BEFORE THE NEW YORK STATE SENATE FINANCE
AND WAYS AND MEANS COMMITTEES

JOINT LEGISLATIVE HEARING

In the Matter of the
2021-2022 EXECUTIVE BUDGET ON
MENTAL HYGIENE

Virtual Hearing
Conducted via Zoom

February 5, 2021
9:36 a.m.

PRESIDING:

Senator Liz Krueger
Chair, Senate Finance Committee

Assemblywoman Helene E. Weinstein
Chair, Assembly Ways & Means Committee

PRESENT:

Senator Thomas F. O'Mara
Senate Finance Committee (RM)

Assemblyman Edward P. Ra
Assembly Ways & Means Committee (RM)

Senator Samra G. Brouk
Chair, Senate Committee on Mental Health

Assemblywoman Aileen Gunther
Chair, Assembly Committee on Mental Health

Senator John W. Mannion
Chair, Senate Committee on Disabilities

2021-2022 Executive Budget
Mental Hygiene
2-5-21

PRESENT: (Continued)

Assemblyman Thomas J. Abinanti
Chair, Assembly Committee on People with Disabilities

Senator Pete Harckham
Chair, Senate Committee on Alcoholism and Substance Abuse

Assemblyman Phil Steck
Chair, Assembly Committee on Alcoholism and Drug Abuse

Assemblyman Michael Cusick

Senator Diane J. Savino

Assemblyman Angelo Santabarbara

Senator John Liu

Assemblywoman Melissa Miller

Senator Gustavo Rivera

Assemblywoman Mary Beth Walsh

Senator Sue Serino

Assemblywoman Chantel Jackson

Senator Anthony H. Palumbo

Assemblyman Khaleel M. Anderson

Assemblywoman Vivian E. Cook

Senator Roxanne J. Persaud

Assemblyman Harry B. Bronson

2021-2022 Executive Budget
Mental Hygiene
2-5-21

PRESENT: (Continued)

Assemblyman Jeffrion L. Aubry

Senator Robert G. Ortt

Assemblyman Harvey Epstein

Assemblywoman Carmen N. De La Rosa

Senator John E. Brooks

Assemblyman William Colton

Assemblyman Chris Burdick

Assemblywoman Judy Griffin

Assemblyman Erik M. Dilan

Senator James Tedisco

Assemblywoman Rebecca A. Seawright

Assemblyman Kenneth Zebrowski

Senator Peter Oberacker

Assemblyman Jarett Gandolfo

Assemblywoman Mathylde Frontus

Assemblyman Keith P. Brown

Assemblyman Edward C. Braunstein

Senator Simcha Felder

Assemblywoman Diana C. Richardson

Assemblywoman Karen McMahon

2021-2022 Executive Budget
Mental Hygiene
2-5-21

LIST OF SPEAKERS

	STATEMENT	QUESTIONS
Ann Marie T. Sullivan Commissioner NYS Office of Mental Health (OMH)	13	23
Theodore Kastner Commissioner NYS Office for People With Developmental Disabilities (OPWDD)	152	159
Arlene González-Sánchez Commissioner NYS Office of Addiction Services and Supports (OASAS)	245	251
Denise M. Miranda Executive Director NYS Justice Center for the Protection of People with Special Needs	301	307
Melissa Genadri Poverty & Health Policy Associate Children's Defense Fund-New York -and- Andrea Smyth Executive Director NYS Coalition for Children's Behavioral Health -and- Jeffrey L. Reynolds, Ph.D. President and CEO Family and Children's Association	354	364

2021-2022 Executive Budget
Mental Hygiene
2-5-21

LIST OF SPEAKERS, Continued

	STATEMENT	QUESTIONS
Leslie Feinberg Director Supporting Our Youth and Adults Network (SOYAN) -and- Luis Alvarez Chair CUNY Coalition for Students with Disabilities	380	
Ruth Lowenkron Director, Disability Justice Program NY Lawyers for the Public Interest -and- Harvey Rosenthal Executive Director NY Association of Psychiatric Rehabilitation Services	386	
Christine Khaikin Health Policy Attorney Legal Action Center -and- Briana Gilmore Community Advocate	394	
John J. Coppola Executive Director NY Association of Alcoholism and Substance Abuse Providers -and- Allegra Schorr President Coalition of Medication-Assisted Treatment Providers & Advocates -and- Dr. Angelia Smith-Wilson Executive Director Friends of Recovery New York	402	411

2021-2022 Executive Budget
Mental Hygiene
2-5-21

LIST OF SPEAKERS, Continued

	STATEMENT	QUESTIONS
Glenn Liebman CEO Mental Health Association in New York State -and- Kelly A. Hansen Executive Director NYS Conference of Local Mental Hygiene Directors -and- Wendy Burch Executive Director National Alliance on Mental Illness of New York State -and- Amy Dorin President and CEO The Coalition for Behavioral Health	423	
Russell Snaith Founding Member New York Alliance for Developmental Disabilities -and- Sebrina Barrett Executive Director Association for Community Living -and- Susan Platkin New York Self-Determination Coalition -and- Susan Constantino President and CEO Cerebral Palsy Associations of New York State -on behalf of- New York Disability Advocates (NYDA)	438	454

LIST OF SPEAKERS, Continued

	STATEMENT	QUESTIONS
Carlene Braithwaite Executive Committee Member NYC Fair -and- Kevin Allen Chair Local 372 NYC Board of Education Employees, DC 37 AFSCME -on behalf of- Substance Abuse Prevention and Intervention Specialists (SAPIS) -and- BJ Stasio President Self-Advocacy Association of New York State -and- Nick Cappoletti CEO LIFEPlan CCO NY	462	476

CHAIRWOMAN KRUEGER: Good morning. My name is Liz Krueger. I'm the chair of the Senate Finance Committee. And my partner in these dual hearings is Helene Weinstein, chair of Assembly Ways and Means.

Today is Friday, February 5th, it's 9:30. We're having our seventh virtual joint legislative hearing on the 2021 Executive Budget, the sections of the budget that relate to mental hygiene.

Let's see. Just -- I got out of order already, which is fine. These hearings are conducted pursuant to the New York State Constitution and Legislative Law.

Today the Senate Finance Committee and the Assembly Ways and Means Committee will hear testimony concerning the Governor's proposed budget for the Office of Mental Health, the Office for People With Developmental Disabilities, the Office for Addiction Services and Supports, and the Justice Center for the Protection of People With Special Needs.

Following each testimony there will be

some time for questions from the chairs of the fiscal committees and other legislators on the relevant committees for today's hearing.

I will now introduce members from the Senate and Assembly. And Assemblymember Helene Weinstein, chair of Ways and Means, will introduce members from the Assembly. I will also then be, in between, introducing Senator Tom O'Mara, ranking member of the Senate Finance Committee, who will introduce members from his conference, and the Assembly will follow suit.

We have lots of Senators here already today. So, let's see, I see Pete Harckham, chair of Alcoholism and Substance Abuse; Roxanne Persaud, John Mannion, John Liu, John Brooks. Continuing along, Diane Savino. I think that's the Senate Democrats so far.

But as more people come online, we will be introducing them during the course of the hearing.

And why don't I just quickly hand it to Tom O'Mara, ranker on Finance, to

introduce the other members of his conference.

(Zoom interruption.)

CHAIRWOMAN KRUEGER: Mute your phone.

SENATOR O'MARA: Good morning. Thank you, Chairwoman Krueger.

We are joined on our side this morning by our Republican Minority Leader Rob Ortt. We're still waiting for a couple other of our members to join us, and I will announce them as they do. So thank you, and good morning.

CHAIRWOMAN KRUEGER: Good morning. Thank you.

And again, just to clarify for everyone, because we have so many representatives of the government today, that when you are the chair for the relevant committee, you get 10 minutes to ask questions. But since we have technically chairs of multiple committees here, you only get -- please mute yourself if you're not actually supposed to be talking on-screen. Thank you.

So, for example, Ann Sullivan will be

the first commissioner to testify for the Office of Mental Health. Then we will let the others testify. So we'll go through the four commissioners first, and then we will take the questions from the chairs and rankers and then other legislators.

So for those of us who are just listening, let's just get comfortable for a while. And the clock is set for 10 minutes, Commissioner --

CHAIRWOMAN WEINSTEIN: Uh --

CHAIRWOMAN KRUEGER: Oh, I'm so sorry. I'm not doing any of that now. I'm first handing it to Helene Weinstein to introduce the Assemblymembers. I apologize. More coffee this morning.

CHAIRWOMAN WEINSTEIN: Thank you, Senator.

So we have with us Assemblywoman Gunther, chair of our Mental Health Committee, Assemblyman Phil Steck, chair of our Alcoholism Committee, Assemblyman Abinanti, chair of our Disabilities Committee; Assemblyman Anderson, Assemblyman

Aubry, Assemblyman Bronson, Assemblyman Burdick, Assemblywoman Cook, Assemblyman Cusick, Assemblyman Dilan, Assemblyman Epstein, Assemblywoman Griffin, Assemblyman Santabarbara, Assemblywoman Seawright, and Assemblyman Zebrowski. And I'm sure there will be more members joining us.

Now I'd like to just turn it to our ranker on Ways and Means to introduce the members of his conference before we begin.

ASSEMBLYMAN RA: Sorry, I was muted. Good morning.

We are joined by Assemblywoman Missy Miller, who is our ranker on the Disabilities Committee; Assemblyman Jarett Gandolfo, who is our ranker on Mental Health; as well as Assemblywoman Mary Beth Walsh. And I think our ranker on the Alcoholism Committee, Assemblyman Keith Brown, will be joining us shortly as well.

CHAIRWOMAN KRUEGER: Great, thank you.

And we've also been joined by Senator Samra Brouk. So good morning.

And also -- he's an Assemblymember,

but my Assemblymember in my district as well, so happy birthday, Harvey Epstein. And I'm glad that you are spending your birthday with us.

On that note, we have Commissioner -- I'll read all their names now, just so you know who to be expecting. But we have Ann Marie Sullivan, commissioner of the Office of Mental Health, first. Dr. Theodore Kastner, commissioner of the Office for People With Developmental Disabilities. Then Arlene Gonzalez-Sanchez, commissioner of the Office of Addiction Services and Supports. Then followed by Denise Miranda, executive director, Justice Center for the Protection of People With Special Needs.

And we're going to be starting with Ann Marie Sullivan, from the Office of Mental Health. Please put 10 minutes on the clock.

Good morning, Commissioner.

OMH COMMISSIONER SULLIVAN: Good morning. Good morning. I am Dr. Ann Sullivan, commissioner of the New York State

Office of Mental Health.

Chairs Krueger, Weinstein, Brouk, Gunther and members of the respective committee, I want to thank you for the invitation to address OMH's 2021-'22 proposed budget.

From the very beginning of the COVID-19 pandemic, the Office of Mental Health developed and promoted resources to help New Yorkers manage the stress, depression and anxiety that often accompany a crisis situation. In March of last year, at the direction of Governor Cuomo, we initiated the COVID-19 Emotional Support Helpline. The helpline provided guidance on managing anxiety, dealing with loss, strengthening coping skills, and referrals for community mental health services when needed.

Today, thanks to a grant from the FEMA, the New York Project Hope Emotional Support Helpline is staffed by crisis counselors who continue to provide free, confidential, and anonymous counseling. To date, the helpline has handled more than

50,000 calls from New Yorkers seeking help, including non-English-speaking individuals and individuals who are deaf or hard of hearing.

Through the Project Hope grant, we are also initiating more intensive crisis counseling services throughout community-based agencies located in New York City and the seven counties across the state most severely impacted by COVID-19. And crisis counselors will still be available to all New Yorkers through the helpline.

OMH also developed and distributed guidance and educational materials for New Yorkers on managing anxiety and staying safe during these anxious times. OMH also implemented "Coping Circles," the first program of its kind in the nation, which provided free six-week support and resilience virtual group sessions.

In addition, OMH continuously monitors and assesses the needs of the most vulnerable, who predominantly use the public mental health system, as well as the needs of

all New Yorkers, especially during this ongoing pandemic. We employ various sources of data in this effort, including but not limited to data claims, hospital emergency room and inpatient bed utilization, state-operated referrals and bed utilization, clinic appointments and utilization in the voluntary provider system, and prescription orders and refills.

And of course throughout the pandemic we have continuously communicated with our partners, community-based providers, advocates and other stakeholders to provide guidance on infection control, utilizing telehealth, regulatory changes in response to COVID, and other issues.

OMH surveyed recipients of care to ascertain the impact of COVID-19 on their lives and access to care. The survey found that 89 percent of the more than 6,000 respondents participated in telehealth services, and 85 percent indicated that telehealth was easy and effective. Overall, there are positive findings to suggest that

access to care, including telehealth, medications, and physical health care, were largely uninterrupted, and telehealth claims from licensed OMH clinics increased from 35 percent of claims in March of 2020 to 90 percent of claims in April of 2020.

The Governor proposes comprehensive telehealth reform to help New Yorkers take advantage of telehealth tools. These reforms will address key issues like eliminating outdated regulatory prohibitions on the delivery of telehealth, removing outdated location requirements, addressing technical unease among both patients and providers through training programs, and establishing other programs to incentivize innovative uses of telehealth.

In accordance with the longstanding agreement with the Legislature to efficiently utilize taxpayer dollars within our state hospital system, OMH continues to right-size our state hospitals by closing inpatient beds which are vacant for 90 days or more. Since 2014, more than $100 million has been

reinvested into community-based mental health services across New York State.

OMH has been able to provide services to nearly 125,000 new individuals, bringing the total to over 800,000 people served in the public mental health system through a myriad of community-based services. Because these services are available, New Yorkers can get the support they need to avoid hospitalization, access inpatient services only when needed, and live successfully in their communities.

However, fiscal challenges confronting the state require the proposed budget to temporarily not withstand the Reinvestment Act of 2021-'22, meaning that the reduction of vacant beds will not realize reinvestment in this fiscal year, but savings associated with these closures will be honored in the outyears.

The budget continues the $20 million investment from FY 2021 supporting existing residential programs, a part of the cumulative increase of $70 million annually

since FY 2015. In addition, $60 million in capital funding will preserve community-based housing. The budget also includes full support for the residential pipeline, including 900 new beds coming online.

The Empire State Supportive Housing Initiative has allocated resources to support over 5,000 housing units since 2016, of which approximately 1500 units are for individuals with serious mental illness. And the commitment to ESSHI continues.

To better serve New Yorkers, the state has partnered with John Hopkins University to develop a comprehensive crisis response system. The budget authorizes the launch of Behavioral Health Crisis Stabilization Centers. On average, more than 100,000 individuals per year benefit from crisis intervention services. These centers will be open 24/7 and accept all admissions, including drop-offs by law enforcement and other first responders.

The budget continues implementation of the $50 million for capital investments to

expand crisis capacity. Additionally, this effort will also involve training of police officers and first responders to divert individuals they encounter toward crisis services rather than jails and emergency rooms, providing stabilization and reintegration for individuals in crisis.

To better serve individuals with addiction and mental illness, the Executive Budget integrates the Office of Mental Health and the Office of Addiction Services and Supports into a new Office of Addiction and Mental Health Services. OMH and OASAS jointly held statewide listening sessions in the fall, with over 160 stakeholders providing testimony and comments. Overall, the vast majority of participants were supportive of integrating the two systems.

This budget proposal continues the collaborative work OASAS and OMH have undertaken over the past eight years to better coordinate and ensure access to care.

To support the significant number of people with co-occurring disorders, and to

create important government efficiencies, the Governor's budget also proposes legislation to enable outpatient providers to more easily integrate physical health care with mental health and addiction services. The legislation will establish a single license authorizing the licensee to provide a full array of physical, addiction, and mental health services.

Additionally, OMH and OASAS have been working together with the Department of Health and the Department of Financial Services to implement a strong regulatory framework to ensure insurers comply with parity and that they are using appropriate criteria to make coverage determinations for addiction and mental health services. The joint parity oversight and enforcement efforts have been strengthened by the Parity Reporting Act, under which insurers will submit information about claims denials and reimbursement rates in 2021.

School-based mental health clinics are another area where New York State continues

to increase access to treatment by providing services on-site. Currently there are almost 900 school-based mental health clinics in New York State -- and four years ago, there were less than 300.

The budget again includes funding to support the School Mental Health Resource and Training Center that has reached over 35,000 teachers, students, families and community members, providing education and information to support mental health and wellness in schools.

Suicide prevention must be a priority issue. OMH has partnered with state agencies and communities to implement recommendations from the Governor's Suicide Prevention Task Force. The task force also identified gaps in suicide prevention efforts and made recommendations for at-risk populations where increased engagement efforts are needed, including Latina youth, the LGBTQ community, Black youth, veterans, and individuals living in rural communities.

Finally, OMH's goal is to increase

access to prevention and community services prior to the need for more intensive and costlier care. For those who continue to need inpatient hospitalization, New York State has the highest number of psychiatric inpatient beds per capita of any large state in the nation, and we will continue to preserve access to inpatient care as we transform the system.

Again, thank you for this opportunity to report on our efforts to support and continue the work that we have jointly embarked upon to transform New York's mental health system.

Thank you.

CHAIRWOMAN KRUEGER: Thank you very much, Commissioner.

You know what, I was just having a discussion with my colleague. I think normally in this hearing we allow each of you to testify and then the questions in between you, so I think we're going to shift to that and allow people to ask questions of you, and then we'll go on to the next commissioner and

the next commissioner, et cetera.

So in explaining that, I want to clarify, again, that for the questions of the Mental Health commissioner, Senator Brouk and then Assemblywoman Gunther each get 10 minutes to ask questions, followed by the rankers on the committee getting five minutes each.

And since we're joined by the Minority Leader today, he will also have five minutes. I don't know whether he chooses to use that with any group of people or any commissioner, but I just wanted to state that for the record also.

So with that, I'm going to hand it over to Senator Samra Brouk.

Put the clock on 10 minutes. Thank you.

SENATOR BROUK: Thank you so much, Senator Krueger. And thank you so much, Commissioner Sullivan. Good morning. Thank you for all the work that you and your office do, especially during this really tough time that we have.

On that note, I want to acknowledge the moment that we're in right now. We've living in the middle of the COVID pandemic, but as you mentioned we're also seeing a mental health pandemic. New Yorkers are struggling with feelings of isolation, fear and anxiety. We're seeing record increases in depression, suicide attempts and overdoses. And we're also facing a reckoning around racial justice. And I think in particular relevance to our work here today, we're facing an inflexion point about how our law enforcement systems respond to people in moments of this mental health crisis.

As many of you know, today marks one week since a 9-year-old Black girl in my City of Rochester was handcuffed, pepper-sprayed, and put in the back of a police car during a mental health crisis. We've all seen the footage, and we're outraged. And now our mental health system will be left to address the hurt and trauma that was inflicted on this little girl. The wounds we're making today are the trauma, illness and addiction

that we must treat in the decades to come.

I bring this up to say that the work we do here today at this budget hearing matters. It matters what programs we're funding, where we locate our services, how much we reimburse our providers, and it matters if culturally competent care is available to our most vulnerable populations.

This week, with the support of our community, we introduce two pieces of legislation, one that would ban chemical irritants on minors, and the second, which is Daniel's Law, in the name of Daniel Prude, who died last year in police custody while having a mental health crisis. It outlines how New Yorkers experiencing crises like this, or substance abuse crises, can be better served with a public health response.

So we begin today's work today holding that little girl in Rochester in our heart, because her care and support will determine our future. And we're holding Daniel Prude and his family in our heart, because this work here today matters deeply to the people

not only in my community, but it matters to all New Yorkers.

So with that, I have several questions for you this morning, and we'll get through as many as we can. The first is in order to save some time, I have a request for some information. I, along with some of my colleagues, have concerns about the closing and moving of the inpatient beds from the Rockland Children's Psychiatric Center, and as you talked about the suspension of the reinvestment requirements for closing OMH facilities.

Would you be able to follow up with the following information for the past three years? I'm looking for bed census data, including counties where children are admitted from, data on hospital referrals to RCPC within the catchment area, waitlists at hospitals while waiting for a bed space, readmission data at the Rockland Children's Psychiatric Center, and staffing data. Instead of using our time today, would you be willing to follow up and give us that

information?

OMH COMMISSIONER SULLIVAN: I can get that to you right away, Senator. And any other information you'd like to see. Thank you so much, yes.

SENATOR BROUK: Thank you so much, Commissioner. And so I want to keep going on that.

You know, the other thing that has come up of concern is -- and you mentioned this. I know we're in a dire budget situation in this state. But this suspension of the reinvestment statute may be used to close this one Children's Psychiatric Center, but it's also suspended statewide and for an entire year. So I'm wondering, does OMH plan on closing any other facilities in the state under this suspension?

COMMISSIONER SULLIVAN: No, absolutely -- there's no other facilities that are planned to be closed.

And just to clarify, while we are converting Rockland Children's from an inpatient facility to community-based

services, the 15 beds at Rockland Children's will still be there; they will be in the Bronx Psychiatric Center. So it's not actually a closure, it's a conversion redesign of the center, with the beds moving to another location.

But no, there are absolutely no other plans for any other -- no closures in the mental health system. No, absolutely not.

SENATOR BROUK: So on that topic as well, normally we would see this reinvestment in the community. So how much is the total reinvestment that would have been made in this community that they won't be able to realize this year?

COMMISSIONER SULLIVAN: It's about $22 million. It's $110,000 for every bed that is closed, is what it's traditionally been for a reinvestment. So this would be $22 million.

And the $22 million will be in the future budgets -- or future budgets next budget years and will be continued with after that. But no, yes, it's $22 million.

We've had $100 million so far, over

the past five years, reinvested into the community total, because of closures of beds at OMH. And all that money is out there and being utilized.

SENATOR BROUK: Yeah, I would imagine. Thank you for sharing that.

OMH COMMISSIONER SULLIVAN: Sure. Sure.

SENATOR BROUK: And so thank you, I appreciate that question. And since we're getting that follow-up information, I'll leave that there.

The other question I wanted to bring up is -- you know, I mentioned that we have just introduced this legislation around community response to individuals in a moment of crisis. And so it really brings up the fact that we're trying to create this in some ways continuum of care for people in crisis. And so I want to dig in a little bit into these crisis stabilization centers.

Are there other states that have created centers like this that we can look at and see what their -- the positive impact

it's had?

COMMISSIONER SULLIVAN: Yes. The crisis -- I would think about a quarter of the states have crisis stabilization centers. Arizona is one of the ones that has the most developed system. Texas, interestingly, also has a pretty developed system.

And we've looked at what is in those other states, and that's part of the design that we will be using to develop our crisis stabilization centers. Also some experience that we've had with the center -- for example, the DASH center on Long Island, and one of the upstate centers. So we -- yes, we're gathering information from across the country.

And the crisis stabilization centers are felt to be a really critical piece of the crisis system in New York. We do have a fair amount of mobile crisis services, but where those mobile crisis services interact has often been -- with someone in acute distress, it might be an emergency room, which you don't want to do.

So really the crisis stabilization centers offer that other opportunity and help fill the crisis continuum, which is so, so critical. You need mobile ability, you need crisis stabilization centers, you need a call-in center where calls are received and appropriately triaged, and then you need the continuum of care after from the crisis stabilization center, with things like intensive outpatient clinics and other in-person services that will be available through the clinic system.

SENATOR BROUK: Okay. So if I'm understanding that correctly, this would not be a place per se that might feed into the carceral system. If anything, you would feed folks into these other kind of intensive outpatient programs or something like that to continue getting the care they need.

COMMISSIONER SULLIVAN: Absolutely. Absolutely. And we have an array of -- we have, for example, outpatient intensive -- well, partial hospitalization programs, which are outpatient. We also have intensive

outpatient, which can give you daily services for a while, which many need. We have crisis residence beds, where individuals could stay overnight. And those are being expanded in the budget as well and will be linked to the crisis stabilization centers.

So -- and then we have, of course, all the long-term housing and everything else that we have established over time.

But it's building all those crisis supports that's really critical to make the system work. Because it -- it's not -- you really have to have the backbone of that continuum, as you said, Senator.

Just answering crisis calls isn't as helpful if you don't have that in place. And that's what we're building.

SENATOR BROUK: That's helpful. Thank you.

And we'll see if we can get this last question in in our last couple of minutes. The other thing that I wanted to highlight was this expansion of the criteria for involuntarily committing someone. A lot of

folks I've talked to have different thoughts about what this means. There might be pros, there might be cons. But the one central thing is there is this concern about a violation of someone's individual civil rights to move from, you know, quote, likely to cause harm to serious harm, to going to substantial risk of being unable to provide food, clothing, shelter or personal safety, which is a very broad definition and criteria.

My concern is that historically anytime there's measures like these there are folks who get disproportionately targeted and end up -- this kind of criteria may be used on. So I just want you to speak to what measures OMH can take to ensure that doesn't happen and that we're still only committing folks who truly need that kind of level of support and services.

COMMISSIONER SULLIVAN: Well, thank you. This is a very important question. And I agree, there's -- you have to be very careful.

What was written was written pretty narrowly. It's complete -- complete neglect. It's not, you know, the issue of oh, a little -- you know, an issue of {inaudible}, it's complete neglect of basic needs so as to render the person likely to have a high probability of serious illness, accident or -- illness, accident or death.

So the statute, first of all, as a protection is written narrowly. I mean, that is not a statute that if you read that as a definition, a judicial interpretation of substantial harm, that it gives you a lot of leeway -- it's tight.

The second piece is that there will be -- we, as the Office of Mental Health, will very carefully work with providers as to what this would mean, and we will look at the use of the statute. And we will keep an eye that it is done only for a very small number of individuals who are at very, very high risk. These are individuals whose medical conditions are putting them at high risk and are not capable of understanding the severity

of the illness.

For example, someone who's become acutely ill but is living on the street, is refusing all kinds of services, is breathing fast, you know that they might probably have a fever, you know that they might be in danger -- that's the kind of individual you would bring for assessment under the statute.

This is a very narrow expansion, but for a very small group of very vulnerable individuals. And we will be watching that and working with our legal staff, et cetera, to make sure that this statute is appropriately implemented if it's passed.

SENATOR BROUK: Thank you so much. I look forward to hearing more about that with you, of how we can track and analyze to make sure that it gets implemented correctly. Thanks for your time.

COMMISSIONER SULLIVAN: Thank you very much.

CHAIRWOMAN KRUEGER: Assembly.

CHAIRWOMAN WEINSTEIN: Before we go to our Mental Health chair, I just wanted to

acknowledge some of the members who have joined us since we began: Assemblyman Braunstein, Assemblywoman Richardson, Assemblywoman McMahon, and Assemblyman Colton.

And I just want to remind my colleagues that if you wish to ask a question, you should use the raise-hand function in Zoom. Also, the chat is enabled, and periodically both myself and Senator Krueger will post the order of our colleagues, the Assembly and Senate respectively, so you can see where we are.

With that being said, we go to our chair of Mental Health, Aileen Gunther, for 10 minutes.

CHAIRWOMAN KRUEGER: And as she starts to speak, I will just note -- sorry -- we've been joined by Senator Gustavo Rivera and on the phone by the Mental Health ranker, Jim Tedisco, who I understand is having some kind of systems problem in wherever he might be today. So I think we just may have him on phone for the day.

Thank you, Helene.

SENATOR O'MARA: And if I may add, yes, I was going to say that --

ASSEMBLYWOMAN GUNTHER: Is this part of my time?

SENATOR O'MARA: -- that we've been joined by Senator Peter Oberacker, ranker on Alcohol and Substance Abuse.

CHAIRWOMAN KRUEGER: Thank you.

No, we did not eat up your time, Aileen, you have your full 10 minutes.

ASSEMBLYWOMAN GUNTHER: Good morning. And I'm just going to get to the questions right away, I'm not going to do an opening statement.

For the 200 inpatient beds that would be eliminated, where are they and when will they be taken offline?

OMH COMMISSIONER SULLIVAN: We -- we --

ASSEMBLYWOMAN GUNTHER: I just kind of want quick answers because I have quite a few questions. So I only have 10 minutes.

OMH COMMISSIONER SULLIVAN: Quick

answer, they're all across the system, and we determine them as we have either a 90-day vacancy or longer. So they vary across the entire system.

ASSEMBLYWOMAN GUNTHER: Okay. My other question is when you say 90 days or longer, one of the things during COVID, which is going on since March, is that we have avoided putting people in beds in the hospital as much as we can. We also know there's an increase in the number of children and adults that are having mental health issues.

So are we going to close these beds -- and I don't know where they're going to be closed, but before we evaluate the impact of COVID on the residents of New York?

