



The New York State Conference of Local Mental Hygiene Directors, Inc.

***Joint Legislative Budget Hearing on Mental Hygiene
SFY 2024-2025 Executive Budget Proposal***

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Testimony Presented By:

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Chairwoman Krueger, Chairwoman Weinstein, Senator Brouk, Assembly member Gunther, Senator Fernandez, Assembly member Steck, Senator Mannion, Assembly member Seawright and other distinguished Committee Members, thank you for this opportunity to testify before you regarding the SFY 2024-25 Executive Budget.

My name is Courtney David and I am the Executive Director of the New York State Conference of Local Mental Hygiene Directors (the Conference).

The Conference was created pursuant to section 41.10 of the Mental Hygiene Law and its members are the Directors of Community Services (DCS) for the 57 counties and City of New York. The DCSs serve as the CEO of the Local Governmental Unit (LGU), defined in the statute as the portion of local government responsible for mental hygiene policy and for the planning, development, implementation, and oversight of services to adults and children in their counties affected by mental illness, substance use disorder, and intellectual/ developmental disabilities.

The DCS serves a critical and unique role as the connection between the State Mental Hygiene agencies (OMH, OASAS, OPWDD) and the people that we serve in our communities. The DCS has linkages to all of the various health and social service systems in their local communities, which provides them with a unique view of the needs of and problems facing the people they serve. Most often, these needs are not limited to a single service but are complex and extend beyond the scope of behavioral health care into other distinct areas, such as housing, school/employment, public benefits, food/social needs, and the criminal justice system, including the county jail.

My testimony outlines the Conference's State Budget priorities for SFY 2024-25:

- **Implementation of 730 Competency Restoration Reform**
- **Mental Hygiene Workforce Recruitment and Retention**
- **State Aid Funding for Substance Use Disorder (SUD) and Medication Assisted Treatment (MAT) in County Jails**

Conference members are very much in agreement with the proposals outlined as part of the Governor's Executive Budget that include continued investments in mental health services. We strongly support ongoing initiatives designed to protect New Yorkers who are struggling with mental health concerns, helping them to get connected with housing, mental health treatment and supports, ultimately to achieve health and stability in the community. However, we also believe and strongly recommend that ongoing consultation with the DCSs must be a key element in the consideration of additional state policy and financial investments to ensure that strategic and thoughtful service planning is at the forefront of the implementation of new services or the expansion of existing services in the current operating environment. We MUST

shore up the foundations of our mental health system, including the examination of archaic statutes that are hindering appropriate care for individuals making connection with the criminal justice system.

Implementation of 730 Competency Restoration Reform

The number of individuals with behavioral health conditions who interface with law enforcement and the court system continues to rise. In October 2023, the NYS Unified Court System issued a release that indicated, “The vast majority of our nation’s incarcerated individuals suffer from mental illness, have a substance use disorder or both. The prevalence of mental illness cannot be overstated, nor can its enormous impact on every aspect of our court system, including our criminal, civil and family courts.”

Not surprisingly therefore, the legal capacity of many people charged with crimes to stand trial has become a more common occurrence. Defendants found incapacitated to stand trial (i.e. who do not understand the charges against them or are unable to participate in their own defense) are sent to state hospitals to be restored to competency so they can stand trial. Restoration services are not treatment, and they are expensive (about \$1,300.00/day) and 100% of the cost of these services, delivered in a state operated hospital, is borne by the county. This burden is accentuated by the fact that Judges who believe they are helping a mentally ill defendant to get “better” by ordering restoration are often operating under the mistaken belief that they are providing the defendant with traditional mental health treatment.

The Conference, along with our partners at the NYS Association of Counties (NYSAC), has proposed amendments to the statutory framework that governs competency restoration. We applaud Chairs Brouk and Gunther for their ongoing sponsorship of S.1874 (Senator Brouk)/A.5063 (Assembly member Gunther) seeking to reform outdated sections of law governing the State’s competency restoration process.

However, the Governor’s SFY 2024-25 Executive Budget proposal seeks to increase forensic bed capacity for non-sentenced individuals with a future expansion of bed capacity for individuals with felony sentences. We are very concerned that this will have a major financial impact on local government. Since 2020 the state has charged counties 100% of the costs of restoring mentally ill defendants to competency. **This policy action has already diverted millions of dollars away from the local mental hygiene systems of care.**

This expansion also ignores the reality that individuals who enter the restoration process often have complex needs, which may include behavioral health conditions, cognitive and neurodevelopmental impairments, and often, an undiagnosed history of traumatic experiences. County mental health providers are often very familiar with the individuals involved but there is currently no requirement that the Office of Mental Health (OMH) consult with their county mental health departments on treatment planning; consequently, all decision-making is left up

to the state's forensic providers.

It is estimated that between 1/4 and 2/3 of all defendants committed for competency restoration under Section 730 end up going through the system multiple times on the same charge — hundreds of people each year.

Year after year, the DCSs see increases in 730 competency restoration orders, placing more individuals with serious mental illness (SMI) into State forensic facilities. While the majority of these 730 defendants can be restored within 90-150 days, there have been several cases where ***defendants have been kept in restoration for periods of 3, 6 or even 10 years. This practice leads to further decompensation and violates basic human liberties.***

Additionally, these lengthy confinements have been declared by the U.S. Supreme Court to violate the Americans with Disabilities Act, and we are witnessing other states beginning to reexamine and update their laws governing competency restoration in an effort to avoid legal action.

The OMH forensic daily rate for defendants placed for restoration is approximately \$1,300 per day, pulling millions of dollars in resources from our local systems of care.

Below are just a few examples of yearly costs paid by the county mental health departments in 2023 and anticipated costs for 2024:

- Oneida County: 2023 - \$3.9M / 2024 - \$4.4M
- Erie County: 2023- \$3.7M / 2024 - \$5.5M
- Onondaga County: 2023 - \$2.45M / 2024 - \$5M
- Westchester County: 2023 - \$2.3M / 2024 - \$3.1M
- Suffolk County: 2023 - \$1.8M / 2024 - \$2.4M
- Orange County: 2023 - \$1.6M / 2024 - \$2M
- Ulster County: 2023 - \$1.1M / 2024 - \$1.4M

Enactment of our proposed reforms as part of the final budget is critical to ensure that these high-needs individuals who are unable to be restored to competency receive the most appropriate treatment for their diagnoses. It will also ensure the millions of dollars currently directed to the State's General Fund will be available to the local mental health departments for reinvestment back into the critical services needed to support community-based care.

Workforce Crisis

The foundations of our community mental health system are crumbling due to lack of workforce and inadequate funding. We continue to try to expand our range of services, with reduced staff – and to what end?

The State must recognize and address the current crisis facing our behavioral health workforce.

Funding new programs, while desirable and well meaning, offers little hope to the people they are designed to serve if there is no competent workforce to deliver those services. Without appropriate investments and long-term sustainable solutions that support the recruitment and retention of mental health workers, local service investments will be unrealized and our systems will fail those individuals they are designed to serve.

All across the State, we are seeing the impact of our diminished workforce, as individuals in crisis are all too often becoming involved in the criminal justice system and/or being referred to and languishing in Emergency Departments (EDs).

Agencies have also had to scale back on satellite locations due to staff vacancies. High percentages of adults and children/youth with complex needs have been unable to receive the necessary treatment. Outpatient mental health clinics, many of which are county-operated and serve as the backbone of service provision in the State's rural areas, are severely struggling with workforce needs. Staff vacancy rates for Master's level therapist positions continue to increase while demand for services has risen. Programs have decreased or eliminated same-day access to services.

Experienced clinicians are leaving for higher paying jobs in private practice or jobs in the telehealth industry. While programs will continue to see individuals with acute needs, as this is a regulatory requirement, other individuals have experienced longer wait times for service, or longer wait times in between appointments. *As one DCS describes, "We are just a training ground for new graduates – don't individuals served in the public mental health system deserve highly trained, skilled, and experienced practitioners?"*

Workforce shortages create a vicious cycle. Staff left behind become overburdened, contributing to further burnout and attrition. The care of individuals receiving services is significantly disrupted when their trusted therapist leaves. All of this ultimately resulting in increases in criminal justice involvement, homelessness, emergency health visits and in many cases, deaths.

The outpatient behavioral health system needs higher reimbursement rates that will allow agencies to maintain reasonable units of service and caseload expectations for their staff members, as well as statutorily-driven annual cost of living increases, and continued reduction of administrative burdens (including paperwork).

As need for services is increasing and entry into the "helping" professions is decreasing, a long-term approach to crafting solutions is also necessary. This includes the creation of job pathways beginning in high school, and clear career development/advancement programs at the community college level, including scholarship opportunities and easily accessible student loan forgiveness programs.

While we appreciate the Governor's recognition of the need for an ongoing Cost of Living

Adjustment (COLA) for the human services workforce, this does not go far enough. ***The Conference stands with our behavioral health colleagues in strong support for a 3.2% COLA as part of the final enacted budget.***

Increased State Aid Funding to the LGUs to Sustain Jail-Based Substance Use Disorder (SUD) and Medication Assisted Treatment (MAT) Programs

The Conference commends the Executive for a continued commitment of \$8.8M for jail-based SUD and MAT programs in this year's budget proposal. Over the past several budget cycles, the State has committed this level of State Aid funding to the LGUs to develop these much needed programs in consultation with the Sheriffs.

Statewide expansion of these programs has proven to be successful, with more individuals engaged in treatment. However, the counties continue to report a need for additional funding to meet the provisions under the law, and most importantly to appropriately support the level of resources needed to ensure that all individuals seeking a pathway to recovery can be served.

The costs of Opioid Use Disorder (OUD) medications in every county jail far outweighs the appropriated State funding. The majority of counties receive approximately \$160,000 per year in State Aid to support these programs, which includes all clinical supports. Many counties have supplemented the lack of State funds with opioid settlement dollars in order to maintain compliance with State law.

As local mental health departments continue to grapple with how best to allocate available county resources, increased costs from the 730 law, workforce needs, and lasting pandemic challenges, the additional strain to supplement this funding will undoubtedly cause a ripple effect in service delivery across our local systems.

The Conference, therefore, requests your support of an additional \$15 million in State Aid funding, for a total of \$23.8 million, as part of the final enacted budget.

Thank you again for this opportunity to testify today. I sincerely appreciate your consideration of these requests and look forward to working with you and your staff this budget cycle.