

## **Testimony Before the NYS Legislative Joint Fiscal Committees**

### **Mental Hygiene Budget Hearing February 11, 2014**

Presented by  
Harvey Rosenthal, Executive Director  
New York Association of Psychiatric Rehabilitation Services

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

NYAPRS Board of Directors  
Co-Presidents: Steve Coe, Maura Kelley

Thank you to the chairs and members of the respective committees for the opportunity to submit to you the concerns of the tens of thousands of New Yorkers represented by the New York Association of Psychiatric Rehabilitation Services. NYAPRS is a unique statewide partnership of New Yorkers with psychiatric disabilities and the community mental health professionals who support them in over 100 community-based mental health agencies from every corner of the state.

My name is Harvey Rosenthal and I serve as the executive director for NYAPRS. I also serve as a member of the state's Medicaid Redesign Team and its Behavioral Health subcommittee as well as New York's Most Integrated Settings Coordinating Council.

State mental health policy is a very personal matter for our NYAPRS community. Many of our members, our board members, our staff, and I all share a common personal journey of recovery from a psychiatric disability. We believe this strengthens our ability to speak to you on behalf of the thousands of New Yorkers with psychiatric disabilities and their supporters that we represent.

The following testimony incorporates the views of the New Yorkers who help to guide the direction and scope of our work. In part, this testimony reflects feedback from hundreds of community members who participated in planning forums last fall in Newburgh, Hempstead, Brooklyn, White Plains, Batavia, Saranac Lake, Binghamton and Syracuse.

You may have seen our members out in great evidence on January 28<sup>th</sup>. Throughout that day, the Capitol was filled with over 600 spirited mental health self and system advocates in orange hats who came to urge their state legislators and Administration officials to 'reinvest in my recovery.'

Since 1981, NYAPRS has believed that all New Yorkers with a broad range of mental health, addiction and medical conditions can recover if they are provided the right mix of community based services.

But community service expansion has historically lagged well behind the need while the vast majority of our OMH and Medicaid dollars have remained trapped in the costly institutions of the past...state hospitals, adult and nursing homes and the avoidable repeat use of expensive local emergency and inpatient services.

This approach has amounted to a lose-lose proposition as taxpayers have been forced to pay huge sums for poorly coordinated services that have all too often promoted permanent patienthood rather than advancing the wellness and community integration that New Yorkers with psychiatric disabilities and their families have sought and deserve.

That's why reinvestment is precious to our members and why we support the many reinvestment proposals that are in this budget: reinvestment of funds from state hospitals, from adult and nursing homes, from the reduced use of Medicaid emergency and inpatient use to dramatically increase our community mental health safety net and recovery focused service sectors.

## **State Hospital Reinvestment**

In 1993, we played a prominent role in helping to win legislative approval of the Community Reinvestment Act, legislation that was sponsored by Senators Spano and Libous and Assemblyman Steven Sanders. NYAPRS and NAMI members then conducted candle light vigils for 8 straight nights until then Governor Mario Cuomo gave the program his approval. For more, please see the photos at the end of this testimony.

During 1994-1998, the Reinvestment program pumped \$200 million in new local services in communities across the state. These funds gave rise to New York's recovery system, paying for peer, family and crisis support services, employment, education, advocacy, children's and transportation services.

This program represented the correct way to pursue deinstitutionalization, by putting up new community services that helped tens of thousands to advance their recoveries and to reduce their reliance on costly hospitals that at one time housed thousands New Yorkers but now only house between 70 to 270 individuals.

State legislators extended authorization for the Reinvestment program in 1998 but the funding dried up when further hospital or ward closures were either blocked or the program was not withstood year after year so that our savings could be diverted to the general fund.

Since that time, it has been very difficult to close additional facilities despite the fact that New York has 24 state hospitals, 3 times more than any other state, and that almost 2/3 of OMH dollars remain in state operated services. Candidly, this has been due to regular opposition from civil service unions and state legislators.

As a result, beds have continued to close in the face of reduced need and use but we didn't see increases in community services to replace the institutional ones.

