



# THE NEW YORK STATE PUBLIC EMPLOYEES FEDERATION TESTIMONY

Mental Hygiene Joint Legislative Budget Hearing

2023-2024 Executive Budget Proposal

February 16, 2023

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 2023-24 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 and they care about the welfare of their fellow New Yorkers.

**Staffing Problem Persists**

The staffing and service delivery challenges facing the state are not new, but these challenges 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.

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.

**Staffing Reductions and Increased Overtime 2012-21**

	<b>Overtime Hours Worked</b>		<b>2012 vs. 2021</b>		<b>Percent Increase</b>	<b>2020 vs. 2021</b>	<b>Overtime Cost</b>	<b>Overtime Cost</b>	
	<b>2012</b>	<b>2020</b>	<b>2021</b>	<b>Difference</b>		<b>OT Hours</b>	<b>2021 (M)</b>	<b>2012 (M)</b>	<b>Difference</b>
OMH	2,476,752	3,164,252	3,205,164	728,412	29.4%	40,912	\$141.7	\$85.2	\$56.5
OPWDD	3,378,317	4,685,852	5,377,977	1,999,660	59.2%	692,125	\$184.2	\$112.9	\$71.3

We thank Governor Hochul and the Legislature for recent efforts to attract and retain state staff through specific programming like the Healthcare Worker Bonus program, Nurses Across New York program, changes

to the Tier 6 pension plan and additional operating resources. This year, PEF fully supports the various improvements to the civil service testing, hiring and on-boarding processes proposed in the Executive Budget. But we need to do even more. You should reject attempts to water down New York's licensed professionals by establishing new, lesser qualified titles like "Qualified Mental Health Associate" (S.4007/A.3007 Part GG). The state needs to develop a systemic and sustained effort to meet its staffing needs so it can maintain critical services and operational continuity over the long term.

PEF is very pleased that the Governor has advanced a proposal to modernize the civil service pay structure. This is long overdue! PEF believes that every state title requires an increase of at least two grades in order to keep pace with inflation and comparable salaries for professionals in the private sector.

### **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:** In 2022, the Governor invested almost \$170 million in state and federal taxpayer dollars to build a new private provider network to deliver community-based mental health services, including: the establishment of Intensive Crisis Stabilization Centers (\$75 million), the establishment of 12 Supportive Crisis Stabilization Centers (\$71 million) and the establishment of 15 Youth Assertive Community Treatment (ACT) Teams (\$21 million). This year, the Governor is proposing significant new investments in additional privately-operated community based and residential mental health service providers, including: \$60 million in capital money for 12 new Comprehensive Psychiatric Emergency Programs, 42 new ACT Teams, 8 new Safe Options support teams, and 42 new home health care plus managers to expand clinic capacity at 20 sites. While we support the emphasis on expanding mental health services, there is a lack of emphasis in this budget on the important role that state-operated mental health providers play in the continuum of care for those suffering from mental illness.

As Governor Hochul stated her State of the State, "As of 2021, nearly half of children (3-17) in New York with mental or behavioral conditions did not receive treatment or counseling. Across the state, people face challenges finding the mental health services they need, from difficulty locating providers near them to long wait lists for appointments." Additionally, as highlighted by the Governor, last year, the state invested \$27.5 million to support increased reimbursement rates for inpatient psychiatric beds, but today 850 beds remain

offline.<sup>1</sup> It is clear that even with additional resources, the private provider network doesn't have the means or the interest in addressing these needs.

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. It is for exactly these reasons that the Governor is proposing to levy fines against providers that close their state-funded psychiatric beds. This is not the way to build an effective or efficient service delivery system. These programs can also be prone to consolidation and closure based on any number of factors, including staffing availability, utilization, and financing. 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 more than 120 state-operated residences since 2020 and there is no concerted plan or funds dedicated to re-open them. This is unacceptable. These closures have displaced hundreds of New Yorkers with intellectual and/or developmental disabilities (I/DD) and they 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 to ensure 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. When 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." The path towards managed care is a slippery slope that would continue the trend of privatizing state services with the state acting as an oversight body and care no longer provided by the state. We do not believe that this model is in the best interest of the New Yorkers who need care.

**Office of Addiction Services and Supports:** At OASAS, the over-reliance on not-for-profit providers to render addiction services is hurting New Yorkers. 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

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<sup>1</sup> Governor Kathy Hochul, 2023 State of the State, "*Achieving the New York Dream.*" pp. 50-56.

death rate for African Americans has increased five-fold since 2020, while the death rate of Latinos has quadrupled and the death rate among whites has tripled. Of the \$1.1 billion the state is projected to spend to address substance abuse disorders and problem gambling services in 2022-23, \$985.4 million, or 87.7%, is dedicated to grants to local governments and not-for-profit providers. A meager \$117.5 million, or 10.5%, is dedicated to state-operated services.

In 2020-21, community-based providers accounted for \$214.6 million, or 87%, of the overall OASAS spending on opioid-related services and expenses. State-operated services, including specialized addiction treatment provided by OASAS staff at the state's 12 addiction treatment centers, amounted to \$20.8 million or 8.4% of the total.

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 Thomas 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."<sup>2</sup> Incredibly, the Comptroller's report indicates that according to the OASAS provider directory system, 30 of the 62 counties in New York State had no opioid outpatient treatment capacity. The state needs to adequately fund OASAS to support state-operated, universally accessible addiction services in every New York 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. In the Executive Budget, the Governor makes significant investments in outpatient services with 42 new privately operated ACT teams, but does not require the state's own mental health facilities to have ACT teams. Additionally, the state has lost significant numbers of its most highly trained and specialized mental health professionals -- intensive case managers. These roles are critical to developing a continuum of care for mental health issues.

Expanding capacity is also critical to ensuring the continued safe and successful transition away from incarceration. Research indicates that approximately 50% of incarcerated individuals suffer from mental illness

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<sup>2</sup> "Continuing Crisis: Drug Overdose Deaths In New York," NYS OSC Office of Budget Policy and Analysis, November 2022 <https://www.osc.state.ny.us/reports/continuing-crisis-drug-overdose-deaths-new-york>

and/or addiction<sup>3</sup>. 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. We are thankful that the state is requiring enhanced data collection, but PEF was disappointed that the new 9-8-8 system enacted as part of last year's budget will be operated by a private provider. PEF believes that the state is missing an opportunity to integrate care, calibrate services and track the progress of clients across the spectrum of public and private providers with this new system. The state should use this new system to ensure the integration of data and services available to address these crisis situations by increasing community treatment options and bed stabilization services at each of the state's psychiatric centers to keep clients as close to their families as possible. It is a missed opportunity to advance mental health treatment across the state.

### **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 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 - BUDGET REQUEST: \$500 million**

PEF supports standardizing the mandatory employee contribution at 3% after 10 years of service: Currently, experienced workers pay more to the plan when they earn promotions or contract increases. This change would incentivize individuals to become long-term public employees and provide our agencies the trained and experienced civil servants the state so desperately needs.

#### **2. Modernize Civil Service Pay Structures: - BUDGET REQUEST: \$2 million**

PEF support a \$2 million appropriation to modernize the civil service pay structure and develop a job evaluation system to align civil service pay grades with the current job market. PEF believes that the

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<sup>3</sup> 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.>

current salary grade structure needs to be adjusted upward at least two pay grades for every state title to attract and retain the staff the state needs.

### 3. **Support Executive Budget Proposals to Reform Civil Service System**

- **Support Indexing Minimum Wage (S.4006/A.3006) Part S** – Increasing the minimum wage is critical for workers and businesses alike. Let’s expand on the Governor’s groundbreaking proposal by expediting the phase-in and removing artificial limitations on this benefit.
- **Support Child Care Expansion (S.4006/A.3006) Part U** – More and more New Yorkers can’t find affordable or reliable childcare. Expanding the current benefit will allow more workers to get relief and enable more individuals with families to enter into the workforce.
- **Support Continuous Recruitment Testing (S.4006/A.3006) Part S** – This will expand the number and frequency of open competitive tests to facilitate the hiring of desperately needed staff.
- **Support Establishing 12 “Centers for Careers in Government”** and the \$2 million appropriation to support this initiative.

### 4. **Support New York’s Trained, Licensed Professionals**

- **OPPOSE Entering into the Interstate Licensure Compact (S.4006/A.3006) Part W**
- **OPPOSE Transferring Licensure Oversight from SED to DOH (S.4006/A.3006) Part CC**
- **OPPOSE the temptation to water-down services by establishing a new “Qualified Mental Health Associate” title (S.4007/A.3007 Part GG).**

## **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 proposes spending new capital money for private operators, while publicly-operated beds sit idle. 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.

3. **Reject the Transfer of Hutchings Children’s Psychiatric Center to SUNY Upstate**

In July 2021, OMH and SUNY Upstate announced the transfer of the children’s unit at Hutchings Psychiatric Center (HPC) to SUNY Upstate. This transfer was decided more than five years ago, according to the March 31, 2017, Memorandum of Understanding. Since then we’ve experienced a global pandemic and an ongoing mental health crisis. What are we doing? HPC is currently funded to provide 23 children’s beds. SUNY Upstate has stated it will expand in-patient youth bed capacity to 29 beds. However, 11 of those beds will be reserved to create a new, special unit dedicated to serve youth from across the state with co-occurring diagnoses of mental health issues and developmental disabilities. HPC already has a 30-bed capacity.<sup>4</sup> Does this really even qualify as an expansion? As previously indicated and as advanced by the Governor in her recent State of the State address, “As of 2021, nearly half of children (3-17) in New York with mental or behavioral conditions did not receive treatment or counseling.”<sup>5</sup> For New York families in the Onondaga, Cayuga, Cortland, Madison, and Oswego county service area, the availability of only 18 youth beds will certainly result in a further cut in services.

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<sup>4</sup> <https://www.upstate.edu/news/articles/2021/2021-07-16-omh.php>

<sup>5</sup> Governor Kathy Hochul, 2023 State of the State, “*Achieving the New York Dream.*” pp. 50-56.



## **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.

### **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 the OPWDD residential program waiting lists.

### **3. Amend Outside Study on the Institute for Basic Research (IBR):** IBR has a rich history of serving the I/DD community on Staten Island, and studying the causes of developmental disabilities.

**AMEND** the Governor’s proposal to hire an outside consultant to study the future of IBR and allow stakeholders to formally participate in that process.

### **4. Support Executive Budget Proposal on Finger Lakes Intensive Treatment Option (ITO) Units:**

-\$11.7 million to support OPWDD Finger Lakes Intensive ITO.

## **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 state agencies and her employees. However, like all large and diverse operations, there remain certain staff – administrative, professionals 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 by Senator Ramos/A.1202-A by Assemblywoman Joyner). 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 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