OMH COMMISSIONER SULLIVAN: We're very carefully looking at the need for beds. That includes the -- these are long-term-care beds that are referred from the Article 28s. So we are looking at the need from the Article 28s, we monitor that extremely closely, we have been since COVID. And when those

beds are needed, they are there for the patients. These are --

ASSEMBLYWOMAN GUNTHER: Remember, we're avoiding admitting, so I just -- I want -- we're avoiding admitting and we're watching in a period of a pandemic. So, you know, I don't know that if you're going to delay it an extra year once we have some normalcy in New York State.

OMH COMMISSIONER SULLIVAN: Many of the beds we're proposing to close have been vacant for over seven months. We're not talking about brief -- most of them have been vacant for a longer period of time.

We watch it very, very closely. We are not avoiding admissions at this point of time. The state hospital system is open. We are expecting admissions across the system. We do very careful admissions, and we monitor for the virus, we do all kinds of testing, we keep people in isolation until they're ready to be part of the community in the hospitals. But we have not decreased the admissions that are needed across the system. That has not

happened.

ASSEMBLYWOMAN GUNTHER: So I talk to employees of OMH, and they have said that, you know, for some strange reason, even though the incidence of mental health issues are rising, that there has been some hesitancy to admit people. I can understand COVID, but this is not a normal period of time that we should use to make decisions for the future about closing beds.

And I also must say that this year's reinvestment of $22 million -- can you tell me what programs that money is going to and this funding would have gone?

OMH COMMISSIONER SULLIVAN: Where it will probably go next year will be to enhance the crisis system across the state, will be one use of those dollars.

The rest of the use of the dollars, we traditionally work with the counties and we talk with the county mental health directors, and we get information from them about where they have gaps in services and what they will need. So there will be planning at --

(Zoom interruption.)

UNIDENTIFIED MALE SPEAKER: And that's this year's proposal? We had some Medicaid --

OMH COMMISSIONER SULLIVAN: I'm sorry. So basically some of that money will definitely be used for expansion of the crisis services system, which I've talked about in terms of crisis residential, crisis stabilization centers.

Another chunk of the money next year would be utilized based on what the communities and the counties need. That's the way we've traditionally done reinvestment, we've talked with the counties about what's important.

So I'm assuming a lot of that importance will include crisis services, but sometimes it's also clinic services, other things that they need in the community. So that really is tailored to what's needed across the state.

ASSEMBLYWOMAN GUNTHER: Article 28s aren't admitting people, so they're really

not referring people to the Article 28s, because they are not admitting.

Also, we have Rockland Psych Center. This is a place where children with mental health needs, usually acute needs, are going. And we're hearing that there will be bed closings there.

Now, I know that I live in Sullivan, County and then there's Orange County and many other counties that refer children to the Rockland Psych Center. And right now they are not -- those referrals aren't happening. So I feel like we don't have our finger on the pulse of really what's happening in the community.

And again, during this time many children out there -- and you know better than I do, Doctor, that when we give psych meds, psych meds are not like the kind of med -- like a blood pressure. We can't measure the efficacy of them; it takes a while. So observation is so very important.

So what I'm saying is I think we're putting the cart before the horse. We have

not been reinvesting in mental health for a very long time. We have been closing beds. We have an increase of homelessness in New York City and across New York State, and most of these people are impacted by mental health.

And I don't understand regarding reinvestment taking money away from really people that are in really tragic situations. And you know what? We have to assess, we have to get down on the streets, we have to talk to counties before we do this. We can't legislate from the top down. We've got to legislate from the bottom up. And we have to talk to people in the field.

And I have been talking to them. I have been talking to them, and they're saying we don't have places to put these kids, we're closing the beds, people are losing their jobs in the middle of COVID, and yet we know there's going to be a tsunami coming.

OMH COMMISSIONER SULLIVAN: The conversion at Rockland will provide community-based services which are high

intensity services, such as crisis residential beds, crisis outreach ACT teams that will serve 500 individuals in that area. So we are actually expanding the services. The inpatient beds will move. They are not closing. The inpatient beds will move. But that --

ASSEMBLYWOMAN GUNTHER: Where are they going?

OMH COMMISSIONER SULLIVAN: They're going to Bronx Children's Psychiatric Center. So it's a --

ASSEMBLYWOMAN GUNTHER: So if I'm a parent of a child and I live in Orange or Sullivan County, the most important thing that we can do during a therapeutic time is have family involvement. How are you going to get people without cars, in the COVID, they're not getting paid, to get on a bus for 60 bucks to go down to the Bronx?

I certainly -- I'm glad the Bronx is open, but you're not really dealing with people in their community. They have to go back to their community. Where is the

community care? Rockland was far enough. You closed the psych beds in Middletown, that was a big loss in the Orange-Sullivan-upstate area. Now you're closing the one in Rockland? And how far are we going to go before people will be -- increased homelessness and wandering the streets?

OMH COMMISSIONER SULLIVAN: Just to clarify, in the Rockland area there are 300 acute-care beds for youth. That's one of the highest concentrations of acute-care services for youth. There are always vacant beds in that acute-care system. We have tracked up to 40 to 50 beds at any point in time.

So there are lots of community-based services. What's lacking -- and community-based inpatient services. What's lacking are the kinds of crisis and other services that can help individuals and their families and youth not to have to go into a hospital.

So I'm --

ASSEMBLYWOMAN GUNTHER: Commissioner, one size does not fit all.

You know, the census dropped by over 50 beds in March and April. Is that a coincidence of pause? It's just a little bit -- you know, it's kind of hard to believe that all of a sudden everybody's okay, the census drops by 50, and they're getting care not in -- you know, not in the hospital, but they're getting care someplace else.

And then, you know, we always talk about people that have mental health issues, they're wandering the streets, whether it be upstate, downstate, Buffalo, Long Island -- because they can't get access to care. I mean, 50 beds in March and April it dropped. And it doesn't make sense that all of a sudden, you know, God came down and healed this census and made it lower.

It just doesn't make sense to me. The numbers don't make sense. The closing of children's beds don't make sense to me.

OMH COMMISSIONER SULLIVAN: Truly, I understand your concern --

ASSEMBLYWOMAN GUNTHER: And you know I like you, we're friends. But I'm

emotionally -- I just can't believe that we're putting -- you know, we're taking money, putting it in one place but taking it away from the most vulnerable population.

OMH COMMISSIONER SULLIVAN: But the highest need right now, I believe -- just to say this -- is the kind of services we need to happen in the communities. The beds have been stable, the beds that we are closing have been stably open for a long period of time. These beds -- money and the dollars and the investment in time and effort should be in the community, so people don't have to be in long-term beds.

Let me just say one other statistic which is very real across the nation. Basically we're a long-term state, we're long term. Long-term beds do not go up in crisis situations. The need is in the community, not necessarily in the long-term beds.

ASSEMBLYWOMAN GUNTHER: But that's the part of stabilization. And then the community, then you give a report to a community practitioner and it goes from

stabilization, which doesn't take a day or two days or an emergency room visit. We know that. And then with that stabilization. And without that reinvesting of the $22 million this year, I don't see how it's going to work. You're saying you're going to delay the reinvestment and then -- he who giveth and then taketh away in a vulnerable community -- it's like our DD community, our mental health community. We are the voice for these people. I am the voice, my colleagues are the voice. The parents, their voice has been heard by me and I know my counterpart in the Senate, and I'm listening to them. And I'm saying we're not even doing enough as is, and we're going to take more away.

These children that have really very, very difficult mental health, they need observation. You know, and there are short lengths of stay as we are. And I know that, because parents have called me.

So I know I'm preaching to the choir. I know. But I am upset, and I don't think

we're doing the right thing. And I'm here as an elected official to do the right thing, and I don't think we're doing the right thing for vulnerable people. I get the care outside, I do. But I also get that we don't reinvest, we're going to wait a year to reinvest. It's like it's a shuffle game of money, and you're taking it away from poor people that have such difficult lives. And that's what I feel.

CHAIRWOMAN WEINSTEIN: Assemblywoman, thank you. You'll have an additional five minutes after we go through the first round.

So we go back to the Senate now.

CHAIRWOMAN KRUEGER: Thank you, Assemblywoman.

Our first questioner is the Minority Leader, Robert Ortt.

SENATOR ORTT: Thank you, Senator Krueger.

Commissioner, good to see you.

And I will say very quickly I was always proud, when I was chair of this committee, to call Aileen Gunther a

colleague, and I am so this morning as well. Assemblywoman Gunther I thought raised some very good points.

Commissioner, I wanted to talk to you, though, about a glaring omission in the Governor's budget that is directly within your department, and it is the lack of funding for the Joseph P. Dwyer Program. It is not a ton of money when you talk about $170 billion -- or, in this year's case, $190 billion. And yet once again it is not listed in the Governor's budget -- $4.5 million, which as you know goes to prevent suicide amongst veterans, who have a much higher risk of suicide than even the general population -- and that was before COVID.

And as the former chair of Mental Health, as a former ranker on Veterans, and as a combat veteran myself, I will tell you I know firsthand, as I'm sure you do, the impact that this program has had for not a lot of money on saving lives and helping and assisting with mental health of our veterans -- and, by extension, their

families, you know, their children, their spouses. It has saved marriages, and it has saved lives and it has saved relationships.

And not only was it not included in this year's budget, but last year's funding has not been released. It has not been released. And that is very problematic to me at a time when all I hear about is isolation and the pandemic and suicide rates are higher. All these things, we talk about them, here's a program that works. It works. We get maximum leverage from our dollar.

And the Governor -- and I know, we all know what goes on with the budget, and there's some trading and negotiating. I get that. We all get that. This is not one of those things that should be leveraged or horse-traded or negotiated. This is an easy thing for the Governor to include in his budget and just be done with it. And instead, we've got to buy it back, we've got to negotiate it back in.

But again, last year's money -- which we did put back in there, and I credit my

colleague Senator John Brooks, because I know he was a champion for that funding. But it has not been released.

So I want to ask you, why isn't that in this year's budget, and why hasn't the funding from last year been released?

OMH COMMISSIONER SULLIVAN: Thank you, Senator Ortt. Last year's money we just recently received -- and I'm sorry, I'm not entirely clear if it was from the Senate and Assembly, but the paperwork that would cause the release -- the funds flow through the Department of Mental Health.

So as soon as we receive them, we are moving that forward to Budget. Budget's going to review last year's funding. They are getting the paperwork now from -- I believe it's the Assembly. Or maybe it was the Senate, I'm not sure. And then if the other house can please give us their paperwork, we'll push it right through to Budget, and Budget will make their decision. Budget is making the decision on this.

SENATOR ORTT: Okay, so two things.

OMH COMMISSIONER SULLIVAN: You know, you're absolutely right that these are tremendous -- the veterans need these services, that the Dwyer program is a valuable program. And I think that, you know, it's been a -- it's a very tough budget year. But we're doing everything to move the paperwork to Budget to make the decision about last year's investment.

SENATOR ORTT: I would like to know -- if you could follow up, I would like to know which house submitted the paperwork and which house did not.

Certainly if it's the Senate, I would certainly call on my colleagues, who I know support this program, to make sure that paperwork gets submitted, because it is very, very important that it gets out.

And again, I would ask -- can you speak to why it's not included, though -- it wasn't included in last year's budget by the Governor, and it's not included in this year's. Can you speak to that and to your feeling on the program and the need for it?

OMH COMMISSIONER SULLIVAN: Well, veterans need services. We do coordinate services with the Division of Veterans Services, and we do so with prevention, we do a lot of outreach work and services. It has not been included in the budget. And I think it's -- this year it's really a piece of a lot of issues with just how desperate we are if we don't get these dollars from the federal government. And I think that that's just a very serious issue. But no, it has not been included in this year's budget.

SENATOR ORTT: Well, I appreciate that, Commissioner. And like I said, I think it is, to me, absolutely unconscionable that we would not have released the money by now, whatever the procedure is. I understand what you're saying, but that needs to happen.

But again, I was greatly disappointed to see that the Governor did not include it in this year's budget, and I call on my colleagues to make sure it is included in the final budget. It is $4.5 million. It saves lives. It is invaluable to our veterans.

And at a time when we always give I think lot of lip service to these issues, this is a program that our actions can back up our words.

And I thank you for the time, Madam Chair.

OMH COMMISSIONER SULLIVAN: I will get you the follow-up on the paperwork, absolutely, right after this hearing.

SENATOR ORTT: Thank you very much, Commissioner.

CHAIRWOMAN KRUEGER: Thank you. And I'll be saying it throughout the course of the day: Whenever any individual member has asked you for follow-up on paper, please make sure to forward it to Helene Weinstein and myself as well, so we can make sure everyone has access to the information. Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: We go to Assemblyman Gandolfo, the ranker on Mental Health.

ASSEMBLYMAN GANDOLFO: Thank you, Chair. And thank you, Commissioner, for

being here with us this morning and for your testimony.

And thank you to the chairwoman of the Mental Health Committee, Aileen Gunther. I really appreciate the passion you have for these issues, and I'm happy to serve alongside you.

I want to just bring it back really quick to what my colleague in the Senate just mentioned. That was my concern. He had asked the question I was planning to ask. But I just want to emphasize his concerns on that as well.

The Dwyer project, it's just really a great project. It originated here in Suffolk County, and we're very proud of it. They've done great work.

And I know in your testimony, Commissioner, you mentioned the need to support suicide prevention services. And in light of a recent report by the United States Department of Veterans Affairs, I believe they said 18 veterans commit suicide every day, and it totals about 6600 veteran

suicides each year. So I just hope that you'll do whatever you can to release last year's funding. Anything we can do to help, please reach out. I'm happy to help make sure this funding goes out.

I'm also very disappointed that again this funding was not included in the Governor's proposal. It's something that the Legislature is again going to have to negotiate back in, which is -- you know, it should just be a permanent fixture.

And you've already kind of spoken to your thoughts on it, and I just want to say thank you for also recognizing the need for this funding. And again, if there's anything we can do to help move this along, please reach out.

And with that, I'll yield the remainder of my time. And thank you again, Chair and Commissioner.

OMH COMMISSIONER SULLIVAN: Thank you.

CHAIRWOMAN KRUEGER: Okay, thank you.

Senator Jim Tedisco, ranker for the Mental Health Committee. And thank you, Jim,

for letting me jump your leader Robert Ortt before you. Are you with us, Jim?

SENATOR O'MARA: I think Senator Tedisco is still having technical difficulties. The phone isn't working now.

CHAIRWOMAN KRUEGER: I see him on, but then he's on mute. So perhaps it's just not coming together.

SENATOR O'MARA: He texted me that his audio wasn't working.

CHAIRWOMAN KRUEGER: Okay, I apologize. Thank you.

Before I just jump, do you have any questions, Tom?

SENATOR O'MARA: I will, but you can move mine {inaudible}.

CHAIRWOMAN KRUEGER: Okay, thank you. And again, reminding people, put their hands up if they do have questions.

So I have a few questions, Commissioner. I'm very concerned about the use of -- I'm sorry, I'm forgetting the terminology, but where you make a decision that someone is not capable of caring for

themselves, although they would no longer need to prove that they were at risk of doing harm to themselves or others, and that the state would then be able to place them in a facility without their permission.

One, can you explain a little bit to me, where they would be placed?

OMH COMMISSIONER SULLIVAN: Well, the first is that it gives the ability to transport -- to help to bring people in for assessment. And that's the way it's mostly used.

And then when the assessment would be at either a medical emergency room or a psychiatric emergency room, one of our CPEPs. That assessment is done by a physician after they have been brought in to determine, again, based on -- by the statute, whether or not services in the community or all kinds of things would help, or whether the situation is dire enough to actually need admission to an acute-care hospital.

And then there are various protections for that admission. They are reviewed by a

judge. They have to be recertified within two days, and then there has to be a review by a judge at the patient's request.

So the commitment laws are very tight in terms of getting people the ability to pursue -- and they have mental health legal services, a lawyer who works with them when they are admitted. But they would first be brought for an assessment. And then after the assessment, if -- and it might not -- for many cases, that might not be the case, they might be admitted to an acute-care hospital, would be one possibility.

CHAIRWOMAN KRUEGER: So I'm from New York City, and everybody's closing their psychiatric units, and our emergency rooms and our hospitals are filled with patients with COVID, and people who don't have COVID are being advised not to go to the hospital unless they're in an emergency surgical situation.

So I'm very confused. We want who, the police, to bring people that they're evaluating as being in some category into

emergency rooms that can't handle them at this point?

OMH COMMISSIONER SULLIVAN: This is usually done by outreach teams that have been working with individuals. We have -- as you know, in the city there are outreach teams that work with the homeless on the streets. And usually that's the group that would bring a person in. Sometimes they do it with police assistance.

But those are the groups that would be bringing forward these cases, because they are not individuals who are obviously in need of being brought in by the police. The more subtle question is do individuals have serious, serious medical problems that are not being addressed.

And this does happen. It's a very small group, Senator. This is not a large number of people by any means, but it does exist. And I think we have a responsibility for those individuals.

CHAIRWOMAN KRUEGER: And because again, at least in New York City, we have

almost no psychiatric inpatient hospital beds anymore, where would they be placed?

OMH COMMISSIONER SULLIVAN: Oh, we do. We have over 2,000 psychiatric beds. Now, at this moment, some of them are reduced. But we're down -- we watch it very closely. From close to 2700 beds, we're at 2200 beds that are still available in New York City for psych. And they are open.

Now, depending upon an individual's COVID status, there's the moving them from hospital. But we still have over 2,000 beds that are open right now.

And we're hoping most of them that have temporarily been downsized from COVID, about 400, will come back. We're really concerned about maybe a hundred that seem to be saying they may not be reopening. But the vast majority of those beds will be coming back. Or are present now. We still have over 2200 beds that are operating in New York City.

CHAIRWOMAN KRUEGER: So when I reviewed the language of existing involuntary

commitment, it sounds like you already have these powers. So where would you be expanding your power?

OMH COMMISSIONER SULLIVAN: You're absolutely right. It is a clarification. The issue here is that many people, whether the statute actually said -- they read it as you have to either be homicidal or acutely suicidal.

What most states have done -- because that particular use has been to add one other thing, that when we talk about serious harm, it can also include serious, complete neglect.

And that's why. Because most often when you try to bring someone in like this for an evaluation, someone will say, well, he's not threatening to kill himself or to hurt anybody else, and then you present all these other issues. And people are reluctant -- and appropriately so, at times -- to maybe do -- to admit if absolutely necessary.

This is the clarification of the

statute that under those extreme circumstances, yes, you could use an involuntary commitment -- hospitalization. A hospitalization. It's always for involuntary hospitalization at an acute-care facility.

CHAIRWOMAN KRUEGER: So you're saying you have 2200 psychiatric beds in New York City today.

OMH COMMISSIONER SULLIVAN: Yes.

CHAIRWOMAN KRUEGER: Do you know what number of them are involuntary?

OMH COMMISSIONER SULLIVAN: The vast majority. The vast majority.

CHAIRWOMAN KRUEGER: And --

OMH COMMISSIONER SULLIVAN: Well, wait, they're not all -- everybody is an involuntary, but we have the capacity to take in voluntary beds, yes.

CHAIRWOMAN KRUEGER: So but of the current 2200, approximately what percentage or number are there for an involuntary placement?

OMH COMMISSIONER SULLIVAN: In that 2200, probably 60, 70 percent. Time. Time.

CHAIRWOMAN KRUEGER: And what's the process for them being allowed out? Is it two psychiatrists needed to sign them out?

OMH COMMISSIONER SULLIVAN: Yes. Yes. But -- well, no, if they -- as they improve, they are discharged. Almost all -- many of them convert to voluntary after they're -- a brief period of time. But they do have mental health legal services that meet with them immediately upon admission, and if they wish to leave before the recommendation of the psychiatrist, it goes to court.

CHAIRWOMAN KRUEGER: So we also have a different program where you are in prison for some kind of criminal act, you've done your time, but then we, the state, determine you are of danger to yourself or others if let go. So we then shift you to a psychiatric facility, perhaps in a prison or perhaps separately.

Is that under OMH's authority?

OMH COMMISSIONER SULLIVAN: Yes. But those all have hearings with the court as well. They do not come without that.

CHAIRWOMAN KRUEGER: But those also require someone to determine you no longer are at risk to yourself or others in order to be let out, right?

OMH COMMISSIONER SULLIVAN: Yes. Yes.

CHAIRWOMAN KRUEGER: How many have we let out?

OMH COMMISSIONER SULLIVAN: Oh, the vast majority of individuals who have serious mental illness leave prison and come into a whole host of services that we have.

CHAIRWOMAN KRUEGER: No, no, no. Of those people who got directed from prison into a mandatory psychiatric facility.

OMH COMMISSIONER SULLIVAN: Oh. I don't think I can give you an exact number, but the vast majority of them over time are let out. Some quickly, some are discharged quickly into the community. Others can spend some increased time in the state civil psychiatric centers, yes.

But again, once they're in a civil center, all their legal rights and the representation by mental health legal

services begins. So that all is always there all the time as well.

CHAIRWOMAN KRUEGER: And you think there's adequate mental health services available?

OMH COMMISSIONER SULLIVAN: For those individuals -- for -- in terms of the long-term inpatient beds?

(Zoom interruption.)

CHAIRWOMAN KRUEGER: Please go on mute, whoever is on the phone.

Okay, sorry, keep going.

OMH COMMISSIONER SULLIVAN: -- sometimes need to have assistance is with the community-based services, for individuals who have a forensic history. But that's where we have some issues, is making sure that they get housing -- you know, there's reluctance sometimes in communities or even in housing to provide housing for people, depending upon their forensic history, how severe it was.

And also making sure that we have the provider community -- we're constantly working to increase this -- who know how to

work with those patients. That's where we really have some struggles in terms of making sure that we have enough services for forensic-involved patients in the community.

CHAIRWOMAN KRUEGER: So thank you. Clearly, my concern is we already have a system that at least I have heard you can never get out of once you're in. So I would look forward to seeing the stats --

(Zoom interruption.)

CHAIRWOMAN KRUEGER: Okay, put yourself on mute. Thank you.

I would like to see the stats on the number of people who go from prison to psychiatric and then never get let go.

And also my concern is that we will somehow, in our inability to have the right services at the community level, we will respond by taking people off our streets and putting them into psychiatric facilities against their will where they may also never get let go. So that's basically my concern.

OMH COMMISSIONER SULLIVAN: I understand your concern, Senator. But we

work very, very hard to keep people out of hospitals and to get them out -- I don't mean this in a bad way -- to move them from our hospitals as quickly as possible, because we understand exactly what you're saying, that clients should be in hospitals only for the minimal amount of time that is needed.

And we work very hard to get our clients out, and we're pretty good in the state system. Very few come back once we get them out. We get into them housing, we get them into services.

But yes, that's our goal as well, it really is. But we will get you those statistics.

CHAIRWOMAN KRUEGER: Thank you very much.

Back to the Assembly.

CHAIRWOMAN WEINSTEIN: Yes, we've been joined by Assemblywoman Frontus.

And before I go to the next member, I just wanted to clarify for all of the members and all the witnesses that when the clock goes down to zero, it starts to then count

how much time you're over. We're not giving you extra minutes. Senator Krueger and I aren't -- we've been doing this for a lot of days, you know.

But it's to remind you of how much time you are over. And we really do want people to try and pay attention to the clock.

So now we go for five minutes to our ranker -- I'm sorry, to Assemblyman Abinanti, the chair of our new Committee on People with Disabilities.

Tom, you have five minutes.

ASSEMBLYMAN ABINANTI: There we go. Thank you. Thank you very much to all of you for putting together this hearing.

Commissioner, thank you very much for joining us.

I'm a little concerned about the state's commitment to mental hygiene services in general. What we have here sounds good on paper. Let me repeat that: It sounds good on paper. That sounds a little strange, I think, though, as a budget proposal.

The state monies for mental hygiene

agencies over the last 10 years have actually decreased dramatically. From what I see, in 2015 we actually spent $7.72 billion. We're now proposing $5.6 billion. This is six years later.

And it's affected the manpower in your department. Your department, on March 31, 2010, had 16,173 employees. You are now proposing at the end of this fiscal year, in this budget, that we have 13,246 employees. That's a dramatic decrease.

And it's affected the voluntary OMH agencies. The All Funds disbursements in 2010, with $3.3 billion, that's the same thing you're proposing in this budget, 10 years later.

So I'm very, very concerned about the state's commitment to mental hygiene services.

Now, given that, let's talk a little bit about the new proposal that you're talking about with crisis intervention. Again, it sounds good on paper. It's what I've been calling for since I became an

Assemblyman 10 years ago. So I very much appreciate the outline you've given.

How much money is behind it? How much money is in this budget to set up the services and then to pay for the ongoing services?

OMH COMMISSIONER SULLIVAN: The services that we're working on for this year will be to strengthen the three currently operating crisis centers. Each of those costs in the range of about $4 million. Some of them have already been receiving --

ASSEMBLYMAN ABINANTI: Commissioner, so we're not talking about this new program that you outlined, then.

OMH COMMISSIONER SULLIVAN: Oh, yes, I am --

(Overtalk.)

ASSEMBLYMAN ABINANTI: -- you're talking about the police and stabilization and all of that.

OMH COMMISSIONER SULLIVAN: I'm sorry, yes, we are. For this year we have --

ASSEMBLYMAN ABINANTI: How much new

money is in the budget to do this?

OMH COMMISSIONER SULLIVAN: The new money in the budget for the expansion, further expansion next year, some of that will come from the reinvestment dollars.

Within this year, this is state aid which has been available for counties and which some of these crisis centers already have. Which we will continue --

ASSEMBLYMAN ABINANTI: Well, I'm not quite sure where you're talking about crisis centers, because I know in Westchester they were talking about setting one up and the money just wasn't there to help them do it. And they've been doing a very good job, we've got a very good commissioner, et cetera.

So you're basically saying we're just moving money from one place to another, there's no new monies to --

OMH COMMISSIONER SULLIVAN: Not in this year's budget. The monies that are in this year's budget are being moved within the state aid, yes.

ASSEMBLYMAN ABINANTI: Okay. So

there's no new --

OMH COMMISSIONER SULLIVAN: Wait just a second. But next year, with the reinvestment dollars, those reinvestment dollars will be utilized to expand --

ASSEMBLYMAN ABINANTI: You're saying next year, not the budget we're going to vote on now, but the next budget we're hoping to --

OMH COMMISSIONER SULLIVAN: Also in this year we are working with them to be able to bill Medicaid for the services that they are providing. Then --

ASSEMBLYMAN ABINANTI: But if the person is not Medicaid-eligible, then we can't help them.

OMH COMMISSIONER SULLIVAN: We work with commercial payers. Yes, we work with those --

ASSEMBLYMAN ABINANTI: If they don't have that either? I mean, when somebody has a problem, they get picked up and so the first thing you ask is can you afford to pay for this service?

OMH COMMISSIONER SULLIVAN: Not for these services, no.

ASSEMBLYMAN ABINANTI: Well, I'm not -- okay.

(Overtalk.)

OMH COMMISSIONER SULLIVAN: We bill their insurance. But no, but we do not not provide it if you need it.

ASSEMBLYMAN ABINANTI: Let me go to another area, then.

One of the things that I'm very concerned about is the silos. You hear that all the time. You hear people talking about, you know, they have comorbidity, they have co-occurring conditions. You know, there's a famous story, there's a documentary Off the Rails with a young man named Darius McCollum. I spoke with his lawyer about a year ago. He was arrested 32 times for impersonating New York City bus drivers and subway conductors, et cetera. At 8 years old he was running away from bullies, and guys in the subways taught him how to run trains, run subways. He's been doing this his entire life.

He's now in Rikers because he's never -- he's always been in the mental health system, but he's got autism. He has never been assessed by the -- by OPWDD, never had OPWDD services. There's a famous -- there's a documentary out on him.

I want to know why your department, when confronted with somebody with autism, does not assess that person having autism and moving them over to OPWDD and working together to solve the problem.

OMH COMMISSIONER SULLIVAN: Well, you're absolutely right, that's what we should be doing. And if we're not, in certain instances, then we need to know about it, because we should --

ASSEMBLYMAN ABINANTI: I've talked with mental health commissioners --

OMH COMMISSIONER SULLIVAN: -- you're right, and we should be working --

ASSEMBLYMAN ABINANTI: What are you going to do in this budget to solve that problem?

CHAIRWOMAN WEINSTEIN: Quickly,

Commissioner, because the time has expired.

OMH COMMISSIONER SULLIVAN: We are going to be expanding, within this budget there are dollars to open up -- I hope it doesn't get delayed -- I mean, it's been delayed due to COVID -- two inpatient units that will work with us very closely with OPWDD for youth. We are also going to continue to fund the Baker Victory step-down unit and we are funding an inpatient unit in Kings County for adults with disabilities, and a step-down unit for that.

Those dollars are in -- solid in the budget. They have been given increased rates. These are major efforts, with us working very closely with OPWDD to serve these individuals.

And in addition, within the budget there's lots of training dollars, et cetera, for our individuals to be able to better screen and do work with autism and, just as you said, be able to move those clients to the appropriate services that they need, or even give them if we're capable of doing it.

So yes, those dollars are in the budget. Thank you. Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

We go back to the Senate.

CHAIRWOMAN KRUEGER: Thank you. I believe we have how Jim Tedisco -- audio and visual -- ranker, for five minutes.

SENATOR TEDISCO: Okay. Thank you so much, Chair and Senator. This has been a nightmare here for me. Our power's been out for four hours this morning, so I had to go to my phone and I couldn't get any audio on that. So you all look very nice to me, but I don't read lips. So I don't know much of what has been said until the last five or 10 minutes. So -- but I'd like to ask a question of the commissioner, if that is possible.

Commissioner, thank you for answering my questions. In the spring of 2020 we had, I believe, close to 8,000 retirees, students, student volunteers who were giving 24/7 no-cost mental health counseling. Has there been any ability or idea to retain these

professionals post-COVID to help with the cost and the services that we provide for some of our most needy in this area?

OMH COMMISSIONER SULLIVAN: Yes, we have definitely kept in touch with them. We have a list of all the individuals who were kind enough and generous enough to volunteer, and we will be calling them from time to time for specifics issues that we need. It's a very good suggestion.

You know, it's not -- they have -- some of them have more limited time than some others, but we are looking into this, especially as we expand out the whole crisis counseling program with COVID.

Some of those counselors are paid for by FEMA, but they won't be able to cover everything. So we are thinking again of working with them. Some of them did our Coping Circles, and we are thinking of again asking them or others if they would be willing to do that with us.

So yes, we keep in touch. And you're right, it's a -- they're very generous

people, and they're a great piece to the workforce. Thank you.

SENATOR TEDISCO: Okay. Secondarily, we've had kind of an outmigration of population over the last three years, over the last 10 years, but some of the mental health service providers and those who would be here providing services are needed, I think, in our state.

Is there any plan or is there any long-term consideration or plan to retain or attract mental health service providers to New York State to keep them here? Do we have any long-term plan, ideas about that?

OMH COMMISSIONER SULLIVAN: Well, we do a lot of -- I'm sorry. We do a lot of training of professionals in New York State.

And what we are doing is reaching out and doing -- we have a program now with -- I think it's over 20 social work schools, for example, where we work with them, we do some special evidence-based {inaudible}, very small stipends for them to be a part of working with us on mental health issues, to

recruit them from social work schools into the mental health field. And we give them placements, for example, in our facilities if they're interested in that -- or other community-based. Not just us, but community-based.

So we are reaching out to schools to enable -- we do a lot of training. We want to hold those individuals. We want to keep them, also if possible, in the public sector. So that's one thing that we're doing.

The other thing that we're doing with physicians, because there's always a shortage of physicians, is we have the ability to repay physician's loans in the state system, the state hospital system, up to $150,000 if they stay with us for five years. And I think that that's been successful. We've been able to recruit about 25, 26 psychiatrists for that within the state system.

So programs like that help to keep people in New York. We do a lot of training, and also get them interested in the mental

health field.

SENATOR TEDISCO: Yeah, I and others fought for and won student loan forgiveness for health professionals.

Is there any concept of continuing some of that or expanding some of that, student loan forgiveness for health professionals? I mean especially nurses, mental health nursing and nurses in general, because nursing homes -- we talk about expanding the workforce and the allotment of time that they should be limited to, but it's not the finances for many programs, it's the ability to find the staff and the workers.

So possibly we could expand some tuition forgiveness or expansion or help in that, in loans. Is that a possibility?

OMH COMMISSIONER SULLIVAN: It's something to -- I mean, I think I -- I don't know exactly the programs you're talking about. But yes, we can look into that. There might not be anything in this budget, but those are things we can look into. We can look into that.

SENATOR TEDISCO: You know, the beds I'm talking about -- because in the Executive Budget is to eliminate 200 state-operated inpatient beds and an additional 100 state-operated community residence beds, you know. I don't know what the rationale is, probably to save money. Is that what that is?

OMH COMMISSIONER SULLIVAN: Those are vacant beds. We only close beds when they're vacant. And over the past five or six years we've closed about 700 beds total.

The reason we're able to close beds is because we've expanded community services and we want as many of our patients not to be in hospitals but to be in the community.

So yes, there's money saved when you do it, but it's not like "we need money, close the beds." That's not the issue. The issue is that we've been able to have the community-based services strong enough to be able to have individuals live, truthfully, successfully in the community.

And that gives us the ability to close

some of those beds, especially some of our long-stay clients who have been with us way too long, to give them the wraparound services that they need to be in the community.

SENATOR TEDISCO: Well, if you wanted community-based beds, the projection is to close an additional 100 state-operated community residence beds.

OMH COMMISSIONER SULLIVAN: We're moving them to the community.

We're also under something called the Olmstead Act, which says that you shouldn't be having long-term community beds on state hospital campuses. So they really want those beds in the communities.

It's not a reduction, that's a movement. That's a movement from the campus to the community. Those beds will exist.

SENATOR TEDISCO: Thank you, Commissioner. Appreciate that.

OMH COMMISSIONER SULLIVAN: Thank you.

CHAIRWOMAN KRUEGER: Thank you very much. Assembly?

CHAIRWOMAN WEINSTEIN: We go to Assemblyman Brown for three minutes.

THE MODERATOR: I'm asking him to unmute. I don't know if he is available.

CHAIRWOMAN WEINSTEIN: Okay, then we can go -- let's go to Assemblywoman Miller for three minutes.

THE MODERATOR: No, Assemblyman Brown is here.

CHAIRWOMAN WEINSTEIN: Oh, you have him? Okay. Sorry, Missy, we'll be back to you.

ASSEMBLYMAN BROWN: Can you all hear me okay?

OMH COMMISSIONER SULLIVAN: Yes, we can.

ASSEMBLYMAN BROWN: Okay. So good morning.

As a new member of the Assembly, I asked to be placed on the Assembly Committee of Alcoholism and Substance Abuse. I was extremely pleased to be named minority ranker of the committee, since this issue is very personal to me. I've been involved with

Outreach Long Island for many years now, and the issue is one that I'm all too familiar with on several levels.

Just at first blush, just on a general level, my Assembly district office and district is located in Suffolk County, which as you know leads the nation in the highest number of overdoses. And I feel that we are not doing enough and we need to do more.

I'm deeply troubled by the announcement by the Governor to place in the budget the legalization of marijuana. The coronavirus impact on mental health is palpable; we're seeing a rise in drug use, suicides, anxiety, depression, et cetera, as a result of COVID. And I'm equally concerned about the proposed Executive Budget proposal for treating mental health and vulnerable people afflicted with mental health issues.

And finally, I'm concerned about the proposal to merge OASAS into the Office of Mental Health, and I have several questions with regard to that.

So I know I have additional time to

speak later with respect to OASAS, so I'm going to save my questions now for those questions related to mental health. And with respect to addiction and mental health, I was wondering if there's any data on the office's current treatment for cannabis addiction. And does the office anticipate the need for increased capacity for cannabis addiction treatment due to the possibility legalization of cannabis?

OMH COMMISSIONER SULLIVAN: Well, one of the major mental health issues with cannabis is the effect of cannabis on youth that have psychiatric issues. So there is dollars in the cannabis legislation that would enable a great deal of education to families and to youth about the risk for individuals, youth who are at risk for psychosis.

We know that cannabis use can sometimes increase that risk or even make the psychotic episodes occur sooner. We also know that cannabis use among individuals with serious mental illness can sometimes

interfere with their progress and recovery, et cetera.

So there is a lot of work that's being done to prepare for the education that has to be out there -- which we're already doing much of because some of our clients are already using cannabis -- but to expand on the education and the work to help prevent the use for individuals who are at risk for cannabis use, even recreational cannabis use.

So we're going to be working with that. There's a lot of education, and we're already doing some of it, but we will continue to do more if the cannabis legislation passes.

ASSEMBLYMAN BROWN: So I --

CHAIRWOMAN WEINSTEIN: Thank you.

Excuse me, the time has expired. You know, I just want to remind members to keep an eye on the clock, make sure it's on your home page.

So we're going to go to the Senate next.

CHAIRWOMAN KRUEGER: Thank you very

much, Assemblywoman.

Tom O'Mara, ranker on Finance, five minutes.

SENATOR O'MARA: Thank you, Senator.

And I would add that we have been joined on our side by Senator Sue Serino and Senator Tony Palumbo, who are with us now.

Following up, Commissioner, with Senator Ortt's questions on the Dwyer program, since he has departed. He's advised me that he's learned that the Dwyer program money that was in last year's budget that has not been released is stuck in the Senate awaiting the Senate Majority's approval of the release of those funds.

So I would request Senator Krueger to take a look at that, please, to see if those funds can be utilized. I think that's a critically important program to provide mental health stability to many of our veterans, and I think it's a very important program going forward.

Commissioner, two years ago there was funding in the mental health budget of I

think it was $1.5 million for crisis intervention teams. In my understanding, that was to help with training of police officers in dealing with mental health emergencies. And, you know, in light of -- first of all, why was that not continued last year?

(Zoom interruption.)

SENATOR O'MARA: Why was that not in last year's budget? Why is it not proposed again in this year's budget? And in light of all the certainly high-profile incidents that we've seen in New York State and across the country with the difficulty in responding to these emergencies by the police, why wouldn't we be focusing more and providing funding for that program?

OMH COMMISSIONER SULLIVAN: I just hope I have this right, Senator. But I believe that the funding for CIT was actually -- in the past has been a legislative add. OMH does a lot of in-kind support for it, we organize it, we do some of the training. But the actual dollars that

appear, I think, on the line for CIT -- I hope I'm not wrong about this -- are actually legislative adds.

Within -- and then we do the -- it flows through OMH, and OMH does a lot of in-kind support to organize it, to do some of the training, et cetera.

Within our current budget within -- not as a line item, but within the services that we provide through our training and state aid, et cetera, for our crisis stabilization centers, we will definitely be increasing the use of CIT training. So that's embedded in the budget.

But I think the particular 1.5 million, I believe, for CIT training was as a legislative --

SENATOR O'MARA: You're correct on that. Two years ago, it was. Yet it wasn't included as continued funding in the Executive Budget last year, and the Legislature didn't add it, and it's not in the Executive Budget this year.

Do you not feel that the crisis

intervention teams was a successful program? Or do you think that we should be looking, from our side, to add back into that for this important social issue that we have these days?

OMH COMMISSIONER SULLIVAN: It's an important program. I think it does -- there's been -- it's a nationally evidence-based program, CIT training. And I think we've supported some -- we will be supporting some through our crisis stabilization centers.

But it's a good program and something that is important in terms of helping police be able to appropriately work with individuals with mental illness in crisis.

SENATOR O'MARA: Okay. Thank you very much, Commissioner.

OMH COMMISSIONER SULLIVAN: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

As we return it to the Assembly, we've also been joined by Senator Felder.

CHAIRWOMAN WEINSTEIN: We go to Assemblywoman Miller for three minutes.

Missy, you're on. We can't hear you. You're unmuted, but we --

THE MODERATOR: The Assemblywoman is unmuted, but we are not getting any sound.

CHAIRWOMAN WEINSTEIN: Right. We can't hear you, though you are unmuted. Do you want to -- maybe we'll skip --

CHAIRWOMAN KRUEGER: Why don't you skip, come back, and they can get to the bottom of it.

CHAIRWOMAN WEINSTEIN: We'll skip you, and you'll work that out.

So we'll go to Assemblywoman Barrett for three minutes.

ASSEMBLYWOMAN BARRETT: Thank you. Thank you, Chairs.

And thank you, Commissioner. Thank you for your leadership through this very challenging time. I think we all agree we are in the midst of a mental health crisis unlike anything we've seen before.

I applaud the new agency merger. You know, I think there's -- in the vast majority of times, substance abuse is co -- you know,

has dual diagnosis with other mental and behavioral health challenges, so I'm glad to see that.

I do want to point out that we have, in Dutchess County, a crisis stabilization center, which people should take advantage of coming to visit if they would like to see how that works and how that's structured.

My main question, Commissioner, as chair of Veterans Affairs, is to reiterate the comments of Senator Ortt and others that Dwyer is such a fantastic program, it's been so effective. We are really troubled that the Governor has not reached, you know, the decision to make sure that that's in the budget every year.

And I would like to know, given that, whether you would support us switching the Dwyer funding -- you know, making sure that everybody gets what they've been entitled to from last year, get it in the budget this time. But would you support that we move that to the Division of Veterans Services? It doesn't seem to be a real fit for your

agency, and it -- obviously, it gets lost in a lot of other things. So would you support that going forward?

OMH COMMISSIONER SULLIVAN: I think there could be discussion about that. I think it's a great program, I think it has a lot to offer, and I think that's an idea that could be brought forward.

ASSEMBLYWOMAN BARRETT: I mean, I think the opportunity -- it's only in, at this point, 25 counties. We added -- last year we added two counties and New York City to the mix. There's a lot of counties across the state.

We were talking to the commissioner or the head of the veterans program in Columbia County the other day; he was saying they get, you know, a lot of people from other surrounding counties because of the work that they're doing.

I think that this is something that could be more robust and be more effective if it really was focused, you know, within the veterans community. So I would urge you to

support that as we -- we're going to put that certainly in our one-house budget, I'm hoping, and I would hope that you would support that going forward.

Thank you.

CHAIRWOMAN WEINSTEIN: So we go back to the Senate.

CHAIRWOMAN KRUEGER: I think at the moment we are out of Senators with questions, but we'll get more, so please keep going, Assembly.

CHAIRWOMAN WEINSTEIN: Okay, we have quite a few.

So I'm not sure, I think -- Assemblywoman Miller, you want to try it again?

ASSEMBLYWOMAN MILLER: Yes. Can you hear me now?

CHAIRWOMAN WEINSTEIN: Yes, now we can, thank you.

ASSEMBLYWOMAN MILLER: Okay.

Good morning, Commissioner, how are you?

So I think a lot of what I'm hearing

is again this desperate need for our state agencies to learn how to coordinate for evaluations, reimbursements -- like we need this coordination. As my colleague Assemblymember Abinanti says, one size does not fit all. These silos, these -- you know, they get locked in. So I just want to reiterate that point, I think it's so important.

Do we know how this behavioral health parity compliance fund is working? Is it fully funded? I know that there's still this desperate need to find providers. And I also know firsthand, just from my mom with Alzheimer's, trying to access a psychiatrist. There's a several-month waiting list if they're even taking new patients. They accept no insurance or Medicaid or Medicare.

Like, how are we helping people find the treatment when they can't even find the psychiatrist or the professional to help start the process?

OMH COMMISSIONER SULLIVAN: Parity work is ongoing. The compliance fund is

going to be based on fines and dollars received, and those have not been issued yet, but the work is going on.

The work is going on to look at basically what's happening with the insurers. The Parity Reporting Act will happen this year. There's a lot of work going on behind the scenes, a lot of contact with the insurers.

And just remember that there's something called the CHAMP program. The CHAMP program basically will take a request from anybody who's having trouble finding services or getting approvals from insurance companies. The CHAMP program is there for providers, it's there for individuals, it's there for family members.

And I don't have the number, but it's available. Anyone can call. They've seen over I think 600 cases so far, and they've been very active in helping individuals work with insurers who may not be following strictly the kind of rules for parity.

So the parity compliance fund doesn't

-- is not really -- it's there to receive those dollars. It's not there yet.

ASSEMBLYWOMAN MILLER: Okay. And then just back to Assemblymember Gunther's, you know, issue with closing these -- the children's long-term beds. You know, just as we keep hearing from our health commissioners, from medical experts how during the pandemic we can't ignore our existing conditions, our existing health issues, nor can we ignore especially children's existing mental health issues or remove their treatments if they need a long-term treatment bed.

If the numbers are down, maybe it's because -- I know even with my son, with medical issues, I was deathly afraid of bringing him to the hospital. I would do anything -- we did try many things to keep him out of the congregate environment during the pandemic. I don't think it's really a true reflection of an improvement. I think, if anything, we're about to see a dramatic increase from the isolation and from, you

know, the exacerbation of their underlying conditions for not getting treatment during the pandemic or not having available treatment.

And as we know, the suicide risk is crazy and looms above us all. So it's a significant concern.

OMH COMMISSIONER SULLIVAN: Yes. But just to clarify again, for Rockland, that those beds will be moving. It may be that they have an increased distance for some families, but we are actually enhancing the services in Rockland. Those services will be increased for youth in Rockland.

ASSEMBLYWOMAN MILLER: Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

Since there are no Senators, we have I believe eight Assembly members.

CHAIRWOMAN KRUEGER: Actually, we have one Senator. Sorry.

CHAIRWOMAN WEINSTEIN: Okay, so we're going to go back to the Senate.

CHAIRWOMAN KRUEGER: Thank you.

John Brooks. I think he couldn't get

his hand up, but he texted me.

Are you there, John?

SENATOR BROOKS: I'm here. Thank you, Madam Chairman. I appreciate the opportunity to speak for a moment here.

There's been a lot of discussion on the Dwyer program, which is an excellent program. You know, every single year, as has been mentioned, it's cut out of the budget. I think with absolute certainty this budget -- it is misplaced in the budget. We don't have an opportunity, as the Veterans Committee, even to comment in this hearing. I'm commenting via my membership of other committees.

But the veterans program has been exceptionally successful. The demand is greater than ever, with the pandemic and what is happening. We're in a situation where the director's position is empty. We have been trying to get these funds out to the units.

And to me, as was mentioned by other members, it's incredible that this program is not in the budget year after year after year.

Everybody and his brother -- and his sister, I guess, to be correct -- understands the great success and the need to have this in; in fact, the need to increase the funding for this program.

I believe we really have to rethink what we're doing with veterans within the budget. It probably should be part of the cabinet. We've got individuals who serve this state and this nation in an outstanding way. We know, particularly with some of our Vietnam vets, they're having additional problems now as they get older. We've changed the role of the military, in that what was once a part-time soldier becomes a full-time soldier. You know, I spent six years in the National Guard. We were never federally activated at all at that time. Now it's a common practice.

And it puts these individuals in significant stress. You go from a peacetime environment, walking down a street, and maybe two months later you're in a hazardous zone.

So I share with everybody that's

commented it's incredible that this isn't even in the budget. And then, you know, for me even to speak to the departments that are controlling the budget, we had to go through a back door to allow us to do that.

We've got to rethink what we're doing. And this past year we lost three members, just recently, in the National Guard on a service mission. We have people that are having a great deal of stress, suicide risk. The Dwyer program works. We should all be ashamed that it's not in this budget.

CHAIRWOMAN KRUEGER: Thank you. And thank you for allowing us the leeway of Senator Brooks not actually asking a question, just being the chair of the Veterans Committee where this technically won't come up because it's in the mental health budget.

I think -- I think we all are agreeing this is a serious issue, both houses, both parties. So thank you, Assembly.

SENATOR BROOKS: Thank you.

CHAIRWOMAN WEINSTEIN: Yes. We go to

Assemblywoman Griffin, three minutes.

ASSEMBLYWOMAN GRIFFIN: Good morning. Good morning, Commissioner Sullivan.

I just wanted to say I'm deeply concerned about the cuts in residential beds and the cuts to mental health counseling and suicide prevention.

I'm also concerned about the proposal to delay the $1 million investment in suicide prevention for veterans, first responders and law enforcement. These groups are particularly vulnerable and can't afford a delay in services.

Over the past four years there has been a significant increase in suicides in ages 14 through 25 in my district. Really startling. And -- it's like we have a couple a year. And it's very devastating for families, students, everyone.

And I heard you mention specific groups that sounded like they were increasing suicide prevention. I just wondered if you could elaborate on that.

OMH COMMISSIONER SULLIVAN: Yes, thank

you. We have -- when you look at the suicide data, there are certain high-risk groups that are particularly at risk.

And one particular group, just to describe one, is the Black youths group. Young Black children in the ages of even up to 9 to 12 have seen the largest increase in suicide nationally of any group. And it's very, very tragic and terribly sad.

So we brought together experts from NYU, Dr. Lindsey and others, into a Black Youth Suicide Workgroup, for example, and that workgroup has now made recommendations which we're following up on. And they will include working with those -- with Black communities on the issues of suicide.

One particular piece will be working with the church faith groups on alerting people on how to assess, on what we call mental health first aid, what are the risks and risk factors of suicide, working with the schools in those communities to be able to talk in a way that can be understood by the youth and the teachers as to what they need.

So we're talking about some very intense grassroots work with those communities to talk about suicide, to talk about mental health issues, and to talk about being open about asking for help.

You know, suicide prevention has many, many pieces that have to come together. You have to work with the community, you have to work with teachers, you have to work with the -- which is another initiative we have with healthcare providers. Pediatricians, for example, for the Black youth group are critical for them to understand, to be attuned to what can be activities or ways that kids are acting that could actually end up resulting in something as tragic as a suicide. So all those groups.

What we've found is, though, that you have to hone it down to specific populations sometimes. You can't just do a generic. And I think that's one of the things -- for example, we're doing Black youth, the other group is Latina adolescents, and the other very high risk group is the LGBTQ young

people. I mean, I think they have one of the highest rates of suicide attempts and, sadly, successful suicides.

So we're working with someone called the Trevor Foundation, for example, on that, who's done tremendous work with LGBTQ. They have a hotline for youth that is specifically for individuals who are LGBTQ.

So those are the kinds of things that we're doing. And as we move it, we're going to be moving it out across the state to those affected communities.

ASSEMBLYWOMAN GRIFFIN: Thank you very much.

OMH COMMISSIONER SULLIVAN: Thank you.

CHAIRWOMAN KRUEGER: Thank you. I don't think we have any more Senators right now --

CHAIRWOMAN WEINSTEIN: Okay, so then we're going to go to --

CHAIRWOMAN KRUEGER: Oh, oh, oh, Michelle Hinchey raised her hand, excuse me.

Senator Michelle Hinchey.

SENATOR HINCHEY: Hello. I'm trying

to start my video, but for some reason I'm not allowed to.

CHAIRWOMAN KRUEGER: There you are.

OMH COMMISSIONER SULLIVAN: We can see you.

SENATOR HINCHEY: Wonderful. Thank you so much.

Commissioner, thank you so much for being here.

Farming is a stressful business in the best of times, and this year we see how disruptions in the food supply chain have made it more so. New York FarmNet, which is a mental and financial distress hotline specifically for the farm and agricultural community, has reported that farm caseloads have not only increased from previous years, but that the percentage of farmers dealing with significant stress and mental health challenges has doubled.

Yet the Executive Budget has again eliminated $400,000 in funding. Can you share why the Governor's budget proposal is not providing adequate funding for New York

FarmNet in a time when mental health services have never been more important?

OMH COMMISSIONER SULLIVAN: Let me just say that we know the importance of mental health in the rural communities, and we're doing a lot of work in those communities with telehealth to kind of spread some of the ability for mental health professionals to be there and to work on something very effective and very helpful.

On the FarmNet issue, I know that that was one of the issues that was pushed into -- {audio feedback} -- were not moved in the budget this year, but last year's -- I don't know if they've been moved from last year or not, I'm not that familiar with it. Yes, they were not approved. They were not approved at this point in time.

SENATOR HINCHEY: Okay, thank you. And --

OMH COMMISSIONER SULLIVAN: I think if those -- paperwork for something like that comes through to OMH, we'll forward that {continued audio feedback}. From last year.

SENATOR HINCHEY: Thank you. And within that, you mentioned how important mental health is in our rural communities. Can you talk about where in the budget support for mental health is specifically for rural communities?

OMH COMMISSIONER SULLIVAN: It's not specific. It's embedded in the work we do with telehealth, the work that we do with mobile crisis teams, the work that we do with the expansion of clinic services.

For example, some of our CCBHCs are in -- well, we have one in Franklin County, which is rural communities. So it's not a specific line. It's embedded in the overall work we do and the state aid that we give. And then the counties often are a partner with us to use those dollars.

SENATOR HINCHEY: Thank you. I'll just say from my experience in my communities, we are losing mental health and detox beds repeatedly in our rural communities, and it's definitely something -- these are communities that are ravaged by

these types of needs, and yet we're losing them repeatedly. So it's something that is an absolute priority for me and those of us who live in the rural communities.

So thank you, and I appreciate you looking into it.

OMH COMMISSIONER SULLIVAN: Yes, and I absolutely agree with you {continued audio feedback} -- I think we need to {feedback}-- beds are critical in those areas, and we work very hard with the providers in those areas not to close psych beds because ours aren't as lucrative as some other beds in the medical system.

But yes, I agree with you, there are areas, pockets, where those acute-care beds, acute-care beds need to be there.

SENATOR HINCHEY: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: We go to Ken Zebrowski.

The next order for Assemblymembers, just for your information, is then Burdick,

Epstein, Byrne -- actually, it's Burdick, Bronson, Epstein.

So we go to Assemblyman Zebrowski now, Ken Zebrowski.

ASSEMBLYMAN ZEBROWSKI: Thanks, Chair Weinstein. And good morning, Commissioner.

When I raised my hand to speak, it was right as Chair Gunther was speaking, so I have to say that I can attribute many of my comments to her frustrations.

And I also want to touch briefly on the Rockland psych beds. I've got to say that I think it would be far more beneficial and helpful for us to be able to get to the bottom of these beds and the need over the next year than to do this in this budget.

We're hearing different things than some of the data you're giving us now. We're hearing that those beds aren't utilized not because there isn't a need, but because they're not being filled. And, you know, I have to say that in the downstate region there is a difference between travel in Rockland, Orange, Putnam than there is

crossing over the river and into the New York City area.

So I'm not sure that, you know, replacing the beds from Rockland or sending folks down to the Bronx is just a hop, skip and a jump for folks that are in the Hudson Valley region. You know, there's not great mass transit options. You know, if -- earlier this week I was talking to the head of the MTA about, you know, our lack of train access and there's bus limitations and things like that. So I know it's, you know, a bigger catchment area than just Rockland County, but the entire region sort of uses these beds.

So we're concerned about eliminating these beds right now. We don't think it's the right thing to do in the middle of COVID when I feel like there can't be a sort of proper analysis. And also, I'm really concerned about the employees. There's a lot of confusion as to what their options would be, where they would be going.

So in my opinion -- you know, I

appreciate your comments here today. I just think that this is something that we should take out of the budget, eliminate, and have a conversation over the next year with maybe some roundtables and things like that with certainly your participation and the leadership of both committee chairs in the Senate and the Assembly and both ranking members.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly, please continue.

CHAIRWOMAN WEINSTEIN: We've been joined by Assemblywoman De La Rosa and Assemblywoman Jackson, and we go to Assemblyman Burdick, to be followed by Assemblyman Bronson. Three minutes.

ASSEMBLYMAN BURDICK: Thank you. And I want to thank the chairs and commissioners for holding this.

And clearly, what we hear repeatedly is that we have a crisis which has deepened with the pandemic. And I support the impassioned pleas of so many of my colleagues

to restore funding.

I want to speak for a moment about one of the missions of OPWDD, to work closely with nonprofit partners to help individuals with developmental disabilities find residential housing.

I had direct experience some seven years ago as supervisor of the Town of Bedford at that time, when Cardinal McCloskey Community Services applied for a permit to provide housing in Bedford to four young autistic men who had aged out.

I have two questions on that; the first I would ask that you get back to me on. And the first is what appropriation level is proposed for the funding for such facilities in the budget, how does that compare to the existing level, and can we please have the actual expenditures over the last three years, and in comparison to the appropriation levels.

The main question I have relates to the process itself. It was very painful. I understand that several years previously this

statute had been revised to facilitate the siting. There still are serious issues. And what recommendations might you have to facilitate Cardinal McCloskey and others to be able to get their approvals?

OMH COMMISSIONER SULLIVAN: Assemblyman Burdick, that really falls within Dr. Kastner, who will be testifying later, OPWDD. I am not the -- this is --

ASSEMBLYMAN BURDICK: Okay, I'm sorry. I will hold off on that. I apologize.

OMH COMMISSIONER SULLIVAN: Thank you.

CHAIRWOMAN WEINSTEIN: So then we're going to go to Assemblyman Bronson.

ASSEMBLYMAN BRONSON: Hello, Commissioner. Nice to see you.

I'm going to ask two questions, or actually two areas. The first I just want to point out, you know, some of my colleagues mentioned that we're facing three crises simultaneously, the first being the COVID-19 health crisis and pandemic as well as the resulting downturn in the economy, and then racial injustice -- you know, three at the

same time. And this has really had an impact on the emotional health of our citizens.

And here in Rochester, you know, we had the tragic death of Daniel Prude last year and the recent pepper-spraying of a 9-year-old child. This has rightfully outraged our communities and shown that real change is needed to prevent more tragedies like these from occurring.

