



# **Testimony before the NYS Legislative Mental Hygiene Fiscal Committee**

## **Mental Hygiene Budget Hearing February 13, 2018**

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On Behalf of NYAPRS Members and  
The NYAPRS Public Policy Committee  
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*The New York Association of Psychiatric Rehabilitation Services represents a statewide partnership of thousands of New Yorkers who use and/or provide community mental health services and who are dedicated to improving services and social conditions for people with psychiatric disabilities by promoting their recovery, rehabilitation, rights and community integration*

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Good morning. Thank you to the chairs and members of the committees for this opportunity to once again submit to you the concerns of the thousands of New Yorkers represented by the New York Association of Psychiatric Rehabilitation Services.

NYAPRS is a very unique and nationally acclaimed partnership of New Yorkers with psychiatric disabilities and the community mental health professionals who support them in upwards of 85 community-based mental health agencies located in every corner of the state.

Under our big tent, people with mental health conditions and community mental health service providers join together to form a powerful alliance that has worked successfully over the past 37 years to bring recovery values to the center of our system, protect and expand funding for community recovery focused services and our workforce, advance peer support and human rights and fight discrimination, expand access to housing, employment and transportation and help win landmark criminal justice reforms.

State mental health policy is a very personal matter for our NYAPRS community. Our members and many of our board members, our staff, and Elena and I all share a common journey of mental health and/or addiction recovery which brings a unique passion and perspective to the concerns we bring before you today.

On behalf of thousands of NYAPRS members from across the state, I'd like to offer our friends and supporters in the legislature our heartfelt thanks for your critically important actions last year to

- make an historic commitment to fund \$1.9 billion allocation to create 35,000 supportive housing beds over a 10 year period,
- extend critically needed crisis intervention teams to another 8 jurisdictions,
- raise the age of criminal liability to 18 and to
- afford our dedicated behavioral health workforce a 3 ¼% funding increase for direct care workers that took effect on January 1 and an additional 3 ¼% funding increase for both our direct care professionals and for our front line clinical staff that will take place this April 1.

Once more, our close partnership worked to bring hope, health and humanity to protect and enrich the lives of hundreds of thousands of New Yorkers and their families who face the challenge of living with a serious mental health condition.

## **Requested Actions for 2018-19**

### **PROTECT EXISTING MENTAL HEALTH HOUSING CAPACITY**

Stable, decent housing with individualized supports is fundamental to promote the health, safety, dignity and a meaningful life in the community for New Yorkers with psychiatric disabilities, and to help prevent avoidable, costly and potentially frequent readmissions to inpatient and other institutional settings. There is no health, no recovery and no community integration without decent stable housing.

While New York State has been a leader in creating **new** housing for people with mental health conditions, it has simply not kept its promise to support existing housing by keeping pace with steadily increasing costs

As a result, OMH residential programs, which include Community Residences, Treatment Apartments, Supported Housing, CR-SROs and SP-SROs have fallen more than 43% behind inflation over the past 25 years.

We are in the midst of a full scale housing crisis where:

- housing programs are routinely unable to attract and retain our talented workforce, resulting in high turnover and staff shortages!
- providers are now declining to bid on new housing initiatives because the rates are simply too low

As a very active member of the ["Bring it Home, Better Funding for Better Care"](#) campaign, NYAPRS has been asking state leaders since the beginning of October, 2017 for increased financial support to help maintain New York's essential community-based mental health housing system.

Yet, in his [Executive Budget Proposal](#), Governor Cuomo added only \$10 million in increases to supported housing and SRO programs.

We now turn to our state legislators to give housing providers the funding levels they require before that system is no longer viable, putting access to basic housing and supports for New Yorkers with major mental health conditions at serious risk.

NYAPRS joins hundreds of agencies, advocates, families and faith based groups who make up the Bring It Home! Campaign in seeking **\$120 million to stabilize 40,000 units of mental health transitional and permanent housing in 5 program types.**

## **CRIMINAL JUSTICE REFORMS**

### **CRISIS INTERVENTION TEAMS**

The pathway to a life in the criminal justice system begins with encounters with the police.

Far too often, police officers have been called on to intervene in circumstances with people in mental distress for which they have not been adequately prepared, too often leading to avoidable incarcerations and tragedies. At least 25% of people who were fatally shot by police officers last year had a mental illness, according to the Washington Post.

That's why we have been backing the use of Crisis Intervention Teams (CIT) across New York. CIT is a highly acclaimed model that matches police training with improved local

systems collaboration that has been replicated in 2,700 cities across the United States, including Philadelphia, Houston, San Diego, Los Angeles and Chicago.

