passed in large part due to concerns about patient care and the performance of nurses who are not properly rested, alert, and ready to face the challenges of the day. Aside from the additional expenses associated with having to mandate so many nurses to work overtimes, there is a human cost to both patients and the nurses who care for them.

PEF advocates that funds be allocated to studying the use of mandatory overtime in OMH facilities. The resulting impact on the patients as well as the recruitment and retention of OMH Nurses must be neither underestimated nor ignored. Only then will the value of providing additional financial resources for nursing titles be clearly understood and appreciated by all. PEF asks that the Mental Health and Developmental Disabilities Committees request a monthly report regarding the use of voluntary and mandatory overtimes as well as the associated financial costs so that the scope of the challenges can be better understood and addressed. OMH cannot resolve this issue alone, especially with a flat-line budget.

Lastly, another factor that is impacting recruitment and retention of OMH employees is directly linked to the existence of the Justice Center. The leverage that they have to impact the livelihood of professional employees, whom they suspect have engaged in abuse or neglect, has caused employees to undergo much angst and consternation. As stories circulate regarding the potential impact of Justice Center involvement, employees are opting to find employment elsewhere. Others who have gone through the Justice Center proceedings have opted to leave state service prematurely due to the process having been too difficult for them to endure. Professionals understand that they have a huge uphill battle when trying to defend themselves, even if they have been wrongly accused of some misstep. Given that there are efforts underway

to expand the Justice Center's workforce, their level of scrutiny on the state workforce is not likely to lessen any time soon. PEF strongly advocates for the health and wellbeing of the patients that we serve and we are supportive of efforts to identify and eliminate any and all abuse or neglect. That being said, PEF believes that the issues that drive competent and highly professional staff members to leave state service have to be addressed in order to retain a professional workforce in OMH and other state facilities.

Thank you for the opportunity to speak before you today. I wish you well in your deliberations with regard to assuring that the mental health needs of New Yorkers are given due consideration during the budget process.