



THE NEW YORK STATE PUBLIC EMPLOYEES FEDERATION TESTIMONY

Mental Hygiene Joint Legislative Budget Hearing

2024-2025 Executive Budget Proposal

February 13, 2024

Wayne Spence, President

Good afternoon Chairpersons Krueger, Weinstein, Brouk, Mannion, Fernandez, Gunther, Seabrook, Steck and other honorable members of the legislature. My name is Wayne Spence and I am the president of the 50,000-member strong New York State Public Employees Federation (PEF). I want to thank you for the opportunity to speak to you about the 2024-25 Executive Budget proposal and its impact on services for the Office of Mental Health (OMH), Office for People with Developmental Disabilities (OPWDD), and Office of Addiction Services and Supports (OASAS). Our union is composed of professional, scientific, and technical experts who provide critical services to the residents and taxpayers of New York State. Serving as the state's frontline essential workers during the COVID-19 pandemic, my members risked their lives and those of their families to maintain the continuity and quality of services to New York's most vulnerable citizens. PEF members are the frontline workers who care for the state's most acute patients with mental illness, developmental disabilities, and addiction issues. PEF members take a great deal of pride in their work and the care that they provide to clients because they are professionals who care about the welfare of their fellow New Yorkers.

Staffing Problems Persist

The staffing and service delivery challenges facing the state are not new, but they are much more profound. As the Governor has indicated, New York state is down 12,500 staff. The state is not a competitive employer in the current market environment and it has difficulty attracting and retaining talent. Lower starting salaries, the lack of promotional opportunities, high overtime, and the inferior Tier 6 pension plan are all contributing factors to these challenges. We do support the 273 new staff proposed for OMH and 173 for OPWDD. However, this is only the beginning of the staff needed to provide the continuum of care many clients need.

Poor staffing affects access to care and the quality of care patients receive. It also diminishes the ability of the state to oversee and regulate the private providers who render care on behalf of the state. In 2022, state

employees worked a record 22.2 million hours of overtime at a cost to the state of \$1.36 billion. OPWDD and OMH are two of the three largest users of overtime in the state. (DOCCS is the other.)

We thank Governor Hochul and the Legislature for recent efforts to attract and retain state staff through specific programming like the Healthcare Worker Bonus and Nurses Across New York programs. You also took an important first step in adjusting the defined benefit pension plan for public employees in Tier 6 by re-instituting the 5-year vesting requirement for plan members and by excluding overtime compensation from the calculation of employee contributions to the plan. But more needs to be done. The current Tier 6 plan does a disservice to state and local employers by removing the traditional benefit enhancements structured in typical defined benefit plans that serve to attract and retain talent and to foster long-term staff experience, capacity and excellence. We believe the state needs to continue to take additional steps to improve the Tier 6 plan as more than 50% of the current workforce are Tier 6 members. There are multiple different options available to policymakers to improve the plan, including:

- a. Reinstating the 3-year final average salary calculation;
- b. Reducing members' contributions;
- c. Restoring the 2% calculation at 20 years of service;
- c. Reauthorizing retirement eligibility at age 55 with 30 or more years of public service;
- d. Improving the amount of compensation that can be used to calculate a worker's final pension.

While we understand and appreciate that "Fixing Tier 6" will take time, we need to take some steps now so we can attract and retain the workers the state needs and to rebuild a career public workforce dedicated to delivering quality services to the public.

Privatization

PEF believes there is an important role for for-profit and not-for-profit providers in solidifying the state's mental health and social service safety net. However, the previous administration's overemphasis on private

providers diverted too many resources away from the state's service delivery system and left too many New Yorkers and their families alone to deal with their issues. More services need to be brought back "in-house" so that no New Yorker who needs help is denied and forced to look outside of New York for care.

Office of Mental Health

PEF applauds and supports the Governor's proposal to add 125 new state-operated psychiatric beds (25 forensic; 15 children/adolescent; 85 adult). Unfortunately, the Governor has invested hundreds of millions of dollars in a new private provider network to deliver community-based mental health services. This trend continues with the proposed budget where most of the new funding is aimed at private service providers.

Private providers have no duty or obligation to render care and are often unable or unwilling to care for clients with needs that are either beyond their capacity or who require longer-term, resource intensive treatments that challenge their operating margins. When these programs and facilities close or reduce services, clients and their families are forced to scramble to find other treatment options. Many are forced to rely on state-operated services that require travel to distant locations for treatment.

Office for People with Developmental Disabilities

PEF is pleased that the Governor has not proposed major cuts or closures at OPWDD and has maintained state support. However, the state has closed or suspended services at over 130 state-operated residences since 2020 and there is no concerted plan or funds dedicated to re-open them. Some have closed just this month. As the state continues to highlight the need for appropriate and affordable housing for all New Yorkers, this practice of closing the only housing option for vulnerable New Yorkers must end. These closures have displaced hundreds of intellectually or developmentally disabled (I/DD) New Yorkers and send the wrong message to those who rely on state services for care. Additionally, PEF remains concerned about oversight of the private agency

providers at OPWDD. PEF believes that the lack of state staffing and the move to Care Coordination Offices (CCOs) is not the best oversight model for ensuring taxpayer dollars are used efficiently and effectively. PEF believes that oversight of private providers is best handled by staff at the agency, as opposed to private parties with no obligation to protect the use of taxpayer dollars. PEF is also concerned with the state's continued study of transitioning OPWDD to alternative service delivery systems, including managed care. While the state uses buzzwords such as "cost-effective manner," we understand this to mean "cuts in services" or "contracting out to private entities with less accountability." This path towards managed care is a slippery slope that would continue the trend of privatizing state services. It will leave the state acting merely as an oversight body and no longer providing care to its most vulnerable citizens. We do not believe that this model is in the best interest of New Yorkers.

Office of Addiction Services and Supports

At OASAS, the over-reliance on not-for-profit providers to render addiction services is failing New York. According to the Centers for Disease Control, drug overdose deaths in New York more than doubled from 2010 to 2020. Moreover, the impact has not been felt uniformly across New York as communities of color continue to bare the disproportionate impact of this problem. The death rate for African Americans increased five-fold since 2020, while the death rate of Latinos quadrupled and the death rate among whites tripled.

New York state must stop outsourcing addiction services to not-for-profit providers that have minimal state oversight and no obligation to render services. As indicated in a recent report by Comptroller Tom DiNapoli, the state's addiction services program is currently lacking "clear performance targets and regular reporting of metrics, as well as program evaluations and outcomes." Incredibly, the Comptroller's report indicates that according to the OASAS provider directory system, 30 of the 62 counties in New York State have no opioid outpatient treatment capacity. The state needs to adequately fund OASAS to support state-operated, universally

accessible addiction services in every county.

Investing in Services that Work

New York cannot hope to address the mental health and addiction epidemic without providing significant additional resources to help New Yorkers access the help they need. The state is seeing an increase in the number of individuals with mental illness, as well as individuals who are afflicted with co-occurring disorders – mental health conditions and developmental disabilities, as well as mental health conditions and addiction issues.

Expanding capacity is also critical to ensure the continued safe and successful transition away from incarceration. Research indicates that approximately 50% of incarcerated individuals suffer from mental illness and/or addiction¹. The state needs to maintain sufficient facilities to accommodate stabilization and addiction services and to provide statewide treatment options at every OMH in-patient facility for those suffering from mental illness and for youth with dual diagnoses of developmental disabilities and mental health issues.

Prescriptions for Success

To address these challenges and to support our members who provide services for the mentally ill, the developmentally disabled and New Yorkers suffering from addiction, PEF continues to advocate that New York “Fund Our Future” by expanding public services for at-risk individuals to ensure appropriate and continuous

¹ See also, “Incarceration Nation,” *American Psychiatric Association*, October 2014, Vol 45, No. 9
<https://www.apa.org/monitor/2014/10/incarceration#:~:text=Mental%20illness%20among%20today's%20inmates,rampant%20and%20often%20co%20occurring.>

access to quality care for all New Yorkers with the goal of keeping affected New Yorkers in close proximity to their families and other support systems.

BUDGET REQUESTS

SUPPORT PUBLIC SECTOR WORKERS AND THE SERVICES THEY PROVIDE:

1. Fix Tier 6:

The changes outlined above would incentivize individuals to become long-term public employees and provide agencies the trained and experienced civil servants the state so desperately needs.

2. Support New York’s Trained, Licensed Professionals:

- **OPPOSE Entering into the Interstate Licensure Compact for Nurses (S.8300/A.8800) Part R**

OFFICE OF MENTAL HEALTH

1. Re-Invest in State-Operated Out-Patient Services for the Mentally Ill

BUDGET REQUEST: \$10 million to Establish Assertive Community Treatment (ACT) Teams and Expand Intensive Case Management Staff at all OMH operated mental health facilities.

The state needs to develop additional capacity to address the high-need, high-cost population of New Yorkers that it serves. New York’s state-operated mental health facilities are desperately short of Intensive Case Managers (ICMs) and Forensic ICMs to do follow up contact and intervention services with those suffering from mental illness. The state currently lacks dedicated, publicly-operated ACT teams associated with its own mental health facilities to ensure appropriate emergency and follow up care, the collection of data to inform outcomes and to gauge future programming needs.

2. Universal On-Site Diagnosis and Treatment at State Facilities

BUDGET REQUEST: \$10 Million to Hire, Train and Deploy Appropriate Staff

OMH and OASAS facilities currently lack the appropriate number of qualified, licensed staff to provide immediate, onsite evaluation of New Yorkers who present for treatment. For those in crisis, this process delays care and short-term stabilization or inpatient support, if needed. Developing this capacity will enable an expedited diagnosis of mental health, addiction or co-occurring disorders; facilitate the identification and implementation of immediate and universally available treatment plans and/or appropriate referrals; and allow for a coordination of care between public and private providers of services predicated on the needs of the client.

3. **Expand Capacity to Stabilize the Mentally Ill and Establish Meaningful Regional Programming for Co-Occurring Disorders**

BUDGET REQUEST: \$30 million to re-open additional closed beds in facilities across the state to provide stabilization and treatment to this population.

The Governor is proposing 125 new state and 75 new private beds. While a good start, much more needs to be done. Too many New Yorkers, especially youth, are being forced to seek treatment out-of-state, removing them from their family support systems. These resources will address the current need for stabilization services, keep families in closer proximity, support coordinated care between provider agencies (OMH, OPWDD and OASAS) and help gain new insights into the successful identification and treatment of these disorders.

OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES

1. **Adopt an Emergency Statewide Staff Attraction and Retention Plan**

BUDGET REQUEST: \$15 million

Direct OPWDD to establish staff attraction and retention programs and focus hiring at previously closed state-operated residences. Similar programs are being created to focus on the private side. We need to further invest in staffing our public facilities.

2. **Establish a Facilities Improvement and Expansion Plan**

BUDGET REQUEST: \$30 million

Budget resources should be allocated to make the capital improvements identified by OPWDD as being required to maintain services in certain residences that have been forced to close or “suspend services” because of lapsed leases or physical plan issues and to acquire new space for those on OPWDD residential program waiting lists.

BUILD A CULTURE OF RESPECT AND COLLABORATION

We are very thankful to have such excellent leadership in the State Legislature and Governor Hochul has certainly set a new, more respectful tone with her state agencies and her employees. However, like all large and diverse operations, there remain certain staff – administrative, professional and supervisory – who conduct themselves unprofessionally in the workplace. To that end, we continue to field issues and concerns from members, especially our nurses and health care professionals, who are concerned about the state’s work culture. We are not indicating that this is a widespread issue, but it is something that requires further consideration and action. PEF has drafted legislation to codify actions in the workplace that constitute “bullying,” cyberbullying,” and “abusive conduct” and this legislation would require all state employees receive training to identify such conduct with the hope of preventing it in the workplace and empower all employees to seek redress from such circumstances (S.3065-A by Senator Ramos/A.8943 by Assemblymember Bronson). We hope that you will join with us in support of this legislation so that the state can be a model employer for all, so that we can educate all workers on what constitutes inappropriate conduct at the workplace, and so we can re-build a culture of mutual respect and support across all State agencies as we collectively conduct the people’s business.

Thank you for the opportunity to share our concerns with you. We look forward to working with you to ensure that all New Yorkers have access to effective and affordable mental health services.

Respectfully Submitted,

Wayne Spence

President, New York State Public Employees Federation