Yesterday, myself and Senator Brouk introduced legislation which will help ensure our most vulnerable friends and neighbors are directly connected to trained mental health professionals who will treat them with compassion at their time of greatest need. You know, simply put, New Yorkers that are experiencing mental health and substance abuse crises are best served by a public health response, one that maximizes consent, treatment and services and minimizes the role of law enforcement and the use of force.

We have to have transformative change that moves us away from a model of control and force to one of compassionate, care and

treatment.

So, you know, Daniel's Law has been introduced. I hope that you and the Governor can take a close look at that and partner with us so that we get it right and that we can get that measure passed.

As for my question, as you know, three years ago there was a robust group of behavioral health advocates who came together and worked with your staff, the Governor's staff and other agencies to address the exemption from licensure for those working in state licensed or operated facilities. That exemption was extended for another three years with an agreement.

And now the exemption is due to sunset in June, and nothing has been done. Agencies don't want to hire anyone at this point for fear they will not be able to practice at the top of their education. All of this is happening in the middle of a behavioral health and workforce crisis that I mentioned earlier, so I was kind of surprised not to see anything.

Does your agency have a plan for June? I mean, where do we stand on getting this exemption to make sure it goes beyond June or making it permanent?

OMH COMMISSIONER SULLIVAN: There are some -- I know that there are some discussions about moving it because of the disruption of COVID to longer than June, but that has not been decided yet.

And I think that there has been a tremendous amount of dialogue on this issue, and we do have procedures for how agencies can work and appropriately do the required supervision, et cetera. But the grandfather issue, which I think is one of the issues that you're bringing up, yes, technically it would be in July, but I know there are discussions to see if that could be extended. But I do not know. I do not know.

ASSEMBLYMAN BRONSON: Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

We go to Assemblyman Epstein.

ASSEMBLYMAN EPSTEIN: Thank you, Commissioner. Thank you for your work.

Commissioner, do you think it's in the best interest of New York to do cuts like what is proposed here, including the 200 beds?

OMH COMMISSIONER SULLIVAN: I think that you have to use healthcare dollars right now, and all dollars, wisely. I think if you don't do that -- me, as the commissioner -- I don't think I'm being responsible.

So I do think it is important to look at beds that we have looked at, and we'd be glad to share the data with everyone on how long they've been vacant, why they've been vacant, that there's no reason that those beds should not be closed and that those healthcare dollars should not be spent on something that is not being utilized.

ASSEMBLYMAN EPSTEIN: So you don't think we need the beds, then, Commissioner?

OMH COMMISSIONER SULLIVAN: The beds that are being closed, no, I do not think we need them. As we close them. We close them very slowly, very carefully for --

ASSEMBLYMAN EPSTEIN: So you don't

think that there are people with mental health issues who aren't getting access to beds, then?

OMH COMMISSIONER SULLIVAN: The state hospital or long-term-care beds? And I think that's a -- that is different from the community beds. The community beds across New York State have only decreased slightly, and we've fought very hard to keep those community beds up. And they basically have -- I think we've lost about 200 over a couple of years, something like that. It's not been a lot. That's where I think a lot of the work is.

These are long-term-care beds, and many of these individuals that we are closing the beds for have been with us for a long time and we've been successfully able to move them successfully into the community, opening up that bed as a vacant bed.

ASSEMBLYMAN EPSTEIN: Okay, so it sounds like you think closing the long-term beds makes sense, but additional community beds might be useful.

OMH COMMISSIONER SULLIVAN: Yes. Critical. Critical. Community beds are critical. Please don't get me wrong.

But the long-term beds I think for many individuals who have been with us too long, we now have the opportunity to go to housing that has come up, et cetera, to help those individuals move successfully into the community. That has helped us tremendously to lower our bed use.

ASSEMBLYMAN EPSTEIN: So, commissioner, I know I only have a minute left, but I know Assemblymember Abinanti raised a lot of issues around cuts to services, you know, the cuts to providers. I'm wondering if you think that's in the best interests of New Yorkers that those cuts move forward, in the best interests of New Yorkers with mental health needs or people with disabilities.

OMH COMMISSIONER SULLIVAN: Well, I think there's an -- you know, the 5 percent reductions which -- to state aid I think are hard on the providers, and it's something

that I think will -- if we can get a significant federal input, which I think New York needs and deserves, if we can get those dollars, then that 5 percent, as has been said by the Department of Budget, that that 5 percent cut to the providers will go if -- if we get the federal aid. I think everyone in the state right now is in the bucket of having to deal with the fact that we don't have sufficient federal aid to balance the budget.

ASSEMBLYMAN EPSTEIN: Right. Well, Commissioner, I appreciate it. We agree, we want as much federal aid as possible. But the state could step up too. The state could raise additional revenue sources that could facilitate this. So I would encourage you not just to talk about federal aid, but additional state revenue, because in times of crisis we can raise revenue and we have lots of tools available to do that. And I would encourage you to support moving forward with more revenue, not less.

Thank you, Commissioner.

OMH COMMISSIONER SULLIVAN: Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

We go to Assemblyman Byrne.

ASSEMBLYMAN BYRNE: Yes, thank you, Chairwoman.

And thank you, Commissioner, for your testimony and answering my colleagues' questions. I'm going to echo all the calls for the Joseph P. Dwyer Peer-to-Peer Program. It is extremely upsetting to see that while the Governor likes to laud the program, it's conspicuously absent in the Executive's proposed budget each and every year.

So I'd like to echo those calls for us to restore that in the final budget agreement.

But my question specifically to you, Commissioner, is more about the jail-based substance use disorder treatment and transition services and the significant cut -- I believe it's a 50 percent cut, cuts in half from what we had last year, from $3.75 million, and it takes away $1.9 million.

I can understand that -- I think the argument is that the jail population is reduced because of things like bail reform.

What I would caution and just try to express to you is that many of these people that are in county jails, they're not just numbers. The need is still there, very much so. It may even be exacerbated, I believe, by the COVID-19 pandemic. And a lot of our county governments, they use these state dollars to leverage additional federal assistance for these types of services.

And I would like to ask if you would be supportive of the Legislature seeking to restore those fundings, bringing it back.

OMH COMMISSIONER SULLIVAN: I believe -- I'm not sure exactly the funding you're referring to. I think it might be under OASAS and Dr. Sanchez, Arlene Sanchez.

Because it sounded like substance abuse treatment leaving prisons. We don't -- we work with the seriously mentally ill leaving prisons. And we have not cut that. So --

ASSEMBLYMAN BYRNE: Sure. Thank you. That's my mistake. You know what, we're doing this virtually and I have this long witness testimony list, and sometimes it's hours and hours before we get to speak. So my mistake. I gave a heads-up to the other commissioner for when I ask that question later on.

But I will go back to my initial point and just echo my colleagues on the importance and value of the Joseph P. Dwyer Program, making sure that the dollars that were already committed by previous budgets are given to the counties for the service, and it does a tremendous amount of good.

So thank you, Madam Commissioner.

CHAIRWOMAN KRUEGER: Thank you.

Assembly, still yours.

CHAIRWOMAN WEINSTEIN: Mary Beth Walsh, then.

ASSEMBLYWOMAN WALSH: Thank you.

Good morning, Commissioner.

My question has to do with the Executive Budget's proposal which would allow

the commissioner to create a schedule of penalties for violations of operating certificates. Why is this necessary?

OMH COMMISSIONER SULLIVAN: Let me just say that we've had several -- we've had instances where, for example, beds, psychiatric beds -- acute psychiatric beds in the community were closed precipitously. The communities were upset, basically, et cetera.

The penalty for that, for not consulting with DOH, for not consulting with OMH, is so small -- it's like $15,000 total, total, that you could be fined. That's really not a deterrent to anybody to do those things precipitously. So that's one example where it's really important, I think, that there be some teeth in the regulations.

For example, when a hospital comes to us -- and often the hospital's having financial problems -- and they say they want to close beds, acute beds in the community, we work very closely with them about setting up the necessary community-based services. Sometimes we figure it out so they don't have

to close the beds.

But it's really not acceptable for them to just close the beds and give us notice that they no longer have a psychiatric unit.

That's happened a couple of times -- that's just one example -- of where the ability to say to a certain system, like hospital systems, You can't just do this without consulting with us -- so that's an example of why, the penalties are just so low that they don't -- the other issue, sometimes it comes up in terms of care. But usually it's someone who hasn't let us know that they're doing something kind of dramatic in the community and they have not come forward to discuss it with us.

ASSEMBLYWOMAN WALSH: Thank you, Commissioner. Do you have an idea of -- or a thought as to if $15,000, say, is too low, do you have a sense of whether those violation penalties would be doubling, tripling? You know, can you give us some insight as to what your thinking is on that?

OMH COMMISSIONER SULLIVAN: I think we're still working on that. We're working on -- you know, I think we have to look at the kinds of penalties that other places do. I mean, we don't want to be over -- you don't want to go overboard, but you also want to make the penalties something that would make people think twice before not letting you know.

So we're still in the process of doing that, so I can't give you a number. But it would be considerably more.

ASSEMBLYWOMAN WALSH: Okay, Commissioner. And is there a sense of where that money, the penalty money would be -- would it go right back into the budget, do you have it earmarked for some other purpose? Or what is your thinking on that?

OMH COMMISSIONER SULLIVAN: I think the plan at this time is it would go back into the budget.

ASSEMBLYWOMAN WALSH: Okay. Thank you very much.

OMH COMMISSIONER SULLIVAN: Thank you.

CHAIRWOMAN WEINSTEIN: We go now to Assemblyman Aubry.

ASSEMBLYMAN AUBRY: Good morning, Commissioner. I thank you for your testimony and the time you've taken.

My question concerns the issue of your relationship with the Department of Community Corrections, who oversees that delivery of services of mental health? How much money in the budget is directed toward what goes on in the prisons? As well as your view, if you have one, on the use of special housing units in the prisons and how you manage services under those circumstances.

OMH COMMISSIONER SULLIVAN: We have a Division of Forensics which does all the forensic services. We work very closely with the Department of Corrections. We have a whole array of services that include inpatient psychiatric services, what we call crisis residential beds. We have also residential beds. We also have treatment of the general population.

I don't know the number offhand of

breaking off the cost, but I could get that to you. So we can get that. But we have a whole array of services, almost like community services and inpatient services we have in the community are in the prison system. So we are working very closely.

We also have discharge planning services that are very intense. We do some wraparound services when seriously mentally ill individuals are leaving prison. We have some specialized housing when they leave prison.

Actually, in the prisons we have two what we call transition units which are two -- and I think it's in now three of the prisons, for individuals who have serious mental illness go for anywhere from 24 to 48 months before they leave prison to give an idea of what it would be like to go into the community. Because we don't want individuals being -- returning to prison.

So we have a whole array of services that we fund in the prison system for both the seriously mentally ill and for the other

issues, people with a mental illness. I believe the total of individuals on our caseload are about 8,000 in the prison system. About half of those -- a quarter of those have serious mental illness. So about 8,000 individuals in a prison system of about fifty -- 49,000, 50,000.

We work very closely with the Department of Corrections. You have to be partners with them if you're doing this work.

ASSEMBLYMAN AUBRY: And your position about the use of isolation for individuals in prison and what effect that has.

OMH COMMISSIONER SULLIVAN: Yeah, it's a very complicated issue. But we are very happy to have two pilot programs that are going on, one in Bedford Hills, which is a women's prison, and the other -- I don't want to say the wrong one -- which are really diminishing the use of SHU tremendously for our clients who have mental illness. And basically those pilots are in close conjunction with the Department of Corrections. So we work very closely

together.

We also screen all patients in SHU and work with any patients who need our assistance in SHU. But those pilots are very exciting in terms of working with how to help individuals with mental illness who may, as part of their issues, do the kind of behaviors that could get them into SHU, to avoid that and get mental health treatment.

ASSEMBLYMAN AUBRY: And Bedford Hills is a women's facility, which tends to be smaller and less restrictive because of the way in which women are treated.

I'm interested in what happens with the men's prisons with the majority of those incarcerated there. And also, how do you deliver cultural competency in a prison setting, particularly when prisons are, for the most of them, are located in upstate regions where finding staff might not be as easy or have associations with the relationships with most of the prisoners who come from the downstate area?

OMH COMMISSIONER SULLIVAN: Yeah,

that's a struggle. It's a struggle for staffing. We do a lot of training, and a lot of that training includes, you know, how you work with individuals who are incarcerated. It also talks about cultural competency. We do a lot of work, we do a lot -- we also do some telework, especially with psychiatrists in our prisons.

But yes, the recruitment and retention and training people appropriately is something we're constantly doing. But you're right, Assemblyman, it's a struggle in the prison system. But we work very hard to do the very best we can.

ASSEMBLYMAN AUBRY: Do you know how you have --

CHAIRWOMAN WEINSTEIN: Thank you. I'm sorry, Assemblyman, the time has expired.

ASSEMBLYMAN AUBRY: Thank you so very much.

CHAIRWOMAN WEINSTEIN: We go to Assemblyman Ra, ranker on Ways and Means, for five minutes.

ASSEMBLYMAN RA: Thank you.

Good morning, commissioner. Just -- I have a couple of questions about telehealth, but just quickly, I know a number of my colleagues mentioned the Rockland Children's Psych Center. I just wanted to, on behalf of my colleague Mike Lawler, you know, convey his concerns with that proposal as well.

But I think Chairwoman Gunther covered it quite well, as did several other colleagues from that region.

Regarding -- you mentioned the telehealth reform proposal earlier. And one of the things that I guess is somewhat unclear to me was the inclusion of audio-only services for coverage. Can you speak about that and if that would be included in the proposals?

OMH COMMISSIONER SULLIVAN: Yeah, currently in all the emergency orders audio-only is included. And we are working to see if that's possible. I think there is support to do it. There are some glitches with Medicare and the influence that Medicare not yet kind of approving that, the influence

that that has on Medicaid's ability to approve it.

I think there is a desire to approve it for Medicaid. I think the Department of Health and others are working out those legal issues. And we are certainly lobbying, I know whole groups are lobbying in Washington to get Medicare to approve it. So there's a lot of push to ensure that we can have audio.

It's worked well, and I think that it has been very helpful for our clients over this period of the pandemic, the audio has been very successful.

ASSEMBLYMAN RA: Okay, thank you for that. I think it's definitely both -- sometimes, you know, just in terms of access, certain people having an easier time doing those type of settings and then certainly, you know, sometimes just in terms of the technological side of it, which, you know, we've even seen this morning.

So this stuff is great when it works, but it doesn't always. And it causes great frustration when it doesn't. So thank you,

Commissioner.

OMH COMMISSIONER SULLIVAN: It's very helpful. It's very strong. And I think, having done some of it myself, the old telephone can work very well.

ASSEMBLYMAN RA: Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

We're going to go to Assemblywoman Gunther for a second five minutes.

ASSEMBLYWOMAN GUNTHER: So there's quite a bit of work behind the scenes, so I'll go quickly, I'll ask the questions and then you can answer it and then I can respond.

What is the total amount for these reductions in funding? For the 5 percent withheld, can you provide me a list of what programs will be impacted, first of all. We heard from providers that the state is planning to restore all but 5 percent of the 20 percent withheld, but there has not been any official word. Is there going to be official word on that? Can you commit today that those agencies will get their funding

cuts back retroactively and provide a timeline for when that would happen?

And also, can you give me more detail about your plan for the transfer of the 100 state-operated community residence beds to voluntary agencies, including where in the state will this transfer be implemented and how capacity in these beds was used to make this determination?

So there's a few questions there regarding some of the budget priorities that you have, and I just kind of need some answers to be able to answer to my constituency.

OMH COMMISSIONER SULLIVAN: Yeah, it's my understanding that the 5 percent cut is going forward. What that will look like, we are working with the -- that's a cut to state aid going forward to the counties, and that's something that we are working with the counties on how they will -- a lot of the decisions will be made at the local level with us about those reductions, that 5 percent of state aid primarily to the local

counties. The --

ASSEMBLYWOMAN GUNTHER: You know, during -- I just want to say for the counties, and to defend the counties at this point, the revenue is going down in the counties, the number of people that are having issues are going up. And to withhold 5 percent to smaller counties and upstate counties really has a definite impact.

So I just want to respond to that. And if you would keep going, thank you so much.

OMH COMMISSIONER SULLIVAN: Thank you. The other is it is my understanding that the 15 percent of that 20 percent withhold will be reimbursed and that it will be retroactive. That's if -- so it's what if. If that $6 billion -- if we get that minimum of $6 billion from the federal government, that that will happen, and that will be retroactive.

ASSEMBLYWOMAN GUNTHER: Will you commit that these agencies will get their money back? Because a lot of times we really

need a commitment to make sure that if we're getting money from the feds, that the money is going to go back into their hands.

OMH COMMISSIONER SULLIVAN: It's my understanding that that's what has been committed to.

ASSEMBLYWOMAN GUNTHER: But we don't need -- you know, I understand that. But I'm asking for a commitment. For my counties across New York State, I think a commitment is very important about that.

So it's evident that this pandemic is going to have a long-lasting impact on people with mental health. Our not-for-profit service providers and their staff have worked tirelessly, again and again. The Executive Budget is enacted and we're waiting for the -- there's a deferral of the COLAs. Will these non-for-profits get this money back?

They are -- they are having a very difficult financial time. They are providing most of the services, these non-for-profits, to people in our communities, so they need this 5 percent in order to continue to exist

in our communities. Is there a commitment that this money will go back to these agencies that are vital to all of our communities?

You know, sometimes, you know, we take money from the most needy -- the most needy areas and we don't, you know, consult with people like me that represent all those people in these communities. So we really need a commitment to give that money back to these non-for-profits. They will not stay in existence. Five percent means a lot to them.

OMH COMMISSIONER SULLIVAN: Whether or not that 5 percent is restored will depend upon the degree of federal aid. I can't give you a commitment on that. That's a decision that will be made based upon the amount of federal aid, as I understand it. But I can't give you a commitment on that 5 percent. Not from me.

ASSEMBLYWOMAN GUNTHER: Okay, so we're going to close 100 state-operated community residence beds. Can you tell me where that money is going to go and into what

communities? And are you evaluating communities in accordance to need?

OMH COMMISSIONER SULLIVAN: Yes. We're evaluating -- thank you. We're evaluating the communities in accordance to need. Those -- the dollars will support the beds in the community.

And as I said before, we -- these will be evaluated primarily if they are truly long-term beds that are on our campuses. We shouldn't be having long-term beds on our campuses. That's a violation of Olmstead, that's something that we should be fixing.

So basically we're doing it slowly, we're looking at these hundred beds, but there will be a hundred comparable beds in the community, and those individuals -- when those beds of those individuals are moved to those community-based beds.

But we're looking at that across the system. And I can give you -- as we decide, Assemblywoman, I'll be glad to let you know where they are.

ASSEMBLYWOMAN GUNTHER: So at this

point in time our communities and our counties have very little money. In order to create these beds, you also need money for our non-for-profits for, you know, increased employees. So is the money that you're investing in our communities because you feel that they shouldn't be institutionalized, et cetera, in those institutions -- so are you going to support the creation of appropriate care for our folks with mental health in the communities? You know, this isn't a cheap thing. We need 24-hour care, correct, we need reimbursement to our communities, we need the money for the purchase of buildings, et cetera, that we don't have at this moment.

So when you say that we're going to support the community, community beds are great -- and also about the money for jobs.

CHAIRWOMAN WEINSTEIN: Thank you --

ASSEMBLYWOMAN GUNTHER: You're saving $4 million from closing those beds. Why are you only investing $2 million? So we need every bit of that $4 million.

CHAIRWOMAN WEINSTEIN: Thank you. Thank you, Assemblywoman.

Commissioner, there's a number of questions there. Perhaps you can send some information in writing and we can share it with all the members, not just with Assemblywoman Gunther.

OMH COMMISSIONER SULLIVAN: Mm-hmm. (Nodding.)

CHAIRWOMAN WEINSTEIN: Senate, do you have anybody else?

CHAIRWOMAN KRUEGER: No.

CHAIRWOMAN WEINSTEIN: We do have one other Assemblymember.

CHAIRWOMAN KRUEGER: No, there's just the one more Assemblymember.

CHAIRWOMAN WEINSTEIN: We have Assemblyman Anderson for three minutes.

ASSEMBLYMAN ANDERSON: Thank you. Can I be heard?

CHAIRWOMAN WEINSTEIN: Yes.

ASSEMBLYMAN ANDERSON: Okay, thank you, Chairwoman Weinstein. Thank you, Commissioner, for being here. And also thank

you, Chairwoman Gunther, and all of our leaders who are here today.

So I have several questions and concerns regarding the cuts to the Office of Mental Health. I think that when we're looking at cuts to this degree, this 5 percent that my colleague mentioned, it's also important for us to mention early intervention, prevention. I know there's some cuts to the crisis intervention budget.

So I want to know in terms of -- separate from the reliance on the federal budget, what are some steps that your agency is going to take to ensure that services are still met even with all of these cuts to the three programs that I've mentioned? Or the focus areas, excuse me that I mentioned. So that's early intervention, crisis intervention, and prevention -- or early intervention, early prevention and crisis intervention, those programs or areas of expertise. Can you answer that?

OMH COMMISSIONER SULLIVAN: The early intervention programs that we fund are not --

we're not cutting those.

ASSEMBLYMAN ANDERSON: The prevention, the crisis prevention.

OMH COMMISSIONER SULLIVAN: Oh, the crisis prevention? We're not cutting those.

ASSEMBLYMAN ANDERSON: Yes.

OMH COMMISSIONER SULLIVAN: We're -- I'm sorry --

ASSEMBLYMAN ANDERSON: If I understand correctly, I'm looking at page 72 of our book here, it looks like there is a reduction for that office, care coordination and -- I'm just looking at it here.

I just want to make sure that there's a plan to kind of fill in those services. If you look at, for example -- I'm sorry?

OMH COMMISSIONER SULLIVAN: I'm sure -- please, if you can get us that, because I'd be glad to get you back the details, Assemblyman. I'm just not familiar with the --

ASSEMBLYMAN ANDERSON: Okay, that's fine.

OMH COMMISSIONER SULLIVAN: I'm sorry,

but I'm not.

ASSEMBLYMAN ANDERSON: And -- okay, that's fine.

So when we're also talking about the downsizing -- and I guess I'm looking at it in a different light than you in that respect. If we're looking at the downsizing here, the state-operated facilities, you're talking about a reduction in 200 beds. For me, that's -- that's inter -- you know, a prevention mechanism to be able to have those services, wraparound services under one roof.

But what I'm asking is in terms of making sure that we preserve those services, what is your plan or strategy to preserve those services?

OMH COMMISSIONER SULLIVAN: So basically the individuals who -- the cutting -- lowering those beds enables -- we'll be moving individuals into the community. And as we move them into the community, we have what we call mobile integration teams with our hospitals, we have Pathways to Home teams with our hospitals. They all help these

individuals move into the community and stay in the community. And it's the movement of those long-term patients that enable us to close the beds.

So basically those services will continue. That's what we've been doing all along in terms of the reduction in beds that we've had. And we wrap these services around the individual. They then get hooked into all the community-based services that we support -- the clinic services, the rehab services. All the services that are available -- the home-based crisis intervention services, all those services. So we will be maintaining those, the individuals.

And only when beds have absolutely been vacant for a protracted period of time do we close them, so we're sure that we've been able to move people successfully and that we don't have a need at the front door, either, for individuals to come in.

ASSEMBLYMAN ANDERSON: Don't you think --

CHAIRWOMAN WEINSTEIN: Thank -- thank you. Thank you, Commissioner.

So now we are -- I'm going to turn it back --

ASSEMBLYMAN ANDERSON: But Chairwoman, I had one follow-up. I just had one follow-up.

CHAIRWOMAN WEINSTEIN: Your time has expired. You can send -- if you could share with my staff, and we will make sure that the commissioner gets that information.

ASSEMBLYMAN ANDERSON: Thank you, Chairwoman.

CHAIRWOMAN WEINSTEIN: So I'm going to turn it back to Assemblywoman -- I'm sorry, Senator Krueger, because -- since this panel has ended, and she will be calling the next witness. Thank you.

CHAIRWOMAN KRUEGER: Thank you very much.

And thank you very much, Commissioner Sullivan, for answering the questions. And I think you have quite a few homework assignments for following up with us.

OMH COMMISSIONER SULLIVAN: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

I would next like to call up the New York State Office for People With Developmental Disabilities, Dr. Theodore Kastner, commissioner.

Then, again, just reminding everyone of the rules of the road. Then Senator Mannion and Assemblymember Abinanti, as the two chairs, will each have 10 minutes of questioning, then their rankers have five minutes of questioning, and then everyone else who's a member of the committees participating with us today will have three minutes. But when you ask a question -- so everybody get ready -- the answer has to come within that time period also. That's why we have the clock there. And we've added a flash when it gets to zero.

And simply because there are so many government witnesses today and we are already at almost noon and we're coming to number two out of quite a few pages of testifiers, unfortunately Helene and I will have to be

strict gatekeepers.

So with that, welcome, Commissioner Kastner.

OPWDD COMMISSIONER KASTNER: Thank you. And good morning, Chairs Krueger, Weinstein, Mannion, Gunther, Abinanti and other distinguished members of the Legislature.

I'm Ted Kastner, commissioner of the New York State Office for People with Developmental Disabilities. Thank you for the opportunity to provide testimony about Governor Cuomo's fiscal year 2021-2022 Executive Budget and how it benefits the more than 126,000 New Yorkers served by OPWDD.

Governor Cuomo continues to make strategic investments in the OPWDD service system designed to maintain access, increase equity and enhance the sustainability of our community-based, person-centered service system. These investments have enabled OPWDD to invest approximately $710 million in the salaries of direct support professionals and clinical staff since January 1, 2015.

These investments have also enabled OPWDD to increase the number of individuals supported through most of our programs, including the Home and Community-Based Waiver, which increased by nearly 28 percent over the past seven years; Self-Direction, which increased by more than 160 percent over the past four years; independent living arrangements, which increased by 170 percent in the past eight years; day program and employment options, which increased by 11 percent over the past five years; and an increase in the number of people receiving respite by 22 percent over the last five years.

In addition, our care coordination organizations have increased enrollments by 6 percent between July 2019 and June 2020.

OPWDD also continues to offer housing supports in the community to more than 36,000 people who are currently living in certified community-based residential programs. These residential opportunities alone support a budget of $5.2 billion in public resources

annually.

The Governor's fiscal year 2022 budget builds upon these accomplishments. Despite the global pandemic, in fiscal year 2022 growth in state spending on OPWDD programs will increase to almost $4 billion, or more than $9.1 billion when all shares funding is included. These new resources, which increase state spending on OPWDD supports by about $110 million, or 2.8 percent year over year, will fund minimum wage increases for staff in the nonprofit sector with a new investment of $32 million in state resources, which equates to $58 million in all shares funding to support the transition to a $15-per-hour minimum wage.

The new resources will also support new services for OPWDD-eligible individuals and their families for the eighth consecutive year and commit an additional $15 million in new capital funding to continue efforts to expand the availability of affordable housing opportunities for the seventh consecutive year.

In addition, the budget supports OPWDD's ongoing efforts to enhance our ability to deliver person-centered services. In fiscal year 2022, OPWDD will increase access to residential services in the most integrated settings by expanding the options available to individuals across our continuum of supports, including apartments with wraparound support and family care. OPWDD will also assist individuals who have aged out of their residential schools to move to appropriate adult residential opportunities.

OPWDD will continue to allow individuals to receive community habilitation and respite using tele-modalities and make investments in respite opportunities for those families in need of short-term support.

Finally, we will enhance and strengthen the quality of research for people with developmental disabilities by transitioning the Institute for Basic Research from OPWDD to the Office for Mental Health, leveraging their research expertise. OMH will work with its partners, including

the New York State Psychiatric Institute, to improve and expand the quality and scope of research activities supporting our needs.

I would also like to take this opportunity to recognize the impact that COVID-19 has had on our community. Our highest priority has always been to preserve the health and safety of our individuals and families. I deeply appreciate the extraordinary sacrifices that individuals and families have made.

Our response to COVID-19 has been made possible only by the incredible work of the direct support professionals and clinical staff who daily have demonstrated courage, commitment and compassion in supporting individuals with developmental disabilities over this past year. These amazing women and men have been at the front lines of our war against the pandemic, and I am personally grateful for their continued dedication.

And finally, the many leaders of our voluntary provider organizations, in addition to our state operations staff, have been

fully engaged in this effort and have been key partners in quickly and effectively mounting our statewide response.

Our response to the pandemic included the creation of COVID-19 specific data reporting systems that were later modified and expanded to include mandatory reporting through a 24-hour hotline which informed deployment of statewide resources. We dedicated over 100 staff to contact-tracing efforts within our system of supports. We provided financial and regulatory relief to the service providers. We issued over 80 guidance documents and offered countless trainings to assist providers in ensuring the health and safety of our families, individuals and their staff.

