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## **Joint Testimony on the Proposed 2017-18 Executive Budget**

**Mental Hygiene Budget Hearing  
Monday, February 6, 2017  
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 afternoon/evening. 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 State Rehabilitation Association (NYSRA). On behalf of NYSACRA and NYSRA, we appreciate this opportunity to provide you with our perspective on the proposed 2017-18 Executive Budget especially as it relates to the workforce shortages faced by the intellectual and developmental disabilities (I/DD), behavioral health and other human services sectors.

## **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 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 trade association of 80 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.

## **Summary of NYSACRA's and NYSRA's Position**

While there is much to applaud in the Governor's proposed budget, which we highlight below, we are profoundly disappointed that the budget fails to address the highest priority for our member agencies: adequate State funding to ensure that qualified direct support professionals (DSPs) can be recruited and retained to perform the highly challenging work of supporting vulnerable clients with profound needs. In short, while new investments in supports, services and residential programs are appreciated, the failure of the State to provide a true living wage for our DSPs will render those investments largely futile because we won't have the staff to provide those services.

## **General Overview of Proposed 2017-18 Executive Budget**

The proposed 2017-18 Executive Budget builds on the progress the State has made in key areas including but not limited to: economic development, promoting the middle class, infrastructure investments and significant and historical reforms. As residents and taxpayers, we are pleased to see the development and growth because that is what's good for New York and New Yorkers.

We're also pleased that the proposed budgets for the New York State Office for People With Developmental Disabilities (OPWDD) and the New York State Office of Mental Health (OMH) are generally positive. By generally positive we mean there are no apparent cuts to services and supports and there is a genuine continued acknowledgement, especially by the good people of the state offices, of the value of the disability sectors.

NYSACRA and NYSRA are pleased the Governor recognizes the ongoing need to move people from state developmental centers, psychiatric centers and other state-operated systems to community-based settings not just because the federal government has directed states to do so, but because it's the right thing to do and because people tend to thrive and live better lives in their communities.

Specifically, we support the Governor's budget proposals to fund housing in the following areas:

- expanded independent living-housing opportunities and certified housing supports in the OPWDD Budget,
- options to move more people out of adult homes,
- new SRO, supportive housing and OMH community residence opportunities, and
- funds for NY NY III.

The Governor's budget also continues investments in new services for OPWDD and service expansions for OMH. We thank the Governor for acknowledging the need for new and expanded opportunities to support respite, day program, employment and crisis services in the OPWDD budget and addressing the need for additional children and youth mental health services.

Equally as important as the Governor's support for new and expanded services and opportunities is the proposed funding in the budget to support the next increase to the minimum wage set to take effect later this year. As we stated last year when the minimum wage increases were initially proposed, NYSRA and NYSACRA supported the increases. We applauded the effort and were delighted that such an increase had gained serious and widespread attention because our associations and our members firmly believe workers deserve fair wages. Therefore, we strongly support the funds in the 2017-18 Executive Budget proposal to Medicaid providers to offset the costs related to the minimum wage increases.

### **The State of the Workforce**

To continue this important conversation on wages our associations and partners indicated that such an increase to the state's minimum wage would have unintended consequences. At this time last year, our members shared with us information and instances of high vacancy and turnover rates at agencies throughout New York State. We had recognized that we were once again facing a workforce recruitment and retention problem and one that could soon turn into a crisis.

One year later, the current vacancy rate for the voluntary not for profit developmental disabilities sector is: 9.3% and rising.

Similarly, the one-year turnover rate for professional direct care and other support staff in the developmental disabilities sector is: 23.07% and rising.

The impact of high vacancy and turnover rates at agencies is negative; providers face increased overtime expenses which cannot be budgeted for, shifts go unfilled, people being served face a lapse in services and agency operations are left in turmoil. Direct support professionals wind up working more than one shift which oftentimes leads to a weary and tired staff member delivering services and front-line supervisors now taking on the role of the direct support professional; a position that he or she may not have been in for years. What's worse and as a result of the workforce shortage, we're now seeing agencies who will not respond to state requests for proposals to expand services, vacant certified houses, and providers are ceasing the operation of services all because they simply do not have the staff capacity to deliver services.

The increase to the minimum wage and accompanied funding assists some of the providers as a number of direct support professionals and other staff were at the minimum wage. For those agencies with salaries just above the minimum wage, the increase created a problem as the job was more appealing when it wasn't a "minimum wage" job.

It's important to note that these positions are not "minimum wage" jobs. The positions require a specific skill set with ongoing training. People must have the ability to not only work hands-on with people with disabilities

and their parents and family members, direct support professionals are required to complete all the necessary administrative paperwork, understand and follow rules and regulations which govern their positions and be able to make life-changing decisions with a moment's notice.

## **Recommendations**

### **Implement A Living Wage**

The Governor's proposed budget is absent the funds necessary to address the short-term problems related to the workforce shortage. Therefore, we respectfully urge the support of the State Legislature to include \$45 million in the State Budget in what we're calling stabilization funding to support a living wage for the tens of thousands of direct support professionals and other key agency staff in the developmental disabilities service system.