In this budget, the Administration's proposal appropriately commits to pre-investing \$25 million in state resources (\$44 million when annualized) that is comprised of state employees who have been retrained and redeployed into the community and in increased funds to community mental health nonprofits. Apparently, it's connected to but not dependent on closing an estimated 400 state hospital beds over the next few years.

This approach will help correct the wrongs of the past...it will maximize state dollars and modernize their use to create urgent walk in, peer and family support, crisis support and respite, transportation and other critically needed community services.

State hospitals should be treatment programs not jobs programs. This proposal retains all the jobs but moves many to where they are needed most, boosting local systems in the same way as is happening in states across the country.

We can't have enough community services and, for this reason, NYAPRS is in strong support of this proposal as well as the proposal by Senator Carlucci and Assemblywoman

Gunther and supported by Senators Libous and Tkaczyk and Assemblywoman Lupardo to fully reinvest all of the savings from bed closures into the community (S.6363/A.8517).

### **Other OMH Allocations**

The budget also commits to invest \$40 million to create community housing and supports for several thousand adult and nursing home residents who do not need or want to live in these institutional settings and are recognized by recent state settlements of having ADA rights to live in the 'most integrated community settings.'

It also commits \$6.5 million to increase funds for downstate supported housing rent stipends and supports.

NYAPRS also strongly supports these proposals as well. The first brings long sought justice for adult home residents who never expected to be dead ended in adult homes and have lost hope after years of waiting for the state to recognize their rights under to Americans with Disabilities Act to live in the most integrated community setting of their choice.

The second one allows providers to sustain existing and new supported housing beds. At the same time, we are in strong support of legislative proposals that would extend the rent increases statewide that would require an additional \$2.2 million.

### **Medicaid Reinvestment**

This year's Medicaid proposals mirror and support the OMH budget's actions to move

Just as the OMH budget proposal gives a much needed boost that increases community capacity, the Medicaid budget does it one better.

That budget includes an unprecedented \$120 million in community behavioral health service expansions. Again, it represents a well time pre-investment by fronting out dollars that build system capacity and prepare us for the 2015 incorporation of OMH and OASAS mental health and addiction recovery services into the health plans that already oversee medical and pharmacy services for our community members.

The \$120 million Medicaid reinvestment fund pays for managed care readiness efforts by plans, hospitals and community providers, advances the integration of behavioral health and medical services, preserves critically needed access to vital safety net providers and dramatically expands community rehabilitation, peer, family and crisis supports via the use of the most flexible federal 1915 Home and Community Based Services option.

The Medicaid budget also adds over \$10 million in supportive housing that will help hundreds of 'high cost' individuals to stay in the community and avoid costly hospitalizations.

And it commits to reinvesting all funds generated by the closing of local hospital beds to either replace them in other facilities or via an expansion in prevention and diversion focused community services.

**Taken together, these historic proposals represent the single largest infusion into community recovery services (over \$205 million) that I've seen in my 38 years as a provider and advocate. We strongly urge state legislators to approve them and to expand their reach.**

**For far too long, New Yorkers with psychiatric disabilities have seen their interests and needs regarded as secondary priorities to the preservation of institutional jobs and state savings made on their backs. This package of proposal takes unprecedented steps forward to right those wrongs.**

### **Cost of Living Adjustment**

This year's budget proposal once again defers a long promised and sorely needed Cost of Living Adjustment. Our extraordinary nonprofit community recovery workforce has not seen an increase in over 5 years, despite steadily increasing work demands and rising personal costs. We urge state legislators to right this wrong and to approve a 2% COLA valued at \$24 million.

### **Housing Waiting List Bill**

Stable housing provides the foundation for recovery. Despite recent increases in OMH housing, far too many individuals continue to await the provision of community housing and supports. In order to transparently track unmet need in this critical area, we strongly support and urge passage of **S.5228 (Carlucci) and A.7721 (Gunther)**.