We also quickly launched mitigation and containment efforts, which included visitation restrictions and program suspensions. We worked with providers to establish additional facilities to treat and house individuals who contracted the virus both in residential settings and in the

community, and we greatly expanded provider flexibility through Appendix K and waiver authorities.

We have met regularly -- at the beginning of the pandemic, this occurred several times per day. We continue to meet biweekly with our stakeholder groups, including provider associations, family and self-advocacy support groups, and care coordination organizations, to share information, including data related to COVID infections, for feedback and to answer questions.

We've also revamped our website and integrated a new listserv application to help us improve our communication with all stakeholders.

The pandemic has taught us a lot about being flexible. We've made a number of changes to the way we deliver services in our system. One of these changes is the delivery of teleservices. We support the Governor's executive proposal to expand telehealth services, which will make services more

accessible to individuals, particularly those in rural areas of the state.

With these thoughts in mind, I want to thank you for your continued partnership and your support for individuals with developmental disabilities. I look forward to answering any questions you may have.

CHAIRWOMAN KRUEGER: Am I now unmuted? Yes. Thank you very much, Commissioner.

Our first questioner will be the chair of the committee, Senator John Mannion.

SENATOR MANNION: Thank you, Senator.

Thank you, Commissioner, for your report. And it's nice to see you again.

As chairman of the new Senate Committee on Disabilities, I'm extraordinarily concerned about the state-funded services, or lack thereof, for individuals with developmental disabilities and intellectual disabilities. These programs are chronically underfunded in the best of times, and when times get tough, budgetary times get tough, like the one we're in the midst of now, they seem to be the

first to get cut. And I'm hoping that we can begin to change that destructive pattern.

I can assure you, my colleagues, and those watching the feed that I will vigorously object to any cuts when we should be doing the opposite and investing in the system.

So, Commissioner, I ask within the Executive Budget Proposal Book, it states that OPWDD will undertake several initiatives to manage access to residential opportunities, with the goal of ensuring that people live in settings that most appropriately align with their needs. So ensuring that people live in these settings and it aligns with their needs, can you explain exactly what that means and what assurances you can provide that people who need access to 24/7 care will still be able to find it?

OPWDD COMMISSIONER KASTNER: Well, thank you. And congratulations on your appointment as chair of the committee. We look forward to working with you, and I hope

this is a long and productive relationship.

There are opportunities for us, particularly in light of COVID, to refocus our energy on providing person-centered services, in particular to try to address the individual needs of our individuals and families around residential services.

We're proposing several modifications, and the first is to strengthen our ability at the point of contact, which is typically the regional offices, to offer families new to the residential service system opportunities that may be more reflective of their needs and may be more person centered.

We will be consolidating access to all of our residential opportunities through that point of contact, and that will include not just access to supervised and supported IRAs, but also access to independent living in apartments, with potentially some wraparound services, and also access to the Family Care Program.

We've experienced an increase in demand for both apartment living and access

to family care. We think coordinating access to those services at a single point of entry will improve our ability to deliver services in a more person-centered manner.

In terms of individuals who are currently residing within our system, there is an opportunity for us to look at how we support those individuals, our provider system, and in particular to focus on our reimbursement methodology. We currently have a cost-based reimbursement methodology which pays a provider a certain rate regardless of what the needs of the individual might be. We believe -- and we've actually discussed this with all of our stakeholders, our residential providers, our families and individuals. But we believe that a payment model that's based on the needs of the individual and reflect the individual's acuity is a more appropriate model.

As I said, we've been working with our stakeholders, we're working with the actuaries. We will propose later in the year a redesign of the payment methodology. We

will incorporate that into our waiver, which means there will be public comments and opportunity for greater feedback on the proposal. But our hope is that later in the fiscal year we can integrate a new payment methodology which will be more reflective and responsive to the needs of individuals based on their acuity.

SENATOR MANNION: Thank you for that. I will be interested to see that and hopefully work collaboratively to try to land at a good spot.

In relation to the residential facilities, how many certified residential vacancies are there currently within the system?

OPWDD COMMISSIONER KASTNER: I'm sorry, how many vacancies are there?

SENATOR MANNION: Yes.

OPWDD COMMISSIONER KASTNER: I actually don't have a count on the number of vacancies. I apologize for that.

SENATOR MANNION: Okay. I appreciate that, Commissioner. And I believe we

provided these questions ahead of time.

And, you know, as you can imagine, individuals and families are very concerned about the availability when they -- when it has been deemed that they need to enter a facility. So I just want to I guess highlight that, that if there are vacancies available and people are on a list, that hopefully that those average -- the average length of time that those vacancies are in place is as short as possible so that those people can get into the settings that work best.

You know, so another question, I guess I would say, is who's responsible for approving the level of residential services required for individuals? If you could just kind of run me through that, I would appreciate it.

OPWDD COMMISSIONER KASTNER: Sure. We have a process whereby individuals and their families who request residential services undergo an assessment through our regional offices. Our regional offices, with the

families, make a determination about the level of need and the types of support that they may require.

As I said, we want to expand the options that are made available to families at that point of contact so that we can provide them with the most appropriate, least restrictive setting that might be necessary to meet their needs.

So that planning process occurs at the regional level, a more local level. It's not centralized within OPWDD's central office.

SENATOR MANNION: Gotcha, I appreciate that. And, you know, I understand the commentary you made before.

Moving a little bit beyond that, the Executive Budget includes more than $330 million in cuts to voluntary providers. And this, combined with the October 1st, now May 1st cuts to residential programs, amount to more than $550 million.

While I'm glad that the proposed reductions to residential providers for the occupancy factor and therapeutic leave days

were delayed, I still am concerned about the impact those reductions will have on the provider's ability to provide high-quality supports for the most vulnerable people that need that help.

Are there additional cuts that OPWDD is planning on?

OPWDD COMMISSIONER KASTNER: Well, let me try to unpack a little bit of what you've described.

So as I testified at this committee last year, OPWDD was required by the budget to make the equivalent of a 2 percent reduction in spending. We did not offer a specific plan at that time, but all of our stakeholders knew that we were going to have to make a reduction during the fiscal year.

Shortly after that testimony, in March, we began to experience the impact of the COVID pandemic, and we thought very carefully about what our reductions should be. We met with numerous stakeholders and asked for their input as to where we should prioritize our investments and consequently

look at where we could make reductions.

We determined that at the time it was best that we preserve the funding that we had just gained for the salary increases for DSPs. We also made a commitment to all of our stakeholders to preserve services and to minimize any impact on loss of service. We also looked for opportunities to maximize federal financial participation and enhance the match.

Having prioritized our service system and potential revenue reductions in that manner, we then looked at the elements that you described, things like the occupancy factor. The occupancy factor is a payment made to providers to pay for the maintenance of a vacant residential opportunity. There are no individuals in that bed, if you would like to call it. We felt that it was prudent to avoid cutting DSP salaries, cutting service from other stakeholders, and to focus our efforts on these narrowly defined targeted reductions in the occupancy factor.

Unfortunately, that did mean that the

burden of the cuts fell on our residential providers. I recognize that that is a hardship for them. But at the same time, no individual lost access to services as a result of the elimination of funding for the occupancy factor.

The second area that you mentioned was that of the therapeutic leave. Therapeutic leave was an open-ended opportunity for individuals to leave their residential setting for whatever reason, for whatever length of time, and in the prior therapeutic leave OPWDD would pay the provider their full rate for that open-ended period of time.

We felt that that was an opportunity to rationalize the payments that were made to support that activity. We capped the number of days of therapeutic leave at 96 per year, which we still think affords families the opportunity to bring their loved ones back home for periods of time over the course of a year.

We also were forced to reduce the payment from 100 percent of the residential

provider's effective rate to 50 percent of the provider's rate. Again, I recognize that that created a hardship for our residential providers. However, we believe it was a superior alternative to reducing DSP salaries, cutting other services or other activities.

CHAIRWOMAN KRUEGER: Commissioner, we've gone over, so I'm going to --

OPWDD COMMISSIONER KASTNER: Oh, I'm sorry.

CHAIRWOMAN KRUEGER: That's okay. There will be other people who follow up on this question, I have no doubt, since it's important to so many.

I'm going to now hand it over to the chair of the Assembly Committee on People with Disabilities, Assemblyman Abinanti.

ASSEMBLYMAN ABINANTI: Thank you, Senator.

Good morning, Commissioner.

I'm going to start off by saying we have a crisis of capacity. You rightfully highlighted that we have an increasing number

of people who need services, but frankly we're not providing them.

But let's start off with any good department that intends to meet the needs of people in the state does good planning. Can you tell me why no 5.07 Plan has been filed for OPWDD since 2012? When do we expect to get the next OPWDD 5.07 Plan, a five year plan?

OPWDD COMMISSIONER KASTNER: There will be an OPWDD 5.07 Plan filed this year.

ASSEMBLYMAN ABINANTI: Filed this year, thank you.

And what about the autism study? In 2018 the Legislature passed and the Governor signed a bill that was A261 at the time that said that -- excuse me, that said we needed a study to determine what the needs of people with autism are and what it would cost the State of New York to meet those needs. When do we expect we'll get that study?

OPWDD COMMISSIONER KASTNER: That study will be completed this year also.

ASSEMBLYMAN ABINANTI: Thank you.

Now, I'm a little concerned about the commitment of the state to people with special needs. I'm looking -- in 2014 the state All Funds spent $4.7 billion. You're proposing here a $4.9 billion budget, which is a $60 million decrease from last year. What kind of a commitment, how are you going to meet all those needs if we have all of these people seeking more and more of these services, and yet there's going to be a decrease, and it's virtually the same as it was seven years ago?

And if we take a look, this is also affecting -- this is also affecting our voluntary agencies. If you look at the actual Aid to Localities in 2019, it was $3.2 billion. But in 2020 it was only $1.9 billion. And now you're projecting, for 2021, about $3 billion. With all of the increased needs -- first of all, what happened in 2020? Why did we spend so little? How much is outstanding to the providers and people with disabilities? How much do we owe?

OPWDD COMMISSIONER KASTNER: Assemblyman, I must apologize. Can you run the --

ASSEMBLYMAN ABINANTI: Sure. 2019 was $3.2 billion, 2020 was $1.9 billion -- is projected for the next few months -- and 2021, you're asking for 3 billion in Aid to Localities.

OPWDD COMMISSIONER KASTNER: Well, our local assistance payments are much, much smaller than that. They're on the order of 300 to 400 million dollars per year. I apologize, I don't know where you got these numbers.

ASSEMBLYMAN ABINANTI: These are actual disbursements. They're published numbers.

OPWDD COMMISSIONER KASTNER: For OPWDD?

ASSEMBLYMAN ABINANTI: Yes.

All right, let me ask you, how much -- how much of the monies that you spent this year are accounted for in the rollover from the Medicaid of last year? What percentage

of your expenditures were actually for last year's bills?

OPWDD COMMISSIONER KASTNER: We don't have a rollover. We operate on a cash basis.

Our providers have a period of about three months to submit --

ASSEMBLYMAN ABINANTI: No, no, commissioner, at the end of the quarter of last year the Governor withheld payments on Medicaid, and he rolled them over into this year. It was something like a billion dollars of the last quarter that got rolled over. You're not familiar with that?

OPWDD COMMISSIONER KASTNER: No, that was not something that had an impact on OPWDD.

ASSEMBLYMAN ABINANTI: Well, your department has Medicaid. All of the people who get your services must be on Medicaid, correct?

OPWDD COMMISSIONER KASTNER: Not necessarily. We have a small number of individuals who we can --

ASSEMBLYMAN ABINANTI: Okay, but

almost all.

OPWDD COMMISSIONER KASTNER: That's fair enough, sure.

ASSEMBLYMAN ABINANTI: So you're not affected by a rollover of Medicaid from last year.

OPWDD COMMISSIONER KASTNER: We have a fiscal plan with a target, and we operate on a cash basis. We spend to that --

ASSEMBLYMAN ABINANTI: Any of the money that came from COVID relief, did any of that go to the voluntary agencies like it did in other states?

OPWDD COMMISSIONER KASTNER: The New York State Division of the Budget manages the receipt of COVID relief funds, and each --

ASSEMBLYMAN ABINANTI: Right. So you're not aware of any money having passed through your department going to the voluntary agencies, correct?

OPWDD COMMISSIONER KASTNER: The monies that are used by DOB, received from the federal government by DOB, are used to support all programs. They're not passed

through, they're used to --

ASSEMBLYMAN ABINANTI: Now, Commissioner, I'm understanding that there is a very significant waiting list just to get processed for eligibility for services. How long is that waiting list, do you know?

OPWDD COMMISSIONER KASTNER: We have a process of -- called the Front Door, which supports --

ASSEMBLYMAN ABINANTI: How many people have gone through the Front Door and are still waiting to be processed?

OPWDD COMMISSIONER KASTNER: I don't know that I fully understand the question, but I --

ASSEMBLYMAN ABINANTI: In the Lower Hudson Valley I am aware of several hundred people on a waiting list just to get approved for eligibility. So what is it statewide?

OPWDD COMMISSIONER KASTNER: There is a process with people --

ASSEMBLYMAN ABINANTI: So you don't know the number.

OPWDD COMMISSIONER KASTNER: --

engaged in determining their eligibility --

ASSEMBLYMAN ABINANTI: Commissioner, you're not aware of the number, you just tell me there's a process.

OPWDD COMMISSIONER KASTNER: Yeah, and I think, you know, it sometimes means they've got to come back and collect information about --

ASSEMBLYMAN ABINANTI: Commissioner, I'm very concerned about -- on March 31 of 2010, OPWDD had 21,500 employees. You are proposing in your budget that on March 31, 2022, there will be 18,600 employees. That's almost 3,000 employees fewer than you had in 2010. Could that be why we have such waiting lists and why people can't get declared eligible for services?

OPWDD COMMISSIONER KASTNER: We process every application for every individual who applies for services. Sometimes --

ASSEMBLYMAN ABINANTI: Eventually. Eventually.

OPWDD COMMISSIONER KASTNER: No,

there's a process, and sometimes it's a lengthy one because reports, assessments and other types of material need to be collected.

ASSEMBLYMAN ABINANTI: Commissioner, right now somebody in Westchester County who's going into the system for the first time must go through an entire process with about seven steps, maybe eight steps, and it takes two years. Are you aware of that?

OPWDD COMMISSIONER KASTNER: I can't speak to the length of time for any specific individual.

ASSEMBLYMAN ABINANTI: Commissioner, I would ask that you maybe look into it.

OPWDD COMMISSIONER KASTNER: I would be happy to.

ASSEMBLYMAN ABINANTI: Now, you're talking about money for minimum wage. Is there any new money in your budget to pay for minimum wage? My understanding is you're actually proposing that we defer the cost of living for DSPs so that we can pay for the minimum wage, is that correct?

OPWDD COMMISSIONER KASTNER: No, there

is an appropriation of $32 million, state share --

ASSEMBLYMAN ABINANTI: Correct.

OPWDD COMMISSIONER KASTNER: -- which when --

ASSEMBLYMAN ABINANTI: Now, but you are also proposing we defer the cost-of-living increases, the COLAs, correct?

OPWDD COMMISSIONER KASTNER: There's no cost-of-living increase in the budget.

ASSEMBLYMAN ABINANTI: Right. So we're deferring what was supposed to be a COLA and we're instead going to get a new headline that says we're going to meet the minimum wage, correct?

OPWDD COMMISSIONER KASTNER: I'm sorry, I can't comment on -- on --

ASSEMBLYMAN ABINANTI: Okay. Part of your system -- in July of 2018, the Governor -- or your department created this system of care coordination organizations, July of 2018. For the first two years it was paid for 90 percent by FMAP funds, federal Medicaid funds. As soon as it became a state

fifty-fifty match, last year, July 2020, you imposed a 16 percent rate cut, correct? A $73 million savings, is that correct?

OPWDD COMMISSIONER KASTNER: Yes --

ASSEMBLYMAN ABINANTI: All right, now you're proposing for this May another 23 percent rate cut, is that true, another $309 million, quote, savings?

OPWDD COMMISSIONER KASTNER: There is a rate cut of approximately $53 million. There's also a withhold of approximately $40 million.

ASSEMBLYMAN ABINANTI: Okay. So what we're saying here, then, is that you're basically going to cut almost 40 percent of the rate for the entry level for anybody going into OPWDD. Before they get anywhere near OPWDD, they need to have a care coordinator. And now we're going to cut the rate that we pay care coordinators 40 percent, is that what you're saying?

OPWDD COMMISSIONER KASTNER: No. As -- as you mentioned, this was a new program that launched in 2018. Prior to July

of 2018 we contracted with approximately 350 agencies called Medicaid --

ASSEMBLYMAN ABINANTI: But now we have seven statewide agencies with about 3,000 people handling all of the people who want to get into the system or are already in the system. These people do a huge amount of work, and yet we're going to cut them 40 percent, is that correct?

OPWDD COMMISSIONER KASTNER: As I -- I think the context in understanding the targeted reduction is that we increased spending on care coordination by 60 percent, between the MSC program and the CCO program. On July 1st of 2018 our total --

(Overtalk.)

ASSEMBLYMAN ABINANTI: Because you put it into effect then. Now everybody who wants to get into the system has to have a care coordinator, is that correct?

OPWDD COMMISSIONER KASTNER: No, it's not --

ASSEMBLYMAN ABINANTI: Are you aware that there are not enough care coordinators

and there are not enough fiscal intermediaries and there are not enough any of the people that you've set up? You've got like an eight-step process before anybody can get any services, and now you're not paying them enough and there's not enough of them to handle all of the applications, Commissioner.

I ask that you take a look at that and take another look at your budget.

I think my time is out, thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

We go to the Senate.

CHAIRWOMAN KRUEGER: Thank you very much. I'm just checking, is our ranker Senator Martucci here with us? No.

THE MODERATOR: We have not seen him.

CHAIRWOMAN KRUEGER: We've not seen him. Okay, then we will skip him and we will go to the Assembly ranker -- I'm sorry, we don't go to the Assembly, we go to a different Senator. Excuse me. And I'm just double-checking whether we have other Senate hands up yet. And we don't, so we are going to go to the Assembly for now.

CHAIRWOMAN WEINSTEIN: Thank you.

We go to Assemblywoman Miller, the ranker on OPWDD, for five minutes.

ASSEMBLYWOMAN MILLER: Hi, good morning.

Good morning, Commissioner, how are you?

OPWDD COMMISSIONER KASTNER: It's nice to see you again.

ASSEMBLYWOMAN MILLER: Nice to see you. Thank you for being here.

As you know, I live in the world of people with disabilities who are serviced through OPWDD, and I've made it pretty public that I have a child in the system who has the ability to fall through many cracks. As you also know, I'm very committed to representing those like Oliver who have such difficulty accessing what's supposed to be available to help them.

I want to say on record that having met you and spoken with you so many times, I really do believe that you have a great understanding of our population's needs and

truly believe that you're listening to us, which is refreshing, and trying to improve the system. So I want to thank you for that.

I can't imagine -- I know it must be very difficult to try and do this in our state where we, where you, OPWDD, is not ever a priority in our budget. With a population that, as you said, is growing and growing, you're asked to make more and more cuts. Money is there in our budget, but it goes elsewhere instead of to help our most vulnerable. So I don't envy your task.

As Tom was alluding to, you know, these cuts, there's more cuts that have come out about 40ish percent towards CCOs. That being said, you know, with all of these cuts and you're being accused of cutting here and cutting there, how do you allocate -- I'm just going to ask the several questions that I have and then you can answer at the end, if that's okay.

So the first is, how do you allocate your monies? How do you decide what gets cut? Like is it CCOs or therapeutic leave

days? Or are there ever cuts from within your administration, the administrative offices, rather than just spitting it out to program services, other organizations?

My next question is regarding day programs. As you know, many are still closed due to the COVID, the lowered census, but which leaves so many people just languishing at home with nothing to do.

What alternatives -- it's almost a year -- are we coming up with that are being offered? And are you going to advocate strongly to reopen all the day programs to continue the mission of integrating our loved ones into the community?

It seems like our population is forgotten during COVID. We were in no phases, there were lots of excuses. We're still not being considered. When budget cuts need to occur, somehow we seem to be at the top of this list. So it's funny to me how we're not even a thought during phases and pandemic strategies, but we're the top of the list, the first thought, for budget cuts.

And lastly, regarding that, this vaccine distribution. You know, I was very happy to see that people with disabilities were included in the vaccine distribution phases, but only for those in congregate settings. While I understand that, what about those living at home, which are way more numerous? They are stuck. We're stuck, can't go out, can't go to day programs, can't go to school, can't -- unless they are considered to receive the vaccine. And will you advocate for them to have a phase here, to have a voice here? I know I've been writing and calling and emailing, but can you advocate for them?

OPWDD COMMISSIONER KASTNER: Well, Assemblywoman, I apologize that in the minute I have I won't be able to respond to every question.

But in terms of how we allocate our funding, I tried earlier to outline our prioritization as we approached last year's budget, and I would say we will continue to prioritize in the same fashion in this year

going forward. We will try to preserve our DSPs' salaries so that we stabilize our workforce. We will try --

ASSEMBLYWOMAN MILLER: Do you ever cut from within the administrative, within those offices, rather than outward?

OPWDD COMMISSIONER KASTNER: I don't believe it's a secret, but there has been a freeze on salaries for state employees. There's also been a freeze on hiring for non-clinical roles within OPWDD.

So in terms of state-operated functions, there is an effort to look at cost-containment activities.

ASSEMBLYWOMAN MILLER: Okay, we're not going to get to the other questions. I would hope that they could be answered and addressed in some other way if not -- we can't speak about it on here. I would appreciate that.

OPWDD COMMISSIONER KASTNER: Certainly.

CHAIRWOMAN WEINSTEIN: Commissioner, if you could share the answers to the

Assemblywoman's questions with my office and Senator Krueger's office, and we'll make sure they're distributed both -- not only to Assemblywoman Miller, but to all of the members who are on the call today.

We go now to the Senate.

CHAIRWOMAN KRUEGER: Thank you.

Actually, Commissioner, that was where I was going to start, that these questions being asked of you, we would love to see the numbers broken out somehow by region on a statewide basis. Because we'll have individual members talking about the experiences from their own districts, but I don't think there's any of us who are hearing a different story.

So I want to ask you specifically around Manhattan, where I come from, in New York City, we have seen such enormous waitlists for adults living with elderly parents where the elder parent is trying to plan for, unfortunately, their own passing and what's going to happen to their adult children who they have amazingly been able to

keep with them for 40, 50, even 60 years but can't possibly function independently.

Where are we on keeping track and actually having waitlists that are either going up or down for making sure that these folks are not left unattended when the parents can no longer care for them or, particularly in light of COVID, the parents pass?

OPWDD COMMISSIONER KASTNER: So I realize that's a difficult situation for older parents.

As people come to the regional office and ask for access to residential services, there is a prioritization process. We identify approximately 800 families who have an emergent need during that assessment. Each year we have turnover within our existing residential capacity of approximately a thousand opportunities per year. We are able to meet the need for everyone who has an emergent need for residential services. And that would include, I think, the older parents that

you're describing.

There's some people who are very proactive and they come to us and seek residential services at some point in the future, particularly for younger children and individuals. We don't consider those to be urgent. We do maintain a list of them, but they would not be the priority for placement. Priority would go to folks who are older, as you described it, people who are ill, who have COVID and can't take care of their children, things of that type.

CHAIRWOMAN KRUEGER: And you're saying you have adequate placement services, that everyone who comes to you with this story gets a placement for their adult child?

OPWDD COMMISSIONER KASTNER: We can support everyone who is in the emergency category for placement each year, through turnover in our existing residential capacity.

CHAIRWOMAN KRUEGER: So I'm not nearly the expert that the chair, Tom Abinanti, is. So when he was talking about not being able

to get through the I guess gatekeepers. So when you answered that question for me, that is for people who have successfully gotten through the gatekeepers?

OPWDD COMMISSIONER KASTNER: There is an eligibility process for OPWDD services. The process is called the Front Door. Individuals and families need to present evidence that the individual has a disabling condition that results in significant functional deficits and is expected to last for the lifetime of the individual.

CHAIRWOMAN KRUEGER: So if I've been in OPWDD nonresidential, I don't have to go through a new review process at that time?

OPWDD COMMISSIONER KASTNER: Correct. You would go through a process of assessment of need relative to the request for residential services.

CHAIRWOMAN KRUEGER: Got it. All right.

I just want to quickly make an announcement. Apparently it's worth having these budget hearings, because I have been

told that there will be an immediate release of the funds for the suicide services that everyone has been so concerned about and talking about, mostly in the previous Office of Mental Health section of this hearing. But I think that we can all give ourselves a hand that we all spoke out and talked about how critical emergency service suicide is, and so suicide now apparently has been moved to a category of release of funds, recognizing that suicide should be treated as an emergency, particularly in times of COVID -- I would argue at all times. So I just wanted to throw in that we have some good news here.

And I will cede the rest of my time to the Assemblywoman.

CHAIRWOMAN WEINSTEIN: Thank you.

Now we go to Assemblywoman Gunther for five minutes.

Aileen, you have to just unmute yourself to begin. There you go.

ASSEMBLYWOMAN GUNTHER: So -- good morning, everybody.

So my first question is due to the COVID pandemic, what is the level of savings that was achieved by OPWDD because of the decreased disbursements? And also that we have heard from several provider agencies across the state who are dealing with exceptionally high vacancies in their districts to support their workforce. Does OPWDD have a plan to help them?

OPWDD COMMISSIONER KASTNER: Thank you. A pleasure to see you again.

It -- it -- we're still in the process of collecting the data from our providers as to the costs that they incurred as a result of COVID and the cost of the services that they provided.

But I don't believe that there are substantial savings that resulted as a result of program closures or suspension of activities. I'll give you an example of day programs in particular. On March 24th, we closed all day programs across the state, but we continued to pay the providers for day program services all the way through the

middle of July, using what were called retainer payments which were approved through our Appendix K application to CMS.

So from March 24th through July, there were no savings on day program services. Providers received the full amount of funding that they had received, and they were able to redeploy those staff --

ASSEMBLYWOMAN GUNTHER: Till July, right?

OPWDD COMMISSIONER KASTNER: -- to different settings, including residential programming.

In addition, at the same time we expanded the range of opportunities for people to receive day program services. So we added what was called COM-HAB R, the ability to provide community habilitation in residential settings, and made that available to the 35,000 people -- 36,000 people in certified residential who could no longer go to a day program.

So we were effectively paying for day program services twice, once through the

retainer program and the second through COM-HAB R.

For those families who were --

ASSEMBLYWOMAN GUNTHER: That was only for the first six months, though, right?

OPWDD COMMISSIONER KASTNER: -- at home and couldn't access their day program, we afforded the opportunity to receive COM HAB on a tele basis. So we tried to support the 20,000 families who had individuals at home who lost access to their day program. So again, we were paying for a duplication of service for those four months.

The federal government ended the retainer program for day programs in the middle of July. At that time the pandemic was waning. We removed the order to close all day programs. We allowed every day program to reopen based upon whether they wanted to. If they chose to reopen, they had to submit a safety plan. We received 225 safety plans from our day program providers. Many providers told us that they didn't have the same demand as previously, partly in part

due to the now availability of competing services, Community HAB R and the delivery of COM HAB via tele.

We increased the rate, effectively doubled the rate paid to day program providers by reducing the length of service required to bill for both full-day and half-days. That effectively doubled the rate for the services that we provided through day program, simultaneously with the ongoing commitment to COM HAB R and the delivery of COM HAB in a family's home via tele.

So I think it's clear in terms of what we were doing that we actually bore more costs in providing these services than we had previously.

ASSEMBLYWOMAN GUNTHER: Thank you.

So, you know, during -- I had a lot of calls from parents during the time when their loved ones weren't going out to these programs, and a lot of them said there was a lot of difficulty in isolation, so I was concerned about that.

So you had a little bit of savings

this year, and I just want to know how you're going to reinvest it.

OPWDD COMMISSIONER KASTNER: Well, Assemblywoman, I'm not sure that we have savings this year as a result of --

ASSEMBLYWOMAN GUNTHER: Okay, thank you.

CHAIRWOMAN KRUEGER: Thank you.

Senator Diane Savino, whose hand won't be raised for some reason.

SENATOR SAVINO: I'm coming, I'm coming. Oh, there I am. Now I can't seem to -- the video won't open. Oh, there --

CHAIRWOMAN KRUEGER: We've got you both ways.

SENATOR SAVINO: All right, thank you.

Dr. Kastner, I'll be brief, because I know there have been so many issues that people want to cover with you. But I want to cover an issue that is close to home to us here on Staten Island, specifically the fate of IBR. So if you could talk to us about -- what we're hearing is the closure of IBR again, the shifting of the researchers that

are there.

What's happening, and what can we do about this? Because there's a lot of concern about the loss of the Institute for Basic Research.

OPWDD COMMISSIONER KASTNER: Well, the institute is not being lost. As I described in my testimony, we are transferring responsibility for the operation of IBR from OPWDD to OMH.

OMH has experience running three research institutes; this would be their fourth. We believe that that can be effective in improving the quality of the research that's being performed there. OMH has numerous partners that they can work with, most notably the New York State Psychiatric Institute, and we hope that that can improve, again, the quality of the research that's being performed at IBR.

SENATOR SAVINO: But what guarantee can -- do we have? I mean, are we talking about transferring the physical location of the Institute for Basic Research or just the

administrative oversight of it?

OPWDD COMMISSIONER KASTNER: The programmatic component, the staff and the programs that are affiliated with those staff.

SENATOR SAVINO: So you're taking it off of Staten Island, out of the facility that houses it.

OPWDD COMMISSIONER KASTNER: No, OPWDD is transitioning the responsibility for operating the program to OMH.

SENATOR SAVINO: Right, okay. That I understand. But will the Institute for Basic Research remain in its current building and then be operated by OMH? I think that's the question I'm asking.

OPWDD COMMISSIONER KASTNER: The program will remain at Staten Island. I can't speak to specifically what OMH would do with its various partners in terms of the specific research programs.

SENATOR SAVINO: Okay. But it will -- the jobs will remain there, the program will remain there, you won't supervise it anymore,

they will.

OPWDD COMMISSIONER KASTNER: All I can say is we have no plans to reduce any of the staff that are currently involved at that site, but I can't describe what OMH will do because I don't know how they propose to implement the program with their partners.

SENATOR SAVINO: But their overall mission of research, particularly into the areas of autism, will continue, as far as you are aware of?

OPWDD COMMISSIONER KASTNER: Yes, that is our hope, that actually it not just continue, but it will -- {audio dropped}.

SENATOR SAVINO: Okay. I'll Probably reach out to you and to the commissioner of OMH offline to get some more detail on that.

And I just want to echo the concerns that were raised by Senator Krueger. I'm a little concerned that you think we have enough capacity for parents who are approaching end of life and are concerned about what's going to happen to their adult children, who also are getting older and

older. I don't think we have that capacity.

But thank you again for your efforts and what you're doing. Thank you.

CHAIRWOMAN KRUEGER: Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

We go to Assemblywoman Griffin for three minutes.

ASSEMBLYWOMAN GRIFFIN: Good afternoon, Commissioner Kastner.

As Assemblywoman Missy Miller mentioned, I too am very concerned that the intellectually and developmentally disabled who live at home have not been prioritized to get a COVID-19 vaccine. These individuals, you know, still yet remain ineligible. And many of my constituents take care of their adult children and younger children at home, and they have been struggling immensely throughout the pandemic due to all of the issues that have come up with COVID-19.

One constituent describes how his adult nonverbal son with autism, his whole life has been turned upside-down. He can't -- you know, for a while his day hab

was closed, he couldn't go anywhere, he was isolated. Now the day hab is open, it's sponsored by AHRC, but the van that picks him up no longer can pick him up because of COVID.

But worse yet is a lot of the activities they normally do, they're not doing, again because of COVID. So if they were to get prioritized and get the vaccine, along with their family caregivers, that would be immensely helpful to these families.

The other issue is the cuts that are pending for AHRC and other services are posing a great threat. So this is a facility in Oceanside, there are many throughout Nassau County and New York State; this may permanently close. So when everything would get turned back on after the pandemic, he may not have access to this wonderful facility that gave him, you know, great advantages while, you know, being a 23-year-old and wanting to have some purpose and socialization.

So my questions to you are what is

your position on this population still yet to be made eligible and a priority for the vaccination, and also what is your position on the funding cuts that are causing AHRCs in Nassau County and around New York State to potentially close?

OPWDD COMMISSIONER KASTNER: Well, I assume in terms of AHRCs you're referring to day program operations.

ASSEMBLYWOMAN GRIFFIN: Yeah.

OPWDD COMMISSIONER KASTNER: I think it's a very challenging time for providers of day programs. There's really a fundamental change in the business model. It's a new paradigm when we are now offering day program or habilitative services in residential settings, and we're also offering habilitative services in people's homes. That has fundamentally decreased the demand for day program services.

And we've asked our day program providers to re-look at their business models, to try to come up with non-center-based options that would allow

them to be more flexible, to scale more easily, both up and down. But that's going to be a challenging transition.

As far as vaccine, we're hopeful that we can make a lot of progress. We're grateful that we've got our residential individuals categorized as 1a. We're working very quickly to ensure that they get access to the vaccine as soon as possible. And hopefully as New York's supply increases, it can expand to other populations.

ASSEMBLYWOMAN GRIFFIN: Okay, thank you very much.

OPWDD COMMISSIONER KASTNER: Thank you.

CHAIRWOMAN KRUEGER: Thank you. Senator Tom O'Mara for five minutes, ranker on Finance.

And then we will be turning it back over to the Assembly for a number of Assemblymembers.

For people who don't necessarily know this, the Assembly has two and a half times the number of members we do, so it just takes

a little bit longer to get through their questions. Thank you.

Tom.

SENATOR O'MARA: Thank you, Senator Krueger.

Thank you, Commissioner, for your time here today. I appreciate it.

Can you give us the status -- for the last several years, due to the -- primarily the $15 fast-food minimum wage, it has really hurt the workforce for the developmentally disabled across upstate New York. We still have not, across the board, reached that $15 minimum wage in upstate New York, and our providers are still struggling with employees that choose to flip burgers at McDonald's because they can get paid more.

Where do we stand this year on the extra funds that were budgeted to make up those wage differences, and where do you see us going forward to help with that differential?

OPWDD COMMISSIONER KASTNER: Well, as I said, we've made a sustained and

significant commitment to our direct support professionals. Over the past five years, we have increased funding for our DSPs by $710 million, in an effort to increase their compensation and make it more competitive with the types of other jobs that you're describing.

In this year we will be increasing the amount of funding again to support an expansion of that effort. We are part of a consortium of 20 states that provides data, I think it's to the University of Minnesota, and we look at our efforts to raise the wages of DSPs relative to other states.

I didn't look this year; last year we were I think fourth in the country in terms of the average annual starting salary. We were in the high $13 per hour range. I think with this increase we should get into the low $14 per hour range. We're getting closer and closer to the $15 minimum wage.

But it's a priority. We keep making investments in it, and hopefully we can continue to make progress in the years to

come.

SENATOR O'MARA: I would think that being fourth on that list nationwide, if you actually compared that to what the cost of living is in New York State, we would be much farther down that list in the desirability of this type of work. When we have individuals that really have a calling to do it, yet have to make that choice to take a fast-food job to put more money on the table at home, it's concerning. And this minimum wage has caused an imbalance in many areas.

But you're saying that since we started trying to make up this difference for minimum wage, the state is paying $710 million a year more to offset that minimum wage loss?

OPWDD COMMISSIONER KASTNER: Since 2015 we've invested $710 million in funding in our DSP salaries.

SENATOR O'MARA: What is that on an annual basis that we're doing? And what's your projection on where we're going with that?

OPWDD COMMISSIONER KASTNER: Well, as I said, we're making progress and moving towards a $15 per hour minimum wage. And every year we get closer to that goal.

I don't know quite how else to respond to the question.

SENATOR O'MARA: Okay. Well, I guess suffice it to say that our providers are still struggling with disparities in the workplace and being able to work at a higher wage in certainly much less important work, I think, from our perspective and I'm sure yours as well.

To move on to another quick subject, on vaccinations. What is being done to help the -- those with developmental disabilities that are living in their home or with family, to get them on the priority list to receive a vaccine? Because it's certainly restricting everyone else in the household's ability to get back to a more normal life, with the concerns of bringing COVID home to an individual that they're caring for, keeping it out of a home or out of the system, so to

speak.

How are we working to help get vaccines to those individuals?

OPWDD COMMISSIONER KASTNER: I understand that that's a significant hardship for families. The Centers for Disease Control established the priorities for vaccination. We were fortunate that the 1a designation included all of our individuals who live in congregate care, and all of their staff. The subsequent expansions have included all of our direct support professionals and clinical staff working with individuals, so that includes not just staff in residential settings but staff throughout our system working in self-direction, working in families' homes, working in day programs.

New York, just like every state, is challenged by a lack of supply. New York received approximately 300,000 doses per week, and that was reduced to about 250,000 doses per week. With the announcement last week that the state would receive an additional 16 percent supply, we've been able

to focus on ensuring that all of our individuals in congregate care have access to the vaccine. We've created a distribution channel through the county Departments of Health. We've activated our Office of Emergency Management to interface with them directly and provide them with any logistical support. We have surveyed our providers to identify every individual who wants a vaccine who's in congregate care, and every staff person who wants a vaccine, to try to coordinate their access to vaccine --

CHAIRWOMAN KRUEGER: Thank you, Doctor. You're a minute over, so we're going to cut you off here. But we'll be happy to hear more from you. Thank you.

Assemblywoman.

CHAIRWOMAN WEINSTEIN: Yes, so we're going to go to Assemblyman Ra for five minutes.

ASSEMBLYMAN RA: Thank you very much, Chairwoman.

Commissioner, good afternoon.

I know you did speak a bit earlier

about reimbursement rates for retainer day and therapeutic leave days. Just a plug on that in terms of there does seem to be some confusion out there in terms of what agencies are communicating to families. I know that was delayed. But there seems to be some confusion out there in what families are being told about, you know, their loved ones coming home to visit from those facilities. And certainly I think it's something that we need to look at opportunities to maybe make some restorations there and simplify that once again, because the costs are steady for the agencies housing those individuals.

But I wanted to talk about another housing issue with regard to self-direction. And I know there's a restoration, but there remains a 5 percent cut that could affect the budget allocation for many of these individuals that they use towards rent, which allows them to live independently.

I know on Long Island there's a $1339 maximum for rent for a one-bedroom apartment. High cost of living here, and it's very

unlikely that you're going to find an apartment for that, so some use other money to supplement.

But given that a cut like this directly affects the ability of these individuals to find appropriate housing, is it possible to restore some of the kind of flexibility and discretion that had been in the past, to maybe use, you know, other allotments that are for other things that are not fully used to help with these costs?

OPWDD COMMISSIONER KASTNER: So when the 20 percent withhold was enacted, it was for non-Medicaid local assistance payments, and that did include some rental subsidy payments, in addition to environmental modifications and assistive technology.

We were able to carve those out of the cut, or out of the withhold. So there was no withholding of funding for payments to support apartments and individuals, you know, living independently. We were very pleased with that, and I think that's important for folks to know.

ASSEMBLYMAN RA: Okay, thank you. Definitely, you know, a very important -- both of those issues, obviously, that and, you know, the issue I mentioned previously are -- have an impact on individuals and their living situations.

So I thank you for your work and your answer. Thanks for being here.

OPWDD COMMISSIONER KASTNER: Thank you.

CHAIRWOMAN WEINSTEIN: We're going to just go to the next Assemblymember. The order is, for your information, Epstein, Bronson, Cusick, Burdick, and Anderson. Then we'll go to the Senate for a second round.

ASSEMBLYMAN EPSTEIN: Thank you, Chair Weinstein.

And thank you for your time, Commissioner.

So 30 years after the ADA, people with disabilities have really stubborn high unemployment rates. And I'm wondering, especially with people with developmental disabilities, you know, do we need a new

approach to this? Because it doesn't seem like we're moving the needle at all in our current approach.

OPWDD COMMISSIONER KASTNER: Well, thank you for the question. We actually were making progress. Unfortunately, COVID set those efforts back substantially.

We've asked our day program providers, as I described earlier, to look at alternatives to site-based support --

ASSEMBLYMAN EPSTEIN: So, Commissioner, you know, I only have three minutes. So like how much money is in the budget for employment programs for people with disabilities?

OPWDD COMMISSIONER KASTNER: I don't know exactly. I apologize.

ASSEMBLYMAN EPSTEIN: You agree that it's a high rate of unemployment for these New Yorkers, right?

OPWDD COMMISSIONER KASTNER: Yes.

ASSEMBLYMAN EPSTEIN: And so I hear what you're saying about making progress, but it's -- you know, it feels like it's moving

at a snail's pace. We really need a real -- like a Marshall Plan, to get people employment opportunities that want to work. Right?

OPWDD COMMISSIONER KASTNER: This year was extremely challenging --

ASSEMBLYMAN EPSTEIN: A hundred percent, for so many New Yorkers. You know, millions losing their jobs. But that doesn't mean we don't need to marshal our forces now to have a real plan.

OPWDD COMMISSIONER KASTNER: As I said, we have a tremendous commitment in funding to our day program services. We've asked our providers to look at alternatives to site-based day programming, to look at things like supported employment, job coaches and other types of roles, where we can redeploy those funds and that service to support people in more competitive employment environments.

ASSEMBLYMAN EPSTEIN: I'd love to know the numbers of people -- you say you've made real progress. I'd love to see those

numbers. Can you share that with the chairs so they can distribute it amongst the members?

OPWDD COMMISSIONER KASTNER: Certainly.

ASSEMBLYMAN EPSTEIN: And so when you say to redistribute money, you mean taking money away from other programs so they can be put into these employment programs?

OPWDD COMMISSIONER KASTNER: So we're asking -- we've been asking our day program providers since the summer to try to come up with alternatives to delivering services in congregate settings. Because of the risks of COVID, because of now I think in some regard a lesser degree of interest in that service model, there's an opportunity for our providers to look at being more involved in supported employment and other opportunities that are not site-based.

ASSEMBLYMAN EPSTEIN: Right. (Pause.)

OPWDD COMMISSIONER KASTNER: I'm still here. I'm sorry, did you have a question?

CHAIRWOMAN WEINSTEIN: Harvey, I believe you've been frozen.

We have to see if we can do that for some other hearings.

(Laughter.)

CHAIRWOMAN WEINSTEIN: I think you answered the question.

So now we go on to Assemblyman Bronson. Harry?

ASSEMBLYMAN BRONSON: Okay, I think I'm here, thank you.

Commissioner, I want to talk about an issue that I brought up when we were talking to the commissioner of OMH -- and it impacts OPWDD, OASAS, as well as OMH -- and that is the exemption for Article 163 mental and behavioral health professionals.

That exemption expires at the end of June this year. It was last extended for another three years, and there was an agreement that we would work on legislation and work with your agencies to modernize the scope of practice, including diagnosis for those various professionals licensed under Article 163.

Earlier when I was talking to OMH,

they pointed out that there's no plan in place to address not only the end of the exemption from licensure, but also the licensed mental health professionals working in state facilities, even though there was a commitment to work on modernizing the delivery of those services, including diagnosis.

So what is your understanding of what's happening among your agencies on this issue? Can we commit to move forward on the critically important diagnosis issue? We need this. We need this to help address the workforce crisis and address the access to care crisis that we're facing. And we were facing it before COVID, and it's only gotten worse.

So where is your agency on this, and can we try to work to get this resolved?

OPWDD COMMISSIONER KASTNER: Well, I have to apologize, but I don't think that what you're referring to has much applicability to the OPWDD service system. I can go back and look, but I think this is

primarily a mental health issue.

ASSEMBLYMAN BRONSON: Well, it actually crosses all the O agencies, if you will. These professionals work in many of the facilities for OPWDD, and certainly the community-based organizations as well.

But if you could take a look at that. You know, my understanding is previously, before I was involved in this area, that there were conversations among those three agencies. That's where the exemption came up. There was an exemption six years ago, a renewal of the exemption three years ago with a commitment to actually talk about and work toward the scope of practice and in particular diagnosis.

So if you could check on that, and I'd appreciate it if you'd get back to me and all of us on this hearing. Okay?

OPWDD COMMISSIONER KASTNER: Sure, I'd be happy to do that.

ASSEMBLYMAN BRONSON: Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

Assemblyman Cusick.

ASSEMBLYMAN CUSICK: Hi. Hi, Commissioner. Thank you. Thank you for appearing here today.

And, you know, because of time constraints, I'm not going to ask a question about the Institute of Basic Research that was brought up. Your staff has briefed me before the budget announcement. But it is something I do want to sit down with you and your staff on. There are concerns that I do have.

I understand that the IBR section that houses the Jervis Center will remain, but I do have concerns about possible staff moving, office staff moving off of Staten Island for the research part in the merger with OMH. And those are things that I certainly want to continue discussing with you and your staff.

And I want to also just say, you know, with the budget -- this budget includes, as my colleagues have said, you know, many cuts, and cuts to the residential provider agency rates for therapeutic leave and retainer day payments at 50 percent, and on top of that

the 1 percent across the board for the Medicaid.

In talking with a lot of the families, and with the Staten Island Developmental Disabilities Council on Staten Island -- which you have met with personally in my office, and I thank you for that -- they've stated that there will be a real struggle for a lot of these agencies with paying operating costs for group homes and due to these proposed cuts. Residential provider agencies will still need to pay their mortgages, utilities, you know, all of the expenses that go into running these agencies.

My question is a general question, but I know in the past this has been done. When your budget team is looking at these cuts -- you know, we have a Staten Island Developmental Disabilities Council, but do they bring in the agencies and the families and the folks that are on the ground to confer as they're deciding these budget cuts?

OPWDD COMMISSIONER KASTNER: So we had a public process last year, meeting with our

stakeholders and talking about what they would recommend as to specific cuts. And it wouldn't be a surprise to say that there were very few stakeholders that volunteered that -- the programs that they were particularly interested in should not be the cut target.

ASSEMBLYMAN CUSICK: Okay --

OPWDD COMMISSIONER KASTNER: That was a position that --

ASSEMBLYMAN CUSICK: I didn't mean to cut you off, Commissioner, I apologize, but I just see my time running down to 20 seconds.

I would just -- you know, the folks I deal with on Staten Island would probably argue that they don't have a say in this process and that they would like more input on this. And I would work with your team to include more of the on the ground folks who are really, you know, providing these services and the families that are involved to be part of this process, particularly now. Right? Even as we're negotiating the budget, to be included and have some communication from OPWDD.

OPWDD COMMISSIONER KASTNER: Yes, thank you.

ASSEMBLYMAN CUSICK: I know my time has run out, Madam Chair. Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

Assemblyman Burdick.

ASSEMBLYMAN BURDICK: Thank you. I wish to thank the chairs and also the commissioner for the presentation.

I share the view that the developmentally disabled should be prioritized for vaccination.

I wanted to talk about the Padavan Law and about group homes. I completely support the mission of OPWDD to work closely with nonprofit partners to help individuals with developmental disabilities. And I had direct experience with that, actually, some seven years ago as supervisor of the Town of Bedford, when Cardinal McCloskey Community Services, under the Padavan Law, had applied for a permit to provide a group home for four young adult autistic men who had aged out.

I have two questions. The local

process was painful, as I'm sure you're aware. And I understand that at one point the state statute was revised to make it somewhat easier, but it still raises great questions and push-back from communities and long waits for determinations from the community. And these waits have human tolls.

Do you feel that revisions in the Padavan Law may help reduce the wait for placement? And if so, what areas do you think we might consider?

OPWDD COMMISSIONER KASTNER: Well, I think you're specifically talking about a site in the Hudson Valley where they're trying to develop a group home for four individuals with autism.

We work very closely with local authorities to assist in any way that we can to improve the process. We think it's gotten better since there were amendments to the law. I haven't heard an overwhelming number of concerns about that specific issue, and I think that it's working reasonably well at this point.

ASSEMBLYMAN BURDICK: Well, what I'm hearing -- what we had, and I've heard it from other chief electeds, is that you have neighborhoods that would rise up against it, we had unfounded concerns regarding the impact on their neighbors -- on the neighborhood, and that's the concern that I had.

And as I say, it's a painful process. And maybe offline I could explore with you, you know, in greater detail what we went through on that. I mean, it -- I had supported it from the outset, that it was something that I felt was greatly needed. There wasn't an over-concentration. But I'd like to see if it can be facilitated for people who desperately need this help.

OPWDD COMMISSIONER KASTNER: We'd be happy to talk further about that.

ASSEMBLYMAN BURDICK: Thank you so much.

OPWDD COMMISSIONER KASTNER: Thank you.

CHAIRWOMAN WEINSTEIN: We now go to

Assemblyman Anderson, for three minutes.

ASSEMBLYMAN ANDERSON: Thank you. Thank you, Chairwoman, and thank you, Commissioner, for the presentation.

I have several questions, some I'm going to ask in the beginning, and others I'm going to ask you to just address at another time, just in respect for the limited time we have.

So I notice that the Executive Budget mentions some program eliminations. They've proposed about $440,000 in a reduction in targeted grants for community-based providers. What impact do you think that this cut will have on the extension of services for people in this population?

OPWDD COMMISSIONER KASTNER: I'm not sure that that's a cut that's -- would be made to our budget.

ASSEMBLYMAN ANDERSON: It is. It is a cut of $440,000 in targeted grants to community-based providers.

OPWDD COMMISSIONER KASTNER: Within OPWDD?

ASSEMBLYMAN ANDERSON: Correct.

OPWDD COMMISSIONER KASTNER: I'll look at that. I apologize for not knowing about it.

ASSEMBLYMAN ANDERSON: But -- so knowing that this information is in the Executive Budget, what sort of impact will that have for the agency?

OPWDD COMMISSIONER KASTNER: Again, I apologize for not having specific information about that specific cut, so I can't really answer --

ASSEMBLYMAN ANDERSON: Understood.

OPWDD COMMISSIONER KASTNER: I apologize.

ASSEMBLYMAN ANDERSON: Access VR is a -- no problem, Mr. Commissioner.

Access VR services provide technology opportunities for folks who live with intellectual and developmental disabilities, among other different health concerns. And so they generally participate in this program for young people ages 21 and up who have aged out of the school system.

What role does your agency have with Access VR?

OPWDD COMMISSIONER KASTNER: I'd have to look specifically and find out what services we may contract with them to provide.

ASSEMBLYMAN ANDERSON: Okay. And last question on this before I go on to my next -- I'm running out of time here. But in terms of the community-based expansion -- I mean, sorry, in terms of the care coordination, I know that you're absolutely aware of the $20 million in reductions that CCOs will receive. Can you explain what impact that would have on the agency's ability to provide care coordination for folks who need it?

OPWDD COMMISSIONER KASTNER: Sure. Our goal is to ensure that we're paying the correct amount for the services that are being provided.

The context of the CCO program is that when we launched the program in 2018, we actually increased the rate paid to CCOs by about 60 percent above what we had previously

been paying to the Medicaid service coordination organizations. So that was intended to address the fact that this was a new program, these were organizations that were just starting and had just launched.

Over the past two budget cycles, your questions are correct, we have --

ASSEMBLYMAN ANDERSON: Commissioner, I'm sorry -- Commissioner, I'm running out of time here. But let me just say this. That program is vitally important to helping people who are on Medicare/ Medicaid, one, to be able to navigate the system but, two, be able to navigate services. So it's vitally important.

And I just want to know what the impact of losing these funds will be for folks that need services.

OPWDD COMMISSIONER KASTNER: I agree it's vitally important, and we believe that the cuts will not reduce access to services through the CCO program.

ASSEMBLYMAN ANDERSON: So you can honestly say that there will be no reduction

in service for folks who need this program, quality service or -- I'm just -- I want to be perfectly clear.

OPWDD COMMISSIONER KASTNER: We believe that the funding will be appropriate to the level of service that's provided, and there should not be a reduction in services to people as a result of that reduction.

ASSEMBLYMAN ANDERSON: Okay, and I'll follow up with you -- I guess you all will follow up with me on that question around Access VR and the $440,000 budget cut, is that correct?

OPWDD COMMISSIONER KASTNER: Yes, we'll be happy to do that.

ASSEMBLYMAN ANDERSON: Okay, thank you very much, Commissioner. Thank you, Chairwoman.

OPWDD COMMISSIONER KASTNER: Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

So now we go to the Senate for a second round.

CHAIRWOMAN KRUEGER: Thank you. For a

second round for the chair of the Disabilities Committee, Senator John Mannion.

SENATOR MANNION: Thank you, Senator. Thank you, Commissioner.

Just following up on my questions earlier about residential vacancies, I have to say, you know, there should never be this paradigm that we have with the open beds and people sitting on a waiting list waiting to get in. You know, it's really the opposite of what we're trying to achieve. And I'm also, you know, hearing that there's fewer and fewer staff to help connect these people to these services.

So I'm just wondering, you know, in the grand scheme of this, you know, why is this happening, why do we have so many beds that are vacant out there and so many people on the waiting lists, and how can we fix these problems that are clearly evident to not just the people who are asking the questions today, but also the families that are out there?

Thank you.

OPWDD COMMISSIONER KASTNER: Well, as I described earlier, we think there's an opportunity to improve the quality of operation of the overall residential program.

Again, for the new folks, we're going to try to improve the function of the Front Door, their access to the continuum of services.

But for those individuals who are currently in residential, I think there's an agreement between OPWDD and our providers, our individuals, that a payment methodology based on the needs of the individuals would be more appropriate than one based on the agency's costs. That will help agencies support individuals with high needs, it would match funding to the specific individuals, and hopefully address any vacancies that might occur.

We also believe that there is an opportunity to help individuals currently in more restrictive settings move to less-restricted settings. We hope that in the context of an acuity-based payment

methodology that we can create a pilot program, which would then assist individuals who are in a more-restrictive setting move to a less-restrictive one, and that we can use an alternative payment model which would support providers who undertake that transition of individuals.

So we think there's an opportunity to improve the manner in which we support our residential providers, and we've had a lot of discussion about it, we're looking forward to working with them in the future.

SENATOR MANNION: Do we know, you know, how many vacant beds there are out there and how many people are on the waiting list?

OPWDD COMMISSIONER KASTNER: We know how many people are currently in the three different categories of requests for residential services. As I said earlier, we're able to meet the needs of all families who are in the emergency category due to turnover within our residential system.

The question as to the number of

vacant beds is somewhat in flux because we have had agencies that are taking beds offline because they have been vacant and they're currently not occupied, so they may be changing their certificates of need to reflect that.

SENATOR MANNION: Do we know how many people -- and can I have what that number is if you do know it -- that are in that emergency category where they are awaiting, you know, a residential setting?

OPWDD COMMISSIONER KASTNER: It's generally in the range of 800 or so families per year. We can get you specific information on that.

SENATOR MANNION: I appreciate that.

And I know the time is running a little bit short for me here. I'm going to jump to another issue, which is in regards to the Federal Medical Assistance Percentages that the state received and how much money was allocated to OPWDD.

Do we have that number about how much money was allocated from that program?

OPWDD COMMISSIONER KASTNER: As I said, in the context of this year, DOB provided support to OPWDD, for example, when we asked to fund retainer payments, which effectively doubled the costs of our day program when we expanded our capacity to provide COM HAB R and COM HAB via tele.

I can't put a specific dollar figure on funds that moved from DOB to OPWDD. All I can tell you is that we did receive support from DOB to make modifications to our system on the fly, which actually increased our costs. And we feel that that was a reflection of DOB's commitment to our individuals and the programs that we support.

SENATOR MANNION: Thank you.

In the interests of time, a quick question. Does OPWDD have a current Section 5.07 Plan?

OPWDD COMMISSIONER KASTNER: As I described earlier in response to a question, we will have one completed by the end of this year.

SENATOR MANNION: End of the year,

correct, yes. Thank you.

OPWDD COMMISSIONER KASTNER: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly, to close.

CHAIRWOMAN WEINSTEIN: We go to Assemblyman Abinanti for five minutes.

ASSEMBLYMAN ABINANTI: Thank you, Commissioner. You know what, I'm hearing you say over and over again you want to be person-centered, yet it appears that you're cost-cutting-centered. And I think you're reflecting some misplaced priorities here and failing to fully recognize the humanity of your clients.

Like, for example, you talk of -- group homes are not a combination of beds to be dispensed out, you know, randomly. Group homes are homes for a group of people. And when you say that they can't go out on a therapeutic leave, they can't go home without being penalized, you're basically saying it's not your home, it's an institution, because we're going to pay only when you're in that

bed.

Now you're saying that for the first 96 days that somebody is not in the bed -- so that means if they go home every weekend to visit their parents or their loved ones or go on a vacation, the agency or whoever is running the group home is only going to get 50 percent of the daily rate. And if they go over 96 days, even if they're in the hospital, they're going to lose the entire daily rate.

Now tell me, what assisted living facility penalizes a senior citizen for going to visit family? What college dorm penalizes a college student for going home to visit the family?

Is this a human way to run an agency that's supposed to be person-centered?

OPWDD COMMISSIONER KASTNER: As I said earlier, we do not restrict the ability of individuals to visit their families on the weekend.

ASSEMBLYMAN ABINANTI: But you're going to take 50 percent of the payment, of

the rate, every time they go home. So that's taking money out of running the home. So that may mean they can't paint the room again for another two years, or they can't fix the steps or they can't do something else, correct?