If supported by the State Legislature and approved by the Governor, these funds will address the 9.3% vacancy rate and 23.07% one-year turnover rate to transition staff to an hourly living wage that exceeds the minimum wage over the next six years in developmental disability services. When the stabilization funding is fully implemented, average salaries will be \$17.72 in the NYC/ Long Island region and \$15.54 in other parts of the state.

The #bFair2DirectCare Coalition has provided members with the necessary information and documentation to support the request. For additional details, we refer you to the testimony being submitted by the #bFair2DirectCare campaign, attached.

Similarly, we respectfully urge the Legislature to include \$50.5M in the Budget as an investment in workforce within the mental health system.

### **Support the Cost of Living Increase in the Final 2017-18 State Budget**

As many of you are aware, increases to the State's not for profit providers have not kept up with inflationary costs and in some cases, providers in the developmental disabilities sector have experienced decreases in their rates as a result of the office's rate rationalization initiative.

Regrettably, the Governor's budget proposal did not contain the annual cost of living adjustment (COLA) for human services providers, rather deferred the 0.8% COLA and Medicaid Inflationary Trend Factor thus avoiding \$32 million State spending. These funds are relied upon to counteract the annual costs of inflation for practical costs associated with any operations.

We call upon the State Legislature to include the COLA and Medicaid Inflationary Trend Factor in the final 2017-18 State Budget; funding that is important and necessary to the survival of all providers throughout the State.

### **Direct Support Professional Credential Program**

Providing funds to implement a living wage and support for the COLA are two important, tangible and short-term solutions to help address current workforce shortages.

One of the long-term structural options to address workforce shortages, professionalize the field, and develop a true career ladder is the creation of a direct support professional credential program in New York State.

Last year, OPWDD delivered a comprehensive study to the Governor and the State Legislature which studied the merits of developing a direct support professional credential program in our state. The State Legislature directed OPWDD to develop recommendations for the design and implementation of the credential program.

The comprehensive report, developed through extensive public input, provided the details of a workforce policy rationale for a credential in New York; the report clearly demonstrates the negative impact of low wages and turnover and positive impact on worker retention, satisfaction and safety. The report also sets forth the potential for credentialing to improve quality outcomes for people being served.

While the state endorses the report, last year's budget and this year's Executive Budget does not include funds to establish this worthwhile credentialing program. Therefore, we ask the State Legislature to make the structural commitment to the credentialing program and to strengthen the workforce.

**Conclusion**

Thank you for this opportunity to provide testimony. We are available for questions.



**Alliance of Long Island Agencies (ALIA)  
Cerebral Palsy Associations of New York State (CP of NYS)  
The Developmental Disability Alliance of Western New York (DDAWNY)  
Direct Support Professional Alliance of NYS (DSPANYS)  
The InterAgency Council of Developmental Disabilities Agencies (IAC)  
The NYS Association of Community and Residential Agencies (NYSACRA)  
NYSARC Inc.  
New York State Rehabilitation Association (NYSRA)  
Self-Advocacy Association of NYS (SANYS)**

**TESTIMONY SUBMITTED TO THE NEW YORK STATE LEGISLATURE  
Joint Hearing of the Senate Finance and Assembly Ways and Means Committees**

## **2017-2018 Executive Budget Proposal Mental Hygiene**

**Monday, February 6, 2017**

*Presented by*  
**Barbara Crosier**  
**Vice President, Government Relations**  
**Cerebral Palsy Associations of NYS**





It's been almost a year since seven associations, which has grown to nine, whose hundreds of members are the not-for-profit organizations that provide supports for New Yorkers with Intellectual and Developmental Disabilities, came together to start a campaign for a living wage for our direct support staff.

At the time we didn't have a name for our campaign and we weren't sure how we were going to work together, but today we come before you and we have a name, #bFair2DirectCare, and a clear message: A living wage for direct care workers will allow New York State to show the whole country that we are accepting of all and have and will continue to make the investments needed to show the strength of our values.

**The investment is \$45 million a year for the next six years, to be matched by federal funding. It is a modest request in the context of a New York State Budget of more than \$150 BILLION!**

We have taken our campaign and its very basic message from Buffalo to Brooklyn, from Suffolk to Syracuse, and all parts in between.

The #bFair2DirectCare campaign represents a half million New Yorkers who see their quality of life threatened – people who benefit from the staff support that allows them to maximize their abilities and live lives that most of us take for granted. We represent the family members who provide tremendous and lifelong support, but can't do it alone. We represent the Direct Support Professionals (DSPs) who struggle to support their families and want to keep working with people with developmental disabilities, but lack a decent wage.

We've been joined by a majority of state Legislators – some of whom have family members with developmental disabilities, others who value our work and value keeping the people we support in the community and out of institutions.

At rallies, press conferences and in meetings, our campaign name says it all: Please be fair to the direct care workers so many of us depend upon. Please let us keep the best and most compassionate workers by funding a living wage that allows us to be competitive with other businesses.