### **Medication Access**

Access to psychiatric medications that physicians prescribe and that their patients prefer continues to be a strong priority for our members. We urge legislators to keep in place strong prescriber prevails patient protections and to reject efforts to place barriers that deny people their drugs of choice.

### **Eliminate Discrimination Against Parents with Psychiatric Disabilities**

NYS Social Services Law (SSL), subdivision 4 of §384-b is discriminatory against parents diagnosed with a psychiatric or developmental disability. Decisions to terminate parental rights should be based on behavior and not condition. This law discriminates on the basis of disability.

Historically, parents with psychiatric disabilities have faced enormous societal biases concerning their fitness to maintain parental relationships. These biases continue to pervade the legal process.

Despite all the major changes that have been made to alleviate the stigma of mental illness from society, there are still many areas in which stigma is still incredibly pervasive. One of those areas is for parents with psychiatric disabilities. Over fifty percent of all adults in the mental health system are parents.

Several states have had similar laws and the trend around the country appears to take disabilities including mental illness out of the law completely.

NYAPRS urges state legislators to eliminate diagnosis from any criteria involving the termination of parental rights. No New Yorker should lose custody of their child simply because of their diagnosis.

### **Criminal Justice Initiatives**

NYAPRS strongly supports two measures that are before state legislators this session that would greatly improve both police responses and prison based mental health treatment to our community members.

Far too many times, law officers are challenged on how to best respond to individuals in states of profound distress. In far too many instances, under-trained and unsupported officers have unnecessarily escalated situations that led to avoidable incarcerations, injuries and tragic deaths.

In response, cities across our nation have adopted what's been called the Memphis Crisis Intervention Team or CIT model. This approach involves enhanced mental health training for specialized police teams and typically pairs those teams with experienced mental health professions. Together these approaches are showing impressive results in improved police response and reductions in episodes of violence and tragedy.

We urge legislative support for **S.6365 (Parker)** that is expected to have an Assembly companion and that would institute Crisis Intervention Teams in New York City.

Also, as a longstanding member of Mental Health Alternatives to Solitary Confinement (MHASC), we give thanks to our state legislators' strong support and passage of 2008 'SHU Exclusion' legislation that required treatment alternatives to the use of solitary confinement for prisoners with serious mental health needs.

Nonetheless, the conditions that led to the bill's passage still exist. According to MHASC,

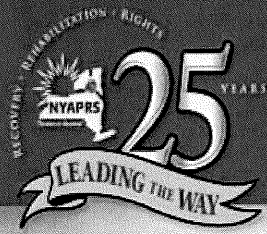
- Adequate mental health treatment is still not available to most people incarcerated in New York State prisons.
- Insufficient funding impedes robust Justice Center oversight of prison mental health care and implementation of the SHU Exclusion Law.
- 700 people with mental illnesses still languish in solitary confinement

At the same time that the prison population generally is shrinking – the number of people in prison with mental health needs is on the rise.

OMH needs additional funding to provide appropriate services, and the Justice Center requires adequate staffing to provide the oversight that the SHU Exclusion Law requires.

Accordingly, we urge passage of the **HALT Solitary Confinement Act, A08588 (Aubrey) and S06466 (Montgomery)**.

Thank you for this opportunity to share our recommendations with you today.



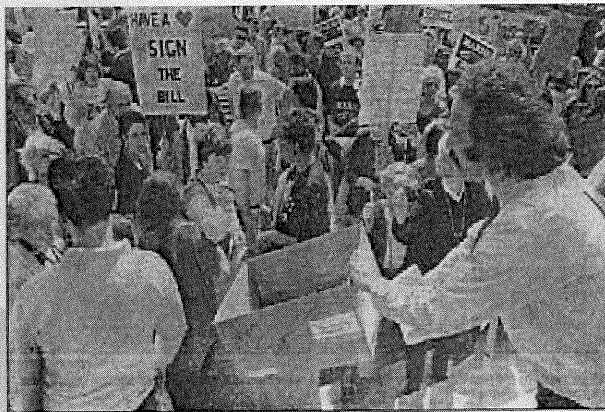
# Community Organizing, Advocacy and Empowerment