Commissioner, I am told there are 3,000 vacant beds, if we talk about beds, in the voluntary sector, and that your agency has told them you don't have the money to pay for people in those beds. Is that true?

OPWDD COMMISSIONER KASTNER: I don't believe that that's --

ASSEMBLYMAN ABINANTI: All right. Well, how much money is in this budget for new placements in group homes, in other beds? Let's use your term, beds. How much new money is this budget?

OPWDD COMMISSIONER KASTNER: There is, as I said earlier, a sufficient amount of capacity to support all individuals who have an emergency request.

ASSEMBLYMAN ABINANTI: Emergency only, Commissioner. Now, you've got three

categories, emergency, substantial and current, correct? And right now I'm understanding it takes five months to place an emergency placement in a bed and not necessarily an appropriate group home. That's just placing them in a bed. So it could be an older man going into a group home with four women, isn't that true?

And then substantial takes nine months. And if you have a current need, like you're talking about somebody living with their parents, that could take at least six months to just determine that they have a need, isn't that true?

OPWDD COMMISSIONER KASTNER: I can't speak to any specific individual --

ASSEMBLYMAN ABINANTI: Commissioner, you are in charge of the agency, not me. If I have this information, why don't you?

OPWDD COMMISSIONER KASTNER: Because our commitment is to provide a person-centered focus in planning for the residential needs --

ASSEMBLYMAN ABINANTI: Commissioner,

you were talking about -- you're talking about going acuity-based. Didn't you have a program like that where you had a high-needs special allotment so that you could set up a facility for people with higher needs, and you've changed that, you've cut out that special acuity-based increased allotment on a rate?

OPWDD COMMISSIONER KASTNER: Actually, we have an agreement with the federal government for a high-needs payment methodology. That payment methodology will expire July 1st. We need to come up with a new one. We think that's just another opportunity for us to improve the quality of our --

ASSEMBLYMAN ABINANTI: I understand the rhetoric about wanting to improve, but it's not improving on the ground. That's the problem.

Now, you were talking about going to telemodalities. How many of the people who need day hab have the capability of accessing a computer by themselves? Have you done a

survey of that?

OPWDD COMMISSIONER KASTNER: We've provided this as an option for individuals to choose --

ASSEMBLYMAN ABINANTI: Commissioner, it's being used in place of active day hab. It's not being used in addition to.

So how many people who want day hab have to go to telemodalities because there's no other option?

OPWDD COMMISSIONER KASTNER: Again, we have tried to expand the range of opportunities --

ASSEMBLYMAN ABINANTI: You have no numbers, you're not fact-based, you're just trying it on theory.

Let me ask you a question. If somebody has the capability of accessing a computer by themselves, why would they need a day hab program to go on the computer?

OPWDD COMMISSIONER KASTNER: We -- again, we provide opportunities for people to make decisions based on their personal preferences.

ASSEMBLYMAN ABINANTI: Years ago day hab used to provide training. It used to provide job training, an entree into the job market. Why does it not do that anymore? Why has it become a babysitting service? What are you going to do about that?

OPWDD COMMISSIONER KASTNER: We -- as I said earlier, we've asked our day program providers to look at alternatives to center-based programming, to in particular look at community-based alternatives, which include supported employment --

ASSEMBLYMAN ABINANTI: All right, let me just end with one final point, Commissioner. You said that there was no monies being cut from housing. Yet it's a fact, isn't it, that there's a special $3,000 allotment of state monies for each person, and it's called "other than personal services," and it's used to pay for telephone and computers and access to the internet, et cetera. And yet you've cut 20 percent, you've withheld $600 from $3,000. How much money are you saving to cut somebody off from

the internet at a time when you're saying they should be using telemodalities?

OPWDD COMMISSIONER KASTNER: Again, are you referring to the local assistance payments, the non-Medicaid local assistance payments?

ASSEMBLYMAN ABINANTI: I'm talking about the non-Medicaid to the individual people who are in self-determination who use this $3,000 to pay for the internet, to pay for their cellphone. That's what it's there for. But it's all state monies, and you have been withholding 20 percent. So people who are living on Medicaid, on Medicaid wages, $2,000 a month, $12,000 a year, are expected to pick up the additional charge of the $600. To us, we're saving a few -- maybe a half a -- $500,000 a year. But to these people, $600 is a lot of money. Why are we doing that?

CHAIRWOMAN WEINSTEIN: Thank you --

OPWDD COMMISSIONER KASTNER: In those -- those --

CHAIRWOMAN WEINSTEIN: Thank you.

Commissioner, I think it would be helpful to get some answers in writing that we could circulate to all of the members.

OPWDD COMMISSIONER KASTNER: (Inaudible.)

CHAIRWOMAN WEINSTEIN: And before we end this portion of the hearing, I see Assemblyman Byrne has raised his hand for a question for three minutes, before we go back to the Senate.

CHAIRWOMAN KRUEGER: Okay.

ASSEMBLYMAN BYRNE: Yes, thank you, Madam Chair.

And Commissioner, I'm just going to read off a question on behalf of one of my colleagues, who's unable to ask the question. And hopefully you can provide some context and answer.

Here's the question. The, quote, IM assessment and the CAS assessment, currently the care coordinators are being asked to help input info about a consumer into the assessment. This assessment will eventually help construct an individual's self-direction

budget.

The concern of many is that their care coordinators don't know their loved ones well enough to be given this very important information about their needs, and it can have a detrimental influence on their future self-direction budget.

The family should have the final input, as they know the needs best. Why is this being done?

OPWDD COMMISSIONER KASTNER: Well, you're referring to two instruments that are used to conduct assessments of individuals. The CAS is an assessment that we eventually plan to use with all of our individuals. I believe at the present time we've used it to assess all individuals within our residential settings.

The IM is a proprietary instrument that was developed by Partners Health Plan. There's no requirement -- I believe we waived a requirement for care coordinators to use that tool as a response to COVID. Now it is an optional tool that can be used by care

coordinators if they feel a need is there to perform that assessment. But it's not a mandatory part of our assessment portfolio.

ASSEMBLYMAN BYRNE: Okay, thank you.

CHAIRWOMAN WEINSTEIN: Now to the Senate.

CHAIRWOMAN KRUEGER: Thank you very much.

Commissioner, I want to thank you for being with us today. Clearly you have many things to put in writing and get back to the committees with.

And I'm going to call up next the New York State Office of Alcoholism and Substance Abuse Services, Commissioner Arlene González-Sánchez.

Are you with us, Arlene?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: Yes, I am.

CHAIRWOMAN KRUEGER: Oh, there you are. Hello. Good morning --

COMMISSIONER GONZÁLEZ-SÁNCHEZ: Hi, how are you?

CHAIRWOMAN KRUEGER: Good morning.

We're on No. 3 for the day, and we're already at 2:30, for those of you keeping score.

Thank you. Ten minutes on the clocks, please.

COMMISSIONER GONZÁLEZ-SÁNCHEZ: Great. So good afternoon, Senator Krueger, Assemblymember Weinstein, Senator Harckham, Assemblymember Steck, and distinguished members of the Senate and Assembly. My name is Arlene González-Sánchez, and I am the commissioner of the New York State Office of Addiction Services and Supports, better known as OASAS.

Thank you for providing me with the opportunity to present Governor Cuomo's fiscal year 2022 Executive Budget as it pertains to OASAS.

Under Governor Cuomo's leadership, OASAS has taken significant steps to improve access to addiction treatment, develop new and innovative models, and expand services in communities throughout New York State.

The Executive Budget proposal allows OASAS to maintain these services and our

entire comprehensive system of prevention, treatment, and recovery programming. The budget appropriates $919 million for OASAS programs, which includes $147 million for state operations, $90 million for capital projects, and $682 million for Aid to Localities. This reflects an increase of $94 million from fiscal year 2021, which primarily reflects additional Substance Abuse Prevention and Treatment block grant funds that we expect to receive from the federal government as part of the COVID-19 Relief Act.

The Executive Budget includes an increase in minimum wage funding for OASAS providers. In addition, it supports OASAS' commitment to expanding access to residential addiction treatment services through capital investments for community organizations. As a result of these efforts, more than 160 new residential treatment beds are expected to open by the end of fiscal year 2022.

Although the times pose numerous challenges for all of us, the Executive

Budget continues Governor Cuomo's commitment to OASAS' many essential programs and services. These include critical treatment and recovery initiatives such as mobile treatment, recovery centers, and youth clubhouses; expanding access to medication-assisted treatment; increasing the number of Certified Peer Recovery Advocates; and providing training in the use of Naloxone in our ongoing effort to combat the opioid crisis.

The pandemic required swift action across the OASAS continuum of care, and our providers responded immediately. They rapidly expanded telepractice and mobile treatment services, modified inpatient and residential treatment to ensure social distancing and proper infection controls, and expanded take-home dosing of medication-assisted treatment to protect our most vulnerable population. Throughout the emergency and continuing today, access to all levels of treatment remain safe and available.

Our recovery centers had over 41,000 contacts with individuals, and made 4,011 referrals, of which 95 percent resulted in engagement in treatment.

The OASAS prevention providers will continue services, despite the closure of many school buildings and the inability to have any community-based social gatherings. These providers, like treatment and recovery providers, are providing virtual services wherever possible.

In 2022, OASAS will continue its public education and social media campaigns to make sure that people who need help know where to access it. Our campaigns address stigma, they raise community awareness about addiction, they highlight particular concerns related to the dangers of social isolation for individuals with addiction, and they ensure New Yorkers know treatment is available.

The Executive Budget also includes several legislative proposals to enhance prevention, treatment, and recovery services.

The Governor is proposing a comprehensive strategy to expand telehealth. This plan will authorize additional staff in OASAS programs, including peers to deliver telehealth services and allow services to be delivered in non-clinical settings.

In addition, the Governor is proposing the integration of OASAS and the OMH into a new Office of Addiction and Mental Health Services. This new agency will better serve those in need, by allowing for the delivery of SUD and mental health services in a more coordinated and unified system of care.

The budget also authorizes the creation of Comprehensive Outpatient Services Centers, which will be implemented by a single joint regulation issued by OASAS, OMH and DOH. This comprehensive license will allow providers to deliver a full continuum of primary care, SUD and mental health services.

And to protect New Yorkers from predatory practices, the Governor proposes a bill that builds on the existing authority of

OASAS to credential individuals who provide services to those suffering or at risk for an addiction. The proposal also would allow OASAS to create a publicly available list of authorized addiction professionals, to help individuals and families make informed decisions when choosing a practitioner.

So as we continue to manage the system of addiction treatment, recovery, and prevention, our number-one priority is to remain vigilant about the health and safety of the vulnerable populations we serve. The budget will support funding for all of the critical initiatives I discussed and allow OASAS to meet the needs of those we serve.

I look forward to working with you as we continue striving to help all those who have been impacted by addiction throughout New York State.

Thank you so much.

CHAIRWOMAN KRUEGER: Thank you very much, Commissioner.

To start us off, chair of the Substance Abuse and Treatment Committee,

Pete Harckham.

SENATOR HARCKHAM: Thank you, Madam Chair.

Commissioner, terrific to see you.

First off, I want to thank you and your entire team for the heroic work that you do. Many of us believe you've been underfunded for years, and you and your colleagues do a tremendous job.

I also want to thank you personally for being so accessible to me and my staff as we work collaboratively together. So thank you.

I have a bunch of questions, so we'll hop right into them. This budget has some good things, it has some bad things. So we'll start with the bad things and then we'll go to the good things.

This was a very challenging year for our providers. As we know, we had a substance use disorder and opioid use disorder crisis before the pandemic. We asked them to make big investments in technology as they shifted their model.

Their revenues declined; there was a 20 percent withholding. So they've had a really tough year. In fact, a study that the industry did said 80 percent of them are considering layoffs or curtailing programs next year.

And yet in the State Executive Budget we're looking at a $13 million cut to the bottom line, 5 percent shaved to local programming -- you know important things like elimination of the AIDS/HIV Early Intervention program, jail-based treatment, COLA.

What is the rationale for this, and what's your plan to remediate some of the pain that this is going to cause?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: So first and foremost, the 5 percent across the board does not impact OASAS. It does impact OMH and OPWDD, but not OASAS. So that's good news.

With respect to the 13.3 million in cuts, that includes 3.5 million from member items -- I would call them member items --

that the Legislature puts in every year. And going into the year, we know that these are only one-year items, so it's to be expected that it's only for one year. And the rest is the 11.5 in, you know, savings that we have to come up with, just like any other state agency, given the fiscal climate that we're facing in the state.

What I do want to say is that those targets, or those 11.5, none of those things will impact to the extent that services will be cut down. Some of those would be 50 percent cuts, and those cuts will be able to be either absorbed by the provider through billing of Medicaid or will have already been implemented.

For example, one of the items that we cut 50 percent is the day rehab. We have 36 day rehab providers throughout the state. Only five of them get state aid. But that's a Medicaid billable service, and we are only cutting them by 50 percent, so the thinking is that they will be able to use billing and not have to use our state aid.

Similarly --

SENATOR HARCKHAM: Can I cut you off, just in the sake of time, because I have a lot more questions.

COMMISSIONER GONZÁLEZ-SÁNCHEZ: I'm sorry.

SENATOR HARCKHAM: Let's talk about something positive. Thanks to the advocacy of a lot of folks on this Zoom, patient advocates, treatment providers, we're looking at, through Senator Schumer, the possibility of a substantial block grant increase, which you mentioned.

What is your specific plan to use that money? Are there federal restrictions? And how soon can you get that money out the door?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: So we haven't gotten the official notification on the grant. We do assume we will be getting it anytime soon. I don't have the actual criteria or parameters of the grant. I just know they will be similar to the grants we've gotten before.

But one thing I do want to make clear

is that the monies have to be used for treatment, prevention or recovery and it cannot be used to supplant any fundings that we have currently. And so we plan --

SENATOR HARCKHAM: That's the key phrase: Not supplant, supplement.

COMMISSIONER GONZÁLEZ-SÁNCHEZ: Right. Right. You can't supplant, you know, existing funding with grant dollars. And so I assume that that will be the same criteria moving forward, and we will use this money, moving forward, to address the treatment, prevention and recovery needs that we have in our system.

SENATOR HARCKHAM: All right. That's good news to hear. Supplement, not supplant.

Let's move on to the merger, if we can. I personally think the merger of OASAS and OMH is a step forward -- better coordination, better to deal with co-occurring disorders, better to deal with the dual licensing, better to deal with the dual funding streams, and certainly it creates a larger entity to better advocate

for funding and programs across the behavioral health spectrum on both sides of the ledger.

Patient advocates and providers, though, are nervous about really having a seat at the table and that treatment-specific modalities such as CASACs, peers, things like that, will not be lost in creating kind of a "one size fits all" agency. Could you comment on your approach to the merger?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: Sure. So to begin with, I agree that this is a great opportunity to streamline our processes to better address the needs of the population that we serve, the dual population. And I think this is a great opportunity to do that.

There's a bill that's being proposed that speaks specifically to the licensure piece. And in it -- it's really supporting and ensuring that the CASACs and other professionals licensed through the OASAS system will stay in place as we move forward into the merged entity. And if it's not the merged entity, we're still going to move

forward with that to ensure that these licensures and these individuals are still part of our continuum.

SENATOR HARCKHAM: And will you have some sort of an advisory group with patient advocates and treatment providers at the table every step of the way?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: Absolutely. Sure.

SENATOR HARCKHAM: Okay. Let's shift over now to the ombudsman program, something that we've worked collaboratively to build out. We know that there's been a gap in certain geographic areas for the community-based providers of that program. So last year we established the Parity Compliance Fund dealing with insurance penalties for folks not complying with parity.

How much is in that fund, and are we expanding the scope of those community-based organizations this year?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: Yes, we are expanding the scope.

And with respect to fines, nothing has been levied to date. But I just want to remind you that DOH and DFS recently released the criterias. And we're currently right now evaluating the responses from the various managed-care entities to evaluate whether they're in compliance or not. If they're not, then those fines will be levied and it will go into the fund.

SENATOR HARCKHAM: Okay. We have about a minute and a half. Would you address in more detail the plan on the Part DD single-rate methodology? We know that billing, billing, billing has always been a challenge, especially when trying to deal with someone holistically from separate funding streams. So please address that.

COMMISSIONER GONZÁLEZ-SÁNCHEZ: I don't know how much of that I could address at this point other than to say that we are actively looking at that, and especially now as we look at this possible merger, to better -- better make responses. I really couldn't tell you in more details about that.

SENATOR HARCKHAM: All right. If we can stay in touch on that, that would be helpful.

I'm going to ask you a question now -- if you don't get to the answer because we run out of time, I'll come back for five minutes in the second round. But this is a big deal in that we're midst of a surge in opioid overdoses, many of them fentanyl-based. And the way we know it is through national data and the data of a few specific counties and the anecdotal evidence of providers and first responders.

We don't know it from state data because the most recently available data on the State Department of Health website -- and I know that's not you -- is from 2018. Have you spoken with them on the need for current data -- we know we can do it with COVID -- so that you can better respond to this crisis?

I think my time is out, but maybe in my next round, in my five minutes, if you could address that. Thank you.

COMMISSIONER GONZÁLEZ-SÁNCHEZ: Sure.

CHAIRWOMAN KRUEGER: Great. Thank you. Assembly.

CHAIRWOMAN WEINSTEIN: So we go to Assemblyman Steck, chair of our Alcoholism and Drug Abuse Committee.

ASSEMBLYMAN STECK: Thank you very much, Chairwoman Weinstein.

I also want to thank Senator Harckham for his excellent job identifying some of these --

CHAIRWOMAN WEINSTEIN: Excuse me one minute, Phil.

This is the chair of the committee. He gets 10 minutes.

ASSEMBLYMAN STECK: I'm not used to that much time in my entire life, so thank you.

(Laughter.)

ASSEMBLYMAN STECK: So I wanted to talk first about one of the cuts that I just am having a difficult time understanding, and that is the executive proposes a 50 percent reduction in funding for jail-based substance use disorder treatment programs, resulting in

a decrease of 1.9 million.

We've made tremendous headway in terms of trying to take advantage of the opportunity to give drug treatment to people who are in jail, many of whom have mental health and drug-related issues.

What is the rationale for a 50 percent cut in this program?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: So, Assemblymember, thank you so much for that comment, question.

You know all of the things we have put forth are very difficult. You know, this is a very difficult year. And for some of us, given the populations we serve, it becomes even more difficult. Right?

So with respect to the jail-based, you're absolutely correct, it was a 50 percent reduction. Bear in mind that through the different, you know, bail reforms and other, you know, regulations that went into place, or changes that came into place, the numbers in the jails are not what it was when we first initiated these dollars to go

into the jails.

We -- we didn't just decide overnight. We've really evaluated the numbers that are now reporting to the jails, how many people are there. And we felt that once we did the analysis, the dollars really have somewhat rightsized, for now, the people that they are serving. And we're very confident that the services will still continue to be delivered to these individuals.

I have to agree, I'm the first one that supports this initiative. I mean, this is what we want. And I do not anticipate this is going to, you know, diminish our ongoing services to the folks in the jails.

ASSEMBLYMAN STECK: Well, I certainly appreciate your theory behind that cut, but it's very difficult to imagine that it would justify a 50 percent reduction.

In the money that is supposed to be coming from the federal block grant -- first of all, my understanding is that is money that has not been delivered, that that is money that is just in theory going to be

delivered, and that the actual amount of that SAPT block grant that OASAS would receive has not yet been determined. Is that correct?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: Correct. You're correct.

ASSEMBLYMAN STECK: So do you know what OASAS treatment programs that money would be headed to if in fact we receive it?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: Okay. So it's -- we haven't -- I couldn't sit here and say to you we're going to allocate this one, that one, because we still have to wait to see what the criteria of the grant is. I don't know if there are going to be additional set-asides that's going to require us to put monies aside for certain services, like prevention versus treatment versus recovery.

But all I could tell you that we are going to -- we have already been looking at where there may be some gaps in our system or where there are areas that we need to, you know, implement additional services. And that's how we're going to do it, of course

always involving our constituents to get, you know, advice from them and bringing them into the process.

ASSEMBLYMAN STECK: So, for example, you would not be able to tell me right now as you sit here whether in fact some of that money could be used to eliminate that 50 percent reduction in the jail-based program.

COMMISSIONER GONZÁLEZ-SÁNCHEZ: I couldn't. It could, but I couldn't tell you for sure. And --

ASSEMBLYMAN STECK: There's a couple other cuts that I think might be appropriate to reverse if that were -- money were available. One is the decrease in the HIV Early Intervention services.

Again, the funding for public health has gone down tremendously in the last 40 years. And simply because this may not be as hot a topic as COVID, if we don't put money into it, it will come back. I just finished reading the 620-page book on The Coming Plague, and one of the things that's identified and discussed is how HIV has

spread due to lack of public investment.

So do you think it might be possible for some of the federal dollars to go into reversing that cut?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: And so I'm going to check to be absolutely sure, but I do want to let you know that my -- my thinking is that the Department of Health has taken oversight over the HIV Early Intervention. So it's not that -- we took it out of our side because DOH is embracing this new program now.

So it's not that we're really cutting it from -- it's no longer going to be under our jurisdiction.

ASSEMBLYMAN STECK: So I'm running out of time already, shockingly.

So there are two funds that I want to talk about for the last few minutes that I have. One is the opioid surcharge or tax that the Governor announced to much fanfare. Is that money going to treatment programs, or was it -- first of all, is it going to OASAS at all? That's the question.

COMMISSIONER GONZÁLEZ-SÁNCHEZ: You know, there are so many different surcharges and opioid surcharges and settlements going on. I can't really speak to that right now. I am not sure where the opiate surcharge is going.

ASSEMBLYMAN STECK: So I understand your answer. And in the interests of time, let me interrupt. We really need to get an accounting of where that's going. One of the problems is that if the money -- again, the Governor announced this to much fanfare. It was supposed to be to treat people because the opioid manufacturers have engaged in skullduggery, it was supposed to be given back for drug treatment. And if that's not being -- happened, or it's going to opioid treatment but the General Fund monies that were going to opioid treatment were being taken back, it's really not consistent with what was represented.

And something in the same category that I want to ask you about is, is the opioid settlement money -- which is similar

in nature -- going to OASAS? Is it being used for programs, or is it being used as a device to make sure less money from the General Fund goes to treatment programs?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: Yeah. So with the surcharge, I know that there is language that the anticipation is that some of the dollars will be used for OASAS prevention, treatment and recovery. I can't speak to definitively how much that is or where is it. I really can't.

With the settlement money, it's the same thing. I think that's still in discussion. I think that some things are still in litigation. So I really can't speak with any certainty about where it's going, where it is. You know, I'm not trying to be evasive, I just --

ASSEMBLYMAN STECK: Well, I mean, I do think, though -- I appreciate your good faith. You know, we've met and we've talked, so I get that aspect of it.

But unfortunately, we do need an answer to these questions regarding these two

important sources of funding. So if you could subsequently supplement your testimony with an accounting as to what is happening, where those monies are, are they being used simply to, you know, reduce the amount of General Funds that go to OASAS.

Because our goal here, and I thought the goal of those two programs, was to increase the amount of money that was going to deal with the opioid crisis, which is in fact a crisis. So we hope you'll follow through on that. And if not, our committees certainly will.

Thank you very much, Commissioner.

COMMISSIONER GONZÁLEZ-SÁNCHEZ: Thank you. I -- okay.

CHAIRWOMAN WEINSTEIN: Thank you.

We go to the Senate now.

CHAIRWOMAN KRUEGER: You know, we just have our chair for a second round, so let's let the Assemblypeople complete theirs and then we'll go to our chair again.

CHAIRWOMAN WEINSTEIN: Okay. So we have our ranker, Assemblyman Brown, five

minutes.

ASSEMBLYMAN BROWN: Can everybody hear me?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: Yes.

ASSEMBLYMAN BROWN: Okay, great.

Thank you, Commissioner González-Sánchez. I really appreciate the opportunity to speak with you. I was appointed to the Committee on Alcoholism and Substance Abuse. It's something that I have a personal interest in, very much so, and I look forward to working with you in the future. But I just wanted to introduce myself, number one, and get right into the questions.

With regard to the integration of OASAS with the new Office of Mental Health, is there a cost savings that's involved with that? And if so, do you know what it is?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: No, there is no cost savings. The intent of this integration was for better care and delivery of services. It was never meant to have a cost savings at all.

You know, if there's savings in the near future, I guess that that will be addressed at that point in time. But that's not what has driven this integration piece.

ASSEMBLYMAN BROWN: Okay. And are there going to be any layoffs or terminations as a result of the merger?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: Not that I am familiar with, and not that I could see from the way, you know, the legislation is being drafted.

ASSEMBLYMAN BROWN: Okay. And how about will it impact at all any federal funds that OASAS receives?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: It should not, because the federal funds are just that, and they have specific criteria. And as we develop regulations under this new entity, those are some of the things that will need to be addressed within the regulations that we develop for the new entity.

So I don't anticipate that will be a problem. But it is something that needs to

be worked out once we get there.

ASSEMBLYMAN BROWN: And specifically, how do you envision, as commissioner, that this merger will help deliver services to people struggling with alcoholism and substance abuse?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: Well, you know, too long we see that people are going back and forth. There's a percentage of individuals that suffer from both illnesses, regardless of which one came first, and they usually go in and out, recidivism, you know, a vicious circle. They go in for mental health, they get depressed, then come back out, they start -- so the idea here is to have no wrong door. You know, where an individual who comes in who has both of these disabilities or illnesses could be addressed in one whole person, rather than to be asking the individual, who's usually at their most vulnerable time, to go first into one system, get your mental health in place, if that's possible, and then go to the addiction side and get your -- you know.

The idea is to really be patient-centered, be comprehensive, and deliver both cares at the same time for the individual.

ASSEMBLYMAN BROWN: Are there any downsides that have been identified? And what I'm speaking about specifically is in the SAGE Commission report in 2011, did they identify any downside to a potential integration?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: I think back then there were other concerns in place. You know, funding. You know, what does that mean, is one side going to lose funding, is the other one going to absorb the funding. I think there were concerns along those lines.

And is one entity, since it's bigger, going to, you know, take over the other entity. That is why this is not a merger, this is the creation of a brand-new department. It's not one department taking other another, it's adapting the best of both parts to create this comprehensive,

integrated department to better address the needs of the dual population.

So I couldn't speak to -- I'm sure some folks may find that there are, you know, negatives to this. But I think people were more concerned about budgets. And like I said, all of those things will be addressed as we move forward.

ASSEMBLYMAN BROWN: I'm sure you're aware, though, that the budget contains the prospect of legalizing cannabis in New York State. Have you been consulted at all with the potential impacts on mental health of the residents of the state in connection with the prospect of legalizing it?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: Yeah. We've been in conversation with the Department of Health and others, as well as OMH. And we've been in discussion, active discussions of impacts.

From my stance -- I don't want to speak for Ann, but from my stance, you know, the fact that the creation of this department to monitoring, to have oversight of this

cannabis program, speaks to, you know, us having a much more stringent approach on it. And, you know, it's going -- it's better to, you know, monitor it.

Right now we have people in our system that, you know, are actively using, and no one has any oversight or monitoring. So I feel comfortable that with this sense of oversight, that things will work out.

CHAIRWOMAN WEINSTEIN: Thank you --

ASSEMBLYMAN BROWN: specifically --

CHAIRWOMAN WEINSTEIN: Excuse me. Excuse me. Assemblyman, your -- the time has expired.

ASSEMBLYMAN BROWN: May I put a question in writing to the commissioner?

CHAIRWOMAN WEINSTEIN: I was just about to suggest that, that you should send a question to Assemblyman Ra and we will make sure that it gets to the commissioner.

ASSEMBLYMAN BROWN: Very well.

CHAIRWOMAN WEINSTEIN: So we are now going to go to the Senate. I think you have a -- I saw that Senator Hinchey --

CHAIRWOMAN KRUEGER: Thank you very much.

Senator Michelle Hinchey.

SENATOR HINCHEY: Hi. Thank you very much.

And Commissioner, thank you for being here.

I represent Ulster and Greene Counties, both of which flip-flop between being the highest in opioid overdose deaths each year in New York State. These are both largely rural counties with limited hospitals -- in fact, Greene County doesn't even have a hospital -- also with limited access to broadband services.

This has only gotten worse as the COVID-19 pandemic has led to increased isolation.

How can we work to better fight substance use disorder in these more rural counties? And what steps does the budget take to prioritize services in our hard-to-reach areas?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: So

that's a great question as well. I mean, broadband is an issue. But I think in general in the budget, you know, there's a process to try to address that.

But during the pandemic we realized that we have to use very innovative, nontraditional means to be able to work with people not only in rural areas, but, you know, all over the state.