Over the past 3 years, state legislative leaders have heard our call and responded with \$4.8 million in onetime funds to bring Crisis Intervention Team and other diversionary models to a number of jurisdictions across the state.

For example, the Senate ensured that crisis intervention teams were created in the following communities:

- Auburn
- Binghamton
- Clarkstown
- Hempstead
- Newburgh
- Syracuse
- Utica
- Poughkeepsie
- Niagara Falls
- Kingston
- Lockport
- Saugerties
- Greece

as well as to St Lawrence, Cattaraugus, Orleans, Putnam, Broome, Dutchess, Essex, Greene, Genesee, Ontario, Seneca, Niagara, Wayne, Wyoming, Monroe and Ulster Counties.

And last year, the Assembly approved a \$500,000 pilot aimed at creating an immediate, intensive and sustained approach to engaging and serving individuals with the most serious mental health needs via an intensive voluntary alternative to court mandated outpatient commitment orders.

We are extremely grateful to our mental health committee chairs Senators Ortt and Assemblywoman Gunther for leading the way on this issue and urge the Legislature to come together once again to **fund an additional \$1.5 million to bring another complement of critically needed CIT and other diversionary initiatives to a new set of jurisdictions this year.**

### **'HALT' THE TORTURE IN OUR PRISONS**

Imprisoned people in solitary confinement (known also as disciplinary confinement, Special Housing Units (SHU), and Keeplock) spend twenty-three to twenty-four hours a day alone in barren concrete cells in conditions that mental health advocates, families, human rights groups and researchers have long viewed as horrible, inhumane, cruel and ineffective torture.

Many of these individuals have extensive mental health needs: a recent federal study found that "29% of prison inmates and 22% of jail inmates with current symptoms of serious psychological distress had spent time in restrictive housing in the past 12 months."

Despite the passage of SHU Exclusion Legislation in 2008 that seriously limited the number of individuals with major mental health conditions, **there are currently 844 people on the OMH caseload in the SHU**, according to the Correctional Association of NYS. Further, **30% of the suicides in 2014-16 happened in solitary confinement and rates of suicide attempts and self-harm were 11 times higher in solitary**

**confinement than in the general prison population.** For the first half of 2017, the suicide attempts in SHU remain high, representing 36% of the 80 attempts occurring during January through most of June 2017.

Colorado has implemented a 15-day limit in its prisons and reduced the number of people in solitary from 1,500 to 18. HALT would similarly include a 15-day limit on solitary, and would create more humane and effective alternatives.

But New York still has a higher percentage of people in solitary (5.8%) than the national average (4.4%) and much higher than states that have reformed solitary (less than 1% to 2%). HALT is the only legislation in NY that would address this problem, place total time limits on solitary, and end the torture of solitary for all people.

As a longtime member of Mental Health Alternatives to Solitary Confinement (MHASC), NYAPRS strongly urges state legislators to **pass 'HALT' legislation to:**

- Prohibit the segregation of young and elderly people, people with physical or mental disabilities, pregnant women, new mothers, LGBTQI individuals.
- End long term solitary confinement: place a limit of 15 consecutive days and a limit of 20 total days in a 60 day period on the amount of time any person can spend in segregated confinement.
- Create new Residential Rehabilitation Units as a more humane and effective alternative to provide segregated confinement and one that provides meaningful human contact and therapeutic, trauma-informed, and rehabilitative programs.
- Require training for Residential Rehabilitation Unit staff and hearing officers, public reporting on the use of segregation and oversight of the bill's implementation.

**We urge state legislators to once and for all end the torture in our state prisons by approving Assembly 3080 (Aubrey) and Senate 3824 (Perkins).**

## **A LIVING WAGE FOR THE COMMUNITY MENTAL HEALTH WORKFORCE**

The success of New York's mental health system fundamentally relies on our ability to hire and retain a dedicated, caring, compassionate and skilled quality workforce.

For far too many New Yorkers, mental health recovery is a challenging and arduous journey that often relies on the stability of a workforce that possesses the unique abilities to engage and support the people they serve in relationships based on trust, hope and reliability.

For many years, New York's unwillingness to help avoid losing our dedicated workforce to the fast food industry represented a broken promise to New Yorkers with extensive mental health conditions and their families who rely on them each day to move down the road to recovery.

That's why we were so grateful that Governor Cuomo and the Legislature heard our call and provided our behavioral health direct care workforce a 3 ¼% funding increase that took effect on January 1. On April 1, 2018, there will be an additional 3 ¼% funding increase for both our direct care professionals and front line clinical staff.

Unfortunately, adequately supporting a workforce is not a one-time effort. To provide a living wage for our workforce that will allow our service agencies to recruit and retain the quality staff that New Yorkers with major mental health conditions require and deserve, we need additional funding beyond what was provided last year.

We seek an additional 3¼% for direct care staff and clinical staff, effective January 1, 2019. We estimate that for the behavioral health workforce, this would be valued at \$11.7 million. To reach living wage levels, similar increases of 3 ¼% would be needed on April 1, 2019 and January 1, 20120.

## **APPROVE ADULT HOME REFORMS**

Over the past 3 decades, New York State policy encouraged the placement of people leaving state hospitals and others needing community housing into for profit adult care facilities that were intended to serve 'frail elderly' individuals.

After a 2002 investigation by The New York Times showed that many had "devolved into places of misery and neglect, just like the psychiatric institutions before them," lawsuits were filed that sought to win the residents' rights to live in the most integrated community settings, in accordance with their rights under the Americans with Disabilities Act.

After years of court battles, the state reached a settlement that called for residents with psychiatric disabilities to be assisted to move to supportive housing and be given rental assistance and access to community-based services that promote their inclusion, independence and full participation in community life.

Although the state was to resettle as many as 4,500 residents by now, less than 20% have done so.

Accordingly, the 2018-19 Executive Budget includes a \$5 million allocation to provide residents with access to specialized peer bridgers who will help support them to consider a move to community housing with supports.

Legislation to increase the state rate paid to adult home operators passed by both houses at the end of last year's session was vetoed by Governor Cuomo, who preferred this issue to be decided within the context of the current budget process.

NYAPRS strongly supports the Executive allocation to extend peer support to the residents and joins our colleagues within the NYS Coalition for Adult Home Reform in insisting that increases to operators be matched with increases in the Personal Needs Allowance that residents rely on to pay for their basic needs.

## **REINVESTING IN SPECIALIZED LOCAL COMMUNITY MENTAL HEALTH SERVICES**

The budget also keeps faith with New York's long, progressive commitment to moving resources to best support people with more serious mental health needs to succeed in the community, in place of long or repeat stays in our state psychiatric hospitals.

In recent years, community reinvestment dollars have been used to create critically needed mobile intensive outreach teams, peer bridger and respite programs, crisis intervention, warm line and housing services for adults and children, family empowerment services, managed care transitional supports, forensic ACT team and social club services. See details at <https://www.omh.ny.gov/omhweb/transformation/>.

Towards those ends, NYAPRS strongly supports this year's Executive Budget actions to fund another Community Reinvestment allocation of \$11 million in locally selected services and supports that is derived from the closure of 100 hospitals beds.

### **RESTORE PRESCRIBER PREVAILS PROTECTIONS**

Prescriber Prevails policies allow prescribers to ensure that their patients are afforded the best and most effective medications they select, and not the cheapest. Many within our community require very specific medications in order to get the best results with the least degree of side effects, as regards both their behavioral and physical health related needs.

This year's Executive Budget proposes to eliminate prescriber prevails protections in both fee-for-service Medicaid and Medicaid Managed Care for all drug classes except for atypical anti-psychotics and antidepressants. While this year's budget contains an exemption for those mental health drugs, Medicaid members deserve equal protection around getting the medical treatment they and their prescribers choose.

NYAPRS thanks state legislators for their steadfast unwillingness to approve this policy and urges that you do that once again this year.

### **SENSIBLE PRACTICE REQUIREMENTS FOR THE COMMUNITY WORKFORCE**

NYAPRS joins an array of leading behavioral health and human service organizations to protect and advance our ability to recruit and retain expert, licensed or certified staff who can deliver timely services to New Yorkers in need.

We live in times where there is an unprecedented demand for treatment to address heroin and opioid addictions, prevent suicides and preclude avoidable and costly hospitalizations.

There is also a never-before experienced level of workforce shortages in the behavioral health field.

The Executive Proposal seeks to clarify the tasks and activities that master-level licensed professionals, those completing the professional training to receive a license and other employees in not for profit and state-operated settings can perform and assist others to perform.

The proposal requires changes in order to break the barriers to care to fully utilize members of our trained, experienced and expert community mental health recovery

workforce. Current language constrains nonprofit organizations from the provision of timely care to the people we serve.

We want to work collaboratively with you to break the barriers to care by improving upon the Article VII language proposed in Gov. Andrew Cuomo's executive budget.

### **CONCLUSION**

Throughout the past 3 decades, NYAPRS has enjoyed a close and collaborative relationship with our friends in the state legislature, who have a long tradition of initiating or approving groundbreaking new initiatives and landmark legislation on behalf of our community. We look forward to another purposeful and productive year together.

Thank you for this opportunity to share our community's concerns, hopes and recommendations.