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NYS Senate Finance Committee  
NYS Assembly Ways and Means Committee

## **Mental Hygiene Budget Hearing**

Wednesday, February 3, 2016  
Legislative Office Building  
Albany, New York

### **Testimony Delivered by:**

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Chairman Farrell, Chairwoman Young, Chairwoman Gunther, Chairman Ortt and distinguished members of the New York State Legislature.

## **Introduction**

Good morning. My name is Ann Hardiman and I am the Executive Director of the New York State Association of Community and Residential Agencies (NYSACRA) and I am Michael Seereiter, President and CEO of the New York Rehabilitation Association (NYSRA). On behalf of NYSACRA and NYSRA, we appreciate this opportunity to provide you with our perspective on the proposed 2016-17 Executive Budget and the impact on people with disabilities, families, direct support professionals and provider agencies.

## **NYSACRA and NYSRA - Who We Are**

NYSACRA is a statewide association representing nearly 200 voluntary not-for-profit agencies in New York State. NYSACRA member agencies provide direct services and supports to thousands of people with Intellectual and Developmental Disabilities (I/DD) and their families and are located in communities across the state. New York's providers employ more than 75,000 direct support professionals who we rely on to deliver essential services and are truly the backbone of the system.

NYSRA is a statewide association of 90 providers of services to individuals with differing abilities that advocates on behalf of individuals with disabilities and the agencies who serve them. NYSRA's community providers offer a full spectrum of services to people throughout New York State, including individuals with developmental disabilities, mental illness, deaf and hearing impaired, and vision problems, in addition to addictions, traumatic brain injuries and veteran services.

## **General Overview of Proposed 2016-17 Executive Budget**

The proposed 2016-17 Executive Budget, especially for the New York State Office for People With Developmental Disabilities (OPWDD) and the New York State Office of Mental Health (OMH) is generally positive. There appears to be continued acknowledgement of the value of the disability sectors and the importance of investing in new and expanded services to support more and more people in community settings. NYSACRA and NYSRA are pleased the Governor recognizes the ongoing need for affordable housing and also included funding in the budget to expand OPWDD's START model to implement crisis services in two new areas of the state. We are also encouraged that the budget proposal contains language to extend the very important social worker and other mental health licensure exemptions.

On behalf of both of our associations, we support a proposed increase to the state's minimum wage and we applaud the efforts that resulted in gaining serious attention to the increase because we do believe workers deserve fair wages. While our testimony will highlight our position and recommendations on the Governor's proposal, it is important for our associations to underscore the responsibility of the state to dedicate public funds for the I/DD, behavioral health and all other not-for-profit agencies that provide services on behalf of NYS if an increase in the minimum wage, as proposed by the Governor, is to be achieved.

Our testimony will focus on specific initiatives and key areas which we strongly believe merit attention and support from members of the State Legislature. The areas are as follows:

- supporting the workforce including the need for an increase due to the minimum wage and the implementation of a direct support professional credential
- managed care readiness resources and technical assistance

- funding for OPWDD's Transformation agenda and expansion of community-based services
- investments to implement/comply with the home and community-based waiver transition - "community rule"

## **Workforce**

### *Minimum Wage – Proposed Increase and Funding for Not-for-Profit Agencies*

Our associations are quite supportive of efforts to close income gaps - not solely by addressing top level salaries, but by “lifting up the bottom” for those individuals earning the lowest incomes in their respective sectors. We wholeheartedly agree with the Governor in his May 6, 2015 Op-Ed in *The New York Times*, “minimum wages have not kept pace with the rising cost of living.”

We have long advocated for increased funding to pay wages to individuals who provide direct supports to people with disabilities and we are pleased the conversation has reached such a high level. We respect the differences of opinion and healthy debate, but firmly believe that wage increases are well deserved and long overdue for individuals who support people with disabilities to live, day-to-day.

The Governor's proposal to increase the minimum wage is commendable. The issue for not-for-profit agencies is not the increase to the minimum wage, but the need to make it possible for agencies that depend upon public support to pay for the increase.

Historically, the responsibility to serve people with disabilities was borne directly by the state in state-operated institutional settings. As our systems evolved and people moved into communities, the state contracted with mission-driven community-based organizations to fulfill its obligations. These dedicated and committed agencies, and the people being served, are supported almost exclusively through public funding (the most prominent source being Medicaid). Therefore, increases to the minimum wage must be funded with public sector dollars because, in reality, there are no other sources of revenue for organizations providing supports on behalf of the state to obtain the funding necessary to comply with a new mandate.

Agencies are currently severely challenged with recruitment and retention issues, and without the ability to increase pay to recruit and retain direct support workers. This situation is only exacerbated by the fast food industry minimum wage increase. The organizations licensed/contracted to deliver services on behalf of NYS will be unable to pay any increased wage or compete for qualified workers without significant investments, regardless of whether the minimum wage increases. While the Governor's proposed .2% Cost of Living Adjustment is appreciated, not-for-profit providers of disability supports will need significantly more in order to comply with a minimum wage increase or compete with other sectors with a higher minimum wage.

### *Direct Support Professional Credential Program*

It is important for us to thank you, once again, for your support of the direct support professionals. Through the enacted 2014-15 State Budget, the State Legislature charged OPWDD to study the merits of developing a direct support professional credential program in New York State. You directed the state to develop recommendations for the design and implementation of the credential program and a report was delivered to you last month. This comprehensive report, developed through extensive public input:

- details workforce policy rationale for a credential in New York
- demonstrates the negative impact of low wages and turnover and positive impact on worker retention, satisfaction and safety
- sets forth the potential for credentialing to improve quality outcomes for people being served, and
- highlights the affordability of long term supports and services.

While the state endorses the report, the proposed 2016-17 Executive Budget does not recommend funding the direct support professional credential program in New York State. Therefore, we ask the State Legislature to make the structural commitment to the credentialing program.

### **Managed Care Readiness**

The shift from a fee-for-service to a managed care system of paying for supports and services has happened in certain sectors, is happening in the behavioral health world, and is soon to take place for people with I/DD. Our associations have been at the forefront along with the state when discussions take place, working groups are formulated, and recommendations released. We support the move toward managed care to the extent that it can be demonstrated as a viable means by which to improve the lives of individuals with disabilities. We remain ready, willing and able to assist with the transition to make sure it is as seamless as possible. However, the shift will be challenging even for the most sophisticated of agencies.

The most critical step for agencies transitioning to Medicaid managed care is readiness and in order to understand a provider's readiness, an assessment is paramount. Providers must understand their agency strengths and grasp areas where operations need to either change or rebuild. Agencies need to know what technical assistance tools will be necessary for a provider to successfully transition.

Therefore, we ask the State Legislature to support, through the 2016-17 State Budget, managed care preparedness activities, similar to what was accorded to the behavioral health field, to assist providers to assess managed care readiness and build the capacity to survive and thrive in a managed care environment.

### **Funding OPWDD's Transformation and Expanding Community-Based Services**

Over the past four years, OPWDD has been on a path to reform the system of supports and services to people with I/DD. First known as the Road to Reform, the Transformation Agenda is based on the state's shared agreement with the federal government to improve opportunities for the people in the system. We have embraced the reform effort and, for the most part success has been achieved in the areas of deinstitutionalization and moving people into the community, increased competitive employment opportunities have been created, and more and more people are self-directing their own services.

We are pleased to be part of the Transformation Panel organized last year by OPWDD to shape more tailored services for people with I/DD and families, and to further promote a more sustainable system. Acting Commissioner Delaney is to be credited for her commitment to this effort and for her open, honest exchange and dialogue.

The recommendations as proposed in the draft Transformation Panel report, "Raising Expectation, Changing Lives" touch upon several key areas including supporting staff, supporting family, system performance, care management and assessment, self-direction and implementing flexible funding.

NYSACRA and NYSRA support moving forward with more detailed recommendations, but the key is not only implementing flexible funding, as mentioned in the report, but the need to fund systems transformation as a whole and each of its parts.

Similarly, in behavioral health, we see a strong push to avoid extensive and expensive supports and services (i.e. inpatient hospitalization), yet that vision can only be achieved through continued expansion of community-based supports. Therefore, we also encourage you to consider investments in community-based behavioral health supports as part of this year's budget.

## **Home and Community-Based Settings – Community Rule**

In March of 2014, the federal Centers for Medicare and Medicaid Services (CMS) adopted the final rule on Home and Community-Based Settings for Medicaid-funded long term supports and services in residential and non-residential settings. The new rule implements significant changes to each of the State's twelve 1915(c) waivers, including the OPWDD Home and Community-Based Services (HCBS) waiver, along with the state's 1915(i) and 1915(k) waivers. As a colleague in Ohio stated, this new federal change represents the Civil Rights movement for people with disabilities.

The rule require that all settings that must comply with the new "community rule" must be integrated and individuals must have full access to the greater community including:

- employment opportunities
- choice as to who s/he wants to live with
- control of personal resources

A person's right to privacy is an important component of the rule.

We wholeheartedly support the goals of this important rule and seek to assist our members to comply with the provisions of the regulation. While this will take time and the federal government is affording States with the opportunity to transition, agencies will need resources to comply with the rule. We ask that the legislature dedicate such funding as part of the 2016-17 budget.

## **Closing**

On behalf of our associations, we thank you for affording us this opportunity to testify on the proposed 2016-17 Executive Budget proposal.