And so, you know, telehealth has been very much a big issue for us to address needs in some of the rural areas. And you may say, Well, but if you don't have the broadband -- but that's where telephonics comes in. And we've been very proactive and vocal about -- it's not only telehealth, we need to envision, you know, telephonics.

You know, we also have these Centers of Treatment Innovation -- we call them COTIs -- where we have mobile capacity. And the idea is to go and reach out to these more rural areas to ensure that we're having -- we're providing access to individuals that need it.

And so we're going to continue to look at how we could do that into the future -- you know, continue to mobilize and be more receptive to that.

SENATOR HINCHEY: Thank you. I appreciate it. It's a really big deal for our communities, and any way we can work together to expand those services, I would love to do so.

My final question is while our experience with COVID over the last year has shown to have the unfortunate impact of exacerbating alcohol and substance abuse, it has also pulled back the cover of new ways to reach people seeking treatment, especially in terms of the use of virtual platforms and the anonymity it provides.

Does OASAS plan on using these virtual platforms to encourage and cultivate safe, non-judgmental spaces for people to seek treatment going forward, even as the pandemic hopefully subsides?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: Yes, absolutely. You know, the pandemic has shown

us that there are nontraditional and more progressive means of addressing addiction than we've ever thought of.

And absolutely, we don't want to go backwards. As a matter of fact, we're trying to advocate for more flexibility on the federal level to implement some of these practices that we have seen have been more, you know, productive -- telephonics, telehealth, doing induction of buprenorphine, you know, virtually. These are all things that we want to continue.

I know we have waivers from the federal government, but we're going to continue to push for the feds to really give us more flexibility, because I think that's what we need.

SENATOR HINCHEY: Great. Thank you very much.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: So we go -- yes, we go to Assemblyman Byrne, then Epstein, then Griffin before we go back to

the Senate.

ASSEMBLYMAN BYRNE: Can you hear me?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: Yes.

ASSEMBLYMAN BYRNE: Thank you, Commissioner. This was asked by one of my colleagues earlier, but I want to just elaborate on it a little bit more. The Jail-Based Substance Use Disorder Treatment and Transition Services, which was previously funded at $3.75 million, had a 50 percent reduction, lowering it in the Executive's budget proposal by 1.9 -- or to $1.9 million. Is that correct?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: Yes. Hold on one second. My -- my computer is going off.

(Discussion off the record.)

ASSEMBLYMAN BYRNE: Chair, do you mind just upping the clock?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: Oh, I'm sorry. Okay, sorry. I'm sorry.

So you asked me if --

ASSEMBLYMAN BYRNE: The Jail-Based Substance Use Disorder Treatment and

Transition Services Program, cut in half from $3.75 million to $1.9 million. I want to confirm that was correct.

COMMISSIONER GONZÁLEZ-SÁNCHEZ: Yes.

ASSEMBLYMAN BYRNE: And I know you mentioned earlier, you referenced some of the changes in the law -- namely, bail reform -- for a reduced prison population in our county jails as part of the cause for that.

COMMISSIONER GONZÁLEZ-SÁNCHEZ: Yes, absolutely.

ASSEMBLYMAN BYRNE: Is it not also correct that county governments apply for this funding, it's not automatic to county governments, correct?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: I'm not sure what that is. I know that county government advocated for this money.

We, together with the county and the local jails, determined how the money was going to be allocated, based on their needs and their ability and willingness to do this program --

ASSEMBLYMAN BYRNE: Thank you,

Commissioner. I apologize for interrupting, but I have a limited amount of time. I just want to make sure I get my point across to advocate for this.

I do believe there's definitely still need. And when we look at the prison population -- and I know you're passionate about this too, and I don't doubt that for a second. But we can't look at these people just as simply numbers, because the need for the people suffering from addiction is very, very real.

And I wanted to bring this up because there is a constituent in Putnam County, Nancy Bruno, who lost her son, Chris Bruno, back in 2019. And when your back is against the wall -- and it's a shame in our state and society that this is -- in some ways, it's the last opportunity to try to get someone help: It was getting her son into jail to get services.

And when he was in Putnam County Jail, he actually got tremendous services, he attended Bible study, AA, got services. He

was released from the county jail on July 8th and died on July 10th.

And it's tragic, but we need to know -- like at least acknowledge that the services in that county jail were extremely important and we shouldn't be cutting it back, we should actually be expanding it.

And I wanted to make sure that I got that point across that we could actually try to bring that back up, bring it back to at least where it was. In our body, in the Assembly and the Senate, we should seriously be talking about expanding it so when these people leave the correctional facility, they're not just put back in the same situation and we give them other alternative pathways to recovery and help.

Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

We go to Assemblyman Epstein, three minutes.

THE MODERATOR: I don't know if he's with us. I'm asking him to unmute, but --

(Pause.)

CHAIRWOMAN WEINSTEIN: So then let's go to Assemblywoman Griffin for three minutes.

ASSEMBLYWOMAN GRIFFIN: Okay, thank you.

Good afternoon, Commissioner González-Sánchez. I am -- I have two questions, so I'll ask them and then I'll ask if you can respond, time permitting.

I am deeply, deeply concerned about the many proposed cuts to many essential programs that OASAS sponsors. I represent Southwestern Nassau County, where the opioid epidemic is significant and on the rise. And this is a time we should be providing more services and not less services.

So my first question is, how will OASAS compensate if these proposed cuts become permanent? And then my other question is if marijuana is legalized, what plan does OASAS have in place to provide awareness about driving under the influence, health concerns, especially due to COVID -- smoking marijuana can exacerbate COVID symptoms --

and addiction?

So I just wondered if you can answer those two questions.

COMMISSIONER GONZÁLEZ-SÁNCHEZ: I'll try to do them quickly.

So the cuts that have been -- or the savings that have been put forth, they're not -- they're not terminating altogether any services. And so it's been very tough, I can't sit here and say it was easy to do this. It wasn't. But we've tried to minimize it to the best of our ability.

And so as always, we will continue to work with our providers. None of the providers will go out of business per se, and we will continue to support them to the best of our ability given, you know, whatever funding we get.

With respect to the marijuana, we are already looking at, you know, best practices from other states that have already legalized it, and we plan to do a very aggressive campaign, similar to what we did years ago with underage drinking, to ensure that people

are aware and know more about cannabis and so on and so forth.

ASSEMBLYWOMAN GRIFFIN: Okay, thank you very much.

COMMISSIONER GONZÁLEZ-SÁNCHEZ: Sorry.

ASSEMBLYWOMAN GRIFFIN: That's okay.

CHAIRWOMAN WEINSTEIN: So I think we go back now to the Senate for the second round.

CHAIRWOMAN KRUEGER: Thank you.

ASSEMBLYMAN EPSTEIN: Hi, sorry about that. I -- sure.

CHAIRWOMAN KRUEGER: Hello, am I on?

ASSEMBLYMAN EPSTEIN: Can you hear me?

CHAIRWOMAN WEINSTEIN: Yes, we can hear you.

CHAIRWOMAN KRUEGER: Okay, thank you. Back to me, or do we want to go to Harvey? What do you prefer, Helene?

CHAIRWOMAN WEINSTEIN: Harvey, you're here now?

ASSEMBLYMAN EPSTEIN: Yeah, I'm here.

CHAIRWOMAN WEINSTEIN: Okay.

ASSEMBLYMAN EPSTEIN: Can I go? Can I

go, Helene?

CHAIRWOMAN KRUEGER: Sure.

CHAIRWOMAN WEINSTEIN: Yes. Next time please let me know if you're going to be missing, because according to our protocol, if you're not here when your name is called, we don't go back. But go ahead.

ASSEMBLYMAN EPSTEIN: Okay, sorry. Yeah, I'm sorry, I just got up for a second. Yeah, I'm here.

So, Commissioner, I just have a question about the opioid in prisons. In 2019, what was the prison population.

COMMISSIONER GONZÁLEZ-SÁNCHEZ: I don't have that number off --

ASSEMBLYMAN EPSTEIN: Do you know in 2020 what the prison population was?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: I don't have those numbers off the top, I'm sorry.

ASSEMBLYMAN EPSTEIN: Because you said you reduced a program by 50 percent because you said there was a substantial reduction in the prison population. What was that?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: In -- not prison, in the jails, New York State jails.

ASSEMBLYMAN EPSTEIN: The jail population, yeah.

COMMISSIONER GONZÁLEZ-SÁNCHEZ: Okay. And DCJS did some -- they're the ones that actually covered this. And my understanding is that recently it went down by 35 percent, the jail population went down by 35 percent.

ASSEMBLYMAN EPSTEIN: And you know the jail population's gone back up this year, right?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: I couldn't speak to that. I don't have that data right here.

ASSEMBLYMAN EPSTEIN: I'm just wondering, you're proposing a 50 percent cut in your program that affects people who are in jails when we've seen a huge -- you know, we see a huge problem in those and we see a program that's really productive and effective.

I'm just wondering, if we don't see a

real decline in the population and we don't see a decline in people who have addiction issues -- we've probably seen an increase during COVID -- I'm wondering -- I just still don't understand the rationale you gave to Assemblyman Abinanti about cutting the program. I don't understand it.

COMMISSIONER GONZÁLEZ-SÁNCHEZ: Well, like I said, we took into account the decrease in population in the jails and we figured that cutting the funding by that amount, 1.9, was still going to allow the jails, the local jails, to continue doing the counseling, the assessments and the referrals that they're currently doing.

Remember, this money is going to community-based organizations that are coming into the jails to do the assessments and the referrals for this jail population.

You know, I --

ASSEMBLYMAN EPSTEIN: Commissioner, let's say your -- I only have a minute left, but let's say your assumptions are wrong, that we don't see a decrease, we see an

increase in opioid usage and we see a huge, growing problem which we've seen across the country during COVID. Is this then making a problem worse, Commissioner?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: We haven't seen that right now. All I can tell you is that we will continue to be vigilant. And if what you're indicating is accurate, we will try to address it as we move forward.

ASSEMBLYMAN EPSTEIN: I'm going to encourage you to do that. Senator Harckham already raised this issue earlier, that we don't have good numbers for 2021 or 2020. But we've seen anecdotally the increases across the country, an increase in opioid deaths across the country. I would hope you'd reconsider this, knowing that this could be lifesaving for many New Yorkers who are behind bars and who really need the help that they should get from New York State.

Thank you. My time has expired. Thank you, Madam Chair, sorry I was not here earlier.

COMMISSIONER GONZÁLEZ-SÁNCHEZ: Thank

you.

CHAIRWOMAN WEINSTEIN: Sure.

Let's go to the Senate.

CHAIRWOMAN KRUEGER: So Pete Harckham for his five minutes as ranker, second round.

SENATOR HARCKHAM: Thank you very much, Madam Chair.

Commissioner, Assemblyman Epstein was a great segue to where we left about the Department of Health numbers being two years old.

Have you spoken with Commissioner Zucker about this? And what are they doing to improve this situation?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: I really can't speak for DOH.

What I can tell you is that what we are doing is we're looking at CDC data, which is, you know, between six months to maybe a year old. And that's the data that we're currently using with respect to the overdoses.

You know, I also want to interject that, you know, this -- you know, overdose

data is very complicated to gather. It has to go through various entities. Right? And it takes a while to actually collect and then extrapolate and then put into an actual report.

So we're trying the best that we can, you know, to work with the localities, the local, you know, OMEs, the MEs, and to try to get the data so that we are not looking at things in a vacuum.

SENATOR HARCKHAM: Yeah. And again, I would add that this is not your direct oversight area, but other states do it on a monthly basis, and we do COVID numbers on a daily basis. I think the Department of Health can do a lot better than two years.

Another issue that impacts your services but again is not under your direct control -- but I'd like you to comment, if you're comfortable -- is the Office of Medicaid Inspector General.

I think we would agree that we want him to do audits to ferret out abuse and fraud and outright waste. But we've seen

examples where extremely punitive fines have been levied for clerical errors. And there is a facility in New York City that had $400 worth of clerical errors; they were levied a withholding of $7.5 million. They decided to close their doors. We lost 1500 treatment slots. The same thing is happening to a provider in upstate New York.

So you're jumping through hoops in your agency trying to create new beds and new treatment slots, and we have the Office of the Medicaid Inspector General with these draconian audits that are causing large numbers of beds to be lost.

Is there any coordination going on there?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: Yes. You know, I have to start off by acknowledging we're very much aware and we are in ongoing conversation with OMIG and our providers around this issue, trying to see how -- you know, explore ways that we could adjust this audit, these audits, to make it more in line with what OMIG has to do --

that's their responsibility -- but also ensuring that our OTPs are not destabilized and will still remain in operation. We're in active discussion along those lines.

But to the one provider who did close shop, I just want to make sure that they didn't close all their services. And everyone who was left without that particular clinic that they closed down, we found a new provider. So nobody was dropped, and nobody was left without services.

But I do understand --

SENATOR HARCKHAM: That does upset the demand for other people, though.

COMMISSIONER GONZÁLEZ-SÁNCHEZ: We currently have enough capacity, but I do understand it's not an issue of capacity, it's the time, the period and how these audits are going. But we are actively talking with OMIG to see how we could come to some middle grounds.

SENATOR HARCKHAM: All right, thank you.

In the last 30 seconds could you just

speak to how successful, or not, the scholarship program was that we established two years ago, and the demand for that?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: Oh, great, thank you so much. I first have to start off by thanking you for that. It's been very successful. I think it was $350,000. We've used like 275,000. Which shows you that it has been very successful, not only for individuals but for getting people into the field to work with our population. So it's been very successful.

SENATOR HARCKHAM: Terrific. Thank you very much, Commissioner.

CHAIRWOMAN KRUEGER: Thank you.

CHAIRWOMAN WEINSTEIN: Thank you. We have an Assemblymember who wants to ask a question. So Assemblyman Braunstein.

ASSEMBLYMAN BRAUNSTEIN: Thank you, Chair Weinstein. Can you hear me?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: Yes.

ASSEMBLYMAN BRAUNSTEIN: Thank you, Commissioner.

My question is -- it's unfortunate

that we don't have data on overdose deaths for the most recent two years. By all indications -- go ahead, you were about to say something?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: Yeah, I was going to say with respect to the latest CDC, which is up to June of 2020, we do have data. And the data indicates that there was like 3,500 deaths in that period of time.

ASSEMBLYMAN BRAUNSTEIN: Is that an increase over previous years?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: It's a slight increase, yes.

ASSEMBLYMAN BRAUNSTEIN: So because of the increase, it's becoming more and more common for states -- nine states, most recently New Jersey, have started requiring doctors to coprescribe an opioid antagonist when -- well, like Naloxone, Naloxone, when prescribing a certain level of opioids. Have you considered this as part of your policy moving forward.

COMMISSIONER GONZÁLEZ-SÁNCHEZ: This is something that we're currently actively

talking about. Yes, we're in the process of looking at this. I'm not sure we have come to any conclusion, but yes, we are aware and we're looking at this.

ASSEMBLYMAN BRAUNSTEIN: Okay. because it's something, you know, we're also looking at on the Assembly side. And we're exploring -- and obviously it would have some financial impact through the Medicaid system, but we're looking at it.

In the past, the Executive -- representatives for the Executive had said, Well, it's just enough that we encourage doctors to coprescribe, and we don't want to mandate.

And I'm just looking at a letter that my colleague John McDonald recently wrote to the newspaper -- he's been helping us on this. And according to his data, of the 800,000 people in New York State who meet the definition of at-risk for opioid overdose by the CDC, only 10,000, or about 1.5 percent, are also coprescribed Naloxone.

So, you know, the argument that, well,

we encourage doctors to coprescribe, and we think that's enough -- based on this data that only 1.5 percent of those at high risk are getting coprescribed, I think it's time to reassess that argument and consider mandating that they coprescribe.

Okay, thank you for the time. And I hope we could talk moving forward -- you know, get an idea of the financial impact. Obviously that's something to consider as well. Thank you.

COMMISSIONER GONZÁLEZ-SÁNCHEZ: Okay, thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

We go back to the Senate, to close.

CHAIRWOMAN KRUEGER: Thank you.

A couple of the other questions now drag me into asking you a couple of questions. So marijuana, while we're discussing legalizing it, even within this budget, possibly, it's the most used drug in the State of New York in the illegal category.

So how many of your slots are filled

with people who have a marijuana addiction?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: Well, we've been looking at that. I don't have the exact number. But it's very clear that folks that are on marijuana should not be filling those critical inpatient programs. This is something that could be treated in the community, and those beds should really be held for those that are more on opioids, synthetics, much stronger drugs per se.

CHAIRWOMAN KRUEGER: Thank you. How many marijuana deaths do you see each year?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: I don't -- I don't have that information. I will try to look for it. I don't have it.

CHAIRWOMAN KRUEGER: So the CDC and the National Institute on Drug Abuse say none, because you don't actually die or cause any long-term physical illnesses from marijuana use above the age of 21.

So happily, I think you would find none, because we probably are consistent with the rest of the world that way.

And then I also heard -- but I don't

know if it was a fair question of you, since I don't think you're a medical doctor -- someone asked you about the dangers of marijuana and COVID. But when I looked, I could find no research showing cannabis has anything to do with putting you at higher risk of COVID or illness with COVID -- in fact, just the opposite.

Have you heard anything about that?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: No, I haven't.

CHAIRWOMAN KRUEGER: But again, that's not really your field anyway, fair enough?

COMMISSIONER GONZÁLEZ-SÁNCHEZ: That's fair enough.

CHAIRWOMAN KRUEGER: Thank you very much. Thank you.

I think -- well, if there's no more Assembly, then I'm going to actually excuse you and thank you for your time with us today.

And now we're going to move to the New York State Justice Center for the Protection of People With Special Needs,

Denise Miranda, executive director.

And because of the dual responsibilities of this agency, both Senator Brouk and Senator Mannion and Assemblymember Gunther and Assemblymember Abinanti are all considered as chairs of the relevant committees, and each of them will get 10 minutes if they need it. They don't have to use it.

So I'll first turn it over to Denise for her 10 minutes of testimony.

Good afternoon.

EXECUTIVE DIRECTOR MIRANDA: Good afternoon. Good afternoon, Chairs Krueger, Weinstein, Mannion and Gunther, as well as other distinguished members of the Senate and Assembly. My name is Denise Miranda, and I'm the executive director of the New York State Justice Center for the Protection of People With Special Needs.

I would like to thank you for the opportunity to testify regarding Governor Cuomo's Executive Budget proposal.

Today I come before you on behalf of

the more than 1 million New Yorkers in care with special needs. The Justice Center's work is directed by our steadfast commitment to protecting vulnerable people.

While it's no surprise that our agency has been impacted by the COVID-19 health crisis, I want to assure you that our commitment has not wavered. When I appeared before the Legislature last year, I spoke about how I see the relatively young age of the Justice Center as an advantage. It allows us to pivot quickly when circumstances necessitate change. This has only been more evident during this global health crisis. We're continually evaluating our processes and exploring ways to operate more efficiently, while also collaborating with stakeholders at all levels.

The role we play in keeping vulnerable populations safe from abuse and neglect cannot change, even in the face of COVID-19. Throughout the pandemic, our call center has continued taking reports around the clock. Our team of highly trained investigators has

worked tirelessly to hold the quality of investigations to the highest standard while ensuring the safety of everyone involved. Our investigators have used telephone and video interviewing techniques, when appropriate, and followed all health guidelines when visiting provider facilities to do in-person work.

Our advocates have continued victim advocacy and family support work with necessary modifications. Some family members and individuals receiving services no longer felt comfortable appearing in person for interviews. Our advocates adjusted quickly, using technology to support these individuals remotely.

The Justice Center understands that protecting people from abuse and neglect goes beyond investigations. We work towards the goal of preventing these incidents from happening. It is imperative that the global health crisis not slow this work down.

In 2020 the agency created two new abuse prevention toolkits for use by

providers, staff and individuals receiving services. These toolkits are created through the analysis of trends in Justice Center cases. One recently released toolkit focuses on proper wheelchair securement during transport. The other highlights the benefits of global positioning systems in agency vehicles.

GPS allows providers to monitor vehicles transporting individuals receiving services and address issues like speeding or unauthorized stops.

We have also modified processes, where appropriate, to support providers and the dedicated workforce. We all recognize that the COVID-19 pandemic has brought unprecedented challenges such as staffing shortages. To respond to this challenge, and under authority granted by an executive order, we created an expedited background check process for workers that are not new to the system of care that is overseen by the Justice Center. This allowed providers to hire staff quickly to fill the gaps without

compromising the integrity of the service delivery system or the quality of our background checks.

The Justice Center also evaluated and improved several internal processes during 2020. Staff from several units were combined to create a more efficient approach to our litigation work. This promotes continuity from the launch of an investigation through appeal, ensuring due process for all parties.

Additionally, we continue to expand our three-business-day intake model. The goal is to more accurately clarify allegations when they are made, which can have the added benefit of reducing cycle time and enhancing the quality of investigations.

While we all recognize the difficulties experienced this past year, we have also found that some of our new processes will be useful when this health crisis is over. For example, we implemented virtual appeal hearings and have found this to be an efficient way to carry on this work when in-person appearances are not feasible.

Further, the remote environment allows us to do several different types of interviews without the burden of travel. These efficiencies will be carried forward as mutually beneficial to investigators and interviewees alike.

Finally, we all know the impact of the COVID-19 pandemic extended far beyond the Justice Center's work. New Yorkers needed help from state government in ways never seen before. Justice Center staff recognized the depth of the crisis and stepped up, assisting with things like unemployment claims, COVID testing scheduling, and paid family leave calls.

Last year I closed my remarks by saying the safety and well-being of the individuals under our jurisdiction remains the foundation of everything we do. That has certainly taken on new meaning. The COVID-19 health crisis has challenged the work of government at all levels, and the Justice Center is no exception. But I can attest that the agency has risen to meet this

challenge.

The Justice Center's ability to adapt quickly and adjust business practices has allowed us to carry on our critical mission. We will take the lessons we have learned and continue to improve our work so we can serve New Yorkers with special needs to the very best of our ability.

Again, thank you for this opportunity to report on important work, and I welcome any questions you may have.

CHAIRWOMAN KRUEGER: Thank you very much.

I think our first questioner will be Senator John Mannion.

SENATOR MANNION: Thank you, Commissioner --

CHAIRWOMAN KRUEGER: If you're ready. If not, it's okay. I could also call on Samra Brouk if you'd prefer.

SENATOR MANNION: No, I'm here. I'm here. I was just unmuting, so I apologize and appreciate the patience. So thank you.

Thank you, Commissioner -- or Director

Miranda, I'm sorry -- for being here today. And I think we all agree that the state must take all allegations of abuse very seriously and investigate each one. And I appreciate all the work that the Justice Center does.

Two quick questions. Number one, in Part EE of the Executive Budget it proposes getting rid of the adult home advocacy and adult home resident council programs. And as you know, these programs provide residents with education and awareness of their rights.

Who is going to educate these residents once the program is eliminated?

EXECUTIVE DIRECTOR MIRANDA: Sure. So thank you for that question.

Difficult times call for difficult choices. And I don't think it is lost on any of us that we are in the midst of not only a health crisis but an economic and fiscal crisis.

So the Justice Center was tasked with evaluating all of our functions. And in looking at our core functions, preventing abuse and neglect remains a core function.

This program is a legacy program that we absorbed from C2C. And originally, when it was enacted, it came with appropriations. When it arrived at the Justice Center upon that transfer, it did not bring those funds.

So unfortunately, despite the incredible work that I know is done by the individuals in the nonprofit world, and the advocates, we had to make a choice. And I will say the work that they are doing is extremely important. I myself come from the advocacy world, spent countless years in the nonprofit world, and I certainly appreciate the importance of knowing-your-rights trainings.

But we had to make a decision with respect to our core functions for abuse and neglect and ensure that we were not shaving off staff through layoffs or any other areas that would compromise our core mandate and mission.

SENATOR MANNION: Got it. But obviously this is important information, so how are they actually going to receive this

information without that part of the program being in place?

EXECUTIVE DIRECTOR MIRANDA: Well, certainly I expect that the nonprofits will have to evaluate their priorities and determine whether this is something they can absorb within their budgets. I can only speak to the fact that the Justice Center is not in a position to move forward with a contract at this point.

SENATOR MANNION: I understand. Okay, thank you.

The Justice Center also has a lawsuit coming before the Court of Appeals challenging the legal authority of the Justice Center. So should that lawsuit be decided against the Justice Center, how do you see that decision affecting operations and the ability for them to investigate -- for you to investigate, excuse me. Thank you.

EXECUTIVE DIRECTOR MIRANDA: Sure. So I think you're referring to the constitutional challenge which will be argued

before the Court of Appeals, as you correctly noted, next week.

We're very confident that we will prevail. The issue there is the constitutional authority, and the Legislature has granted this power to the Justice Center. There is nothing in the legislation -- I'm sorry, there is nothing in the Constitution that prevents the Legislature from actually granting prosecutorial authority to an executive agency. In fact, county DAs derive their power from the legislation as well.

That said, the work that we do as it relates to the criminal work is very important work. But thankfully there's a low number of criminal incidents that actually occur. The majority of the work undertaken by this agency really flows throughout our administrative work, where we're able to substantiate individuals who may be committing egregious acts of abuse and neglect, depending on the category level.

So I do not foresee, even in the worst-case scenario, that we do not prevail

in this argument, it having the great impact perhaps that people are concerned about.

I also want to add that we have an incredibly cooperative and collaborative relationship with all 62 county DAs, and we work very well. And it's our expectation that irrespective of the outcome next week, that we will continue to work with them.

Our priority is ensuring that bad actors are removed from -- the ability from having the opportunity, quite frankly, to abuse individuals who are receiving services. And so we take that obligation very seriously, and we will work with them hand in hand irrespective of the outcome.

SENATOR MANNION: Thank you for that. I appreciate it.

If I can go back to the original question, you know, as I was a little thoughtful about it. You spoke about how the nonprofit providers would hopefully pick up that part of the information transmitting to individuals or their families.

Are they aware that this is a service

that's being pulled back?

EXECUTIVE DIRECTOR MIRANDA: Our agency has had those discussions.

SENATOR MANNION: Okay. Thank you very much. I appreciate it.

EXECUTIVE DIRECTOR MIRANDA: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: So we'll go to our chair, then, of People with Disabilities, Assemblyman Abinanti.

ASSEMBLYMAN ABINANTI: Thank you. I'm not sure what's the proper title. Director, is that what I call you, or -- I'm not sure.

EXECUTIVE DIRECTOR MIRANDA: Director.

ASSEMBLYMAN ABINANTI: Director. Hello, Director, nice to see you again. It's been a long time since we've had a chance to --

EXECUTIVE DIRECTOR MIRANDA: It has been. Good to see you as well.

ASSEMBLYMAN ABINANTI: Same here.

Okay, I'm a little puzzled about your

workload. I don't see anywhere a chart indicating the number of cases that you handled last year and the year before and the year before that. Can you provide us with that information?

EXECUTIVE DIRECTOR MIRANDA: Sure. I'll be more than happy to provide you with that information.

I think it's also worth pointing out that our website posts and lists information, data that we collect on a monthly basis. I'm also happy to send to you a copy of our annual report from last year.

ASSEMBLYMAN ABINANTI: I would like to see that if I could. I'm looking at the website, I'm not finding that information. That's why I asked.

But at any rate I would like to see whatever -- you know, how many cases you had, how many you brought to completion. Do you have any information on how long it takes to -- turnaround on -- let's say there's a complaint against an employee in a private -- in a voluntary agency. They have to suspend

that person, they have to set them aside, they continue to pay them. It used to take a really long time to get a decision back from your agency.

Can you give me any indication as to how long it now takes to do that?

EXECUTIVE DIRECTOR MIRANDA: Sure.

So you're correct, the decision with respect to discipline and leave falls within the purview of the provider, the employer. The Justice Center does not play any role in that decision.

And cycle time has significantly improved over the course of years. As you're aware, this is a relatively new agency. We're going into our eighth year.

ASSEMBLYMAN ABINANTI: Right.

EXECUTIVE DIRECTOR MIRANDA: That said, our cycle time right now is at 79 days. And that represents an increase of approximately nine days, which is directly attributable to the impact of COVID this year.

It remains my expectation as we move

into 2021 that we are going to be able to move forward with a lot of the technology that we implemented, and we will see a decrease in that cycle time.

We appreciate the importance of cycle time in concluding with an efficient and thorough investigation, with the impact that it has on providers.

ASSEMBLYMAN ABINANTI: All right. Now, I'm interested -- I'm noticing that you say you don't have the resources to continue with that program for adults, and yet it seems that your agency was pretty much co-opted by the Health Department. I mean, you referred to it yourself, you set up COVID testing appointments, you answered COVID questions, triaging calls for OPWDD and COVID-specific hotline, helping the Labor Department with unemployment-