25 years of successful state advocacy campaigns

## Community Reinvestment Act of 1994

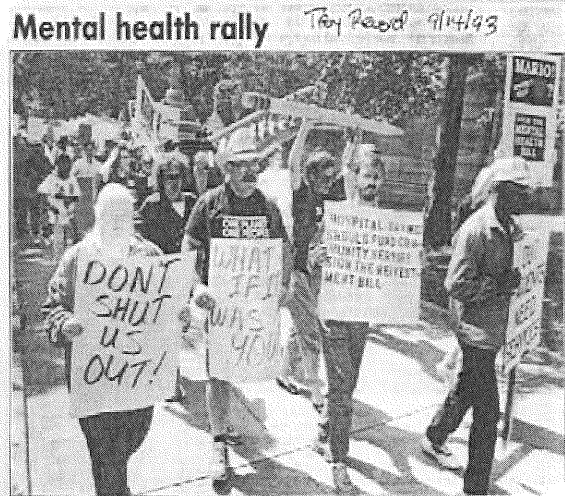
Our dream of bringing together thousands of informed and activist advocates for recovery and rights focused state public policies was realized almost immediately. Peers and providers from NYAPRS-member agencies from across the state emerged as the passionate human face of a successful MHAN campaign to win passage of the first major mental health legislation in 40 years.

The Community Reinvestment Act ultimately created \$200 million in new local community based services, saved from the closure of 5 state hospitals and hundreds of beds in other state facilities. With technical assistance from NYAPRS, rehabilitation and peer services were awarded almost half of the first \$32 million.



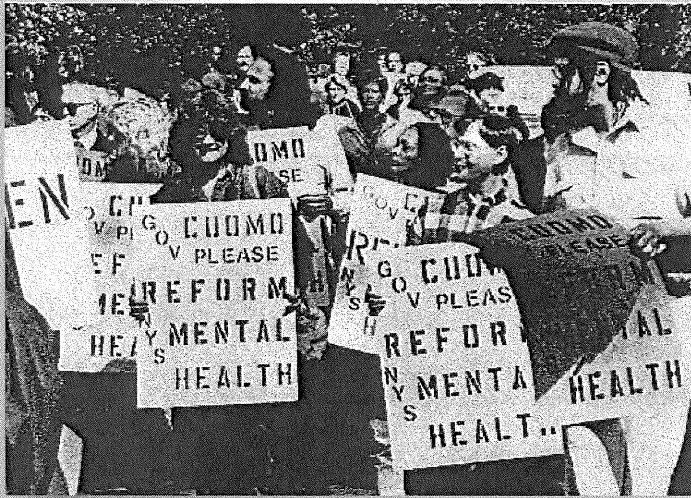
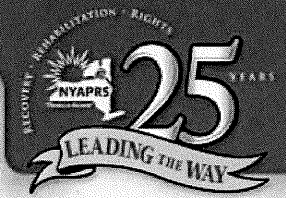
PROponents of a bill directing funds to community programs for the mentally ill pass pens Monday into a box at the state Capitol. The pens represented their desire that Cuomo sign the measure, which was passed by both houses.

### Mental health bill in jeopardy, senator warns



Protesters rally Monday outside of the Capitol in Albany in support of the Community Mental Health Resources Bill. The bill would ensure that some of the money saved by consolidating psychiatric centers would be spent on other mental health services.





When Governor Cuomo ultimately signed the bill in December 1993 at Fountain House in New York City, he and sponsors Assemblyman Steve Sanders and Senator Nicholas Spano paid particular tribute to those who made up daily candlelight vigils outside the state Capitol for several weeks that summer. NYAPRS members came from throughout the state to make up the heart of those demonstrations and, in doing so, became the conscience of the campaign.

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Bob Dodge joins with NAMI's then President Muriel Shepherd and Executive Director Carol Saginaw to provide candle light for the Capitol Reinvestment vigils of 1993.