There are many Americans who wonder about the future direction of our country and how it treats people who are vulnerable. As the old activist saying tells us, we need to "Think globally but act locally." This is our chance to show our support for people with developmental disabilities whose lives will be diminished by inaction as the support they need falls apart.

Collectively, a little snapshot of what it will cost to be fair to direct care and why the investment is both necessary and overdue is as simple as: "We get more than 90% of our funding through Medicaid and other government sources and the majority of our funds go to direct care staff compensation. Medicaid rate increases to cover wage hikes have been frozen for seven of the eight most recent years. We are not-for-profit community based organizations and our jobs used to be good jobs, but they have lost their purchasing power, and in many cases now start at or just above minimum wage. When these were competitive jobs, people stayed with us in the jobs they loved, serving and supporting New Yorkers who are living their life to an extent once thought impossible. The people we support, their families and our workers are our families, friends and neighbors. They are part of the fabric of our communities and they help make New York the greatest state in the Union."

Today, we come before you facing a staffing crisis, not of our making, but one that gets progressively worse because of the stagnant rates the state pays us. As our salaries grow less competitive, our DSPs are leaving because they can earn more by taking a job in a fast food restaurant or big box store. Many DSPs are working two or three jobs, struggling to support their families and some work full time and still qualify for food stamps. This should be unacceptable anywhere, but especially in New York.

A look at our last three years' vacancy rates show more than 10% of our direct support jobs are vacant and that percentage is increasing:

- 2014 DSP vacancy rate = 7.76%
- 2015 DSP vacancy rate = 9.3%
- **July 1, 2016 DSP vacancy rate = 11.08%**

Vacant jobs mean gaps in coverage that have to be filled with overtime – for now at least. Our provider organizations count the number of hours of overtime used in the millions of hours – more than 6.4 million hours in 2015 alone for providers that responded to our survey – an increase of 13.5% more than the 5.6 million hours of overtime in 2014.

In 2017 we have reached the point where overtime can't keep up and we will have to start looking at which programs will have to be cut out – unless you act and convince Governor Cuomo to provide funding for a living wage for DSPs in the 2017-18 state budget.

Additionally, the lure of easier work at better pay because of wage mandates in other service jobs is causing us to turnover employees at an alarming rate. More than 20% of new staff hires leave within a year.

More important than adding to our staffing problem, the people we support can no longer count on seeing a familiar face day after day as people who support them leave for better pay and better hours (DSPs work 24-7-365). This has terrible consequences for people who are best supported through routine, love their staff like family, and in some cases have limited ability to communicate. To someone who can't speak, having a staff person who has learned how to recognize distress could be the difference between a fulfilling day and needless suffering.

We as a state and a caring community face some stark consequences if we can't pay our workers a living wage. First, more and more workers will leave and our staffing crisis will only worsen. Agencies' program vacancies will go unfilled. People will go unserved.

Some, and someday maybe all, of the not-for-profits that care for people with developmental disabilities on behalf of the state could close, requiring the state to take over care of thousands of people – at costs to taxpayers that are 40% more than what the state pays the not-for-profits.

What we need is 0.0288% of the total budget.

We can almost guarantee it that if Albany won't find the money now it will have to find a whole lot more money later.

The Governor would tell you that he has fully funded the minimum wage and that we can cut back on our executive salaries to fill the gap. We would tell you that he turned our good direct

care jobs into minimum wage jobs and as a result he needs to lift these important jobs back up to the status they had before the rate freezes and the wage mandates. We can think of few workforces more worthy or important to our state and communities and we ask the state Legislature to do the right thing and #bFair2DirectCare.

Don't hear it just from us, however. We have attached an op-ed recently published in the *Albany Times Union* by Margaret Raustiala, a parent from Long Island. Margaret is the mother of Riko, a 46 year old man with autism.

The Governor can still add these funds in his thirty day amendments and we ask you to join us in urging him to do so. Should that not come to pass, we are asking you to include \$45 million in state funds to begin to provide direct care workers a living wage in your chamber's one-house budget. Then we will need your help in fighting to ensure that it is in the final enacted budget.

We leave you with the words of an American with a disability, a former New York Governor, a U.S. President, and hero to us all. I hope they guide you in these uncertain times:

**“By living wages, I mean more than a bare subsistence level — I mean the wages of a decent living.” (Franklin Delano Roosevelt 1933, Statement on National Industrial Recovery Act)**

Thank you on behalf of the more than one-half million New Yorkers with developmental disabilities, their families and those who serve and support them.

**Seth Stein, Alliance of Long Island Agencies for Persons with Developmental Disabilities**

**Susan Constantino, Cerebral Palsy Associations of NYS**

**Rhonda Frederick, Developmental Disabilities Alliance of WNY**

**Richard Bosch, InterAgency Council of Developmental Disabilities Agencies, Inc.**

**Jason Marlowe, Direct Support Professional Alliance of NYS (DSPANYS)**

**Ann Hardiman, NYSACRA**

**Steve Kroll, NYSARC**

**Michael Seereiter, NYSRA**

**Tim Tompkins, Self-Advocacy Association of NYS (SANYS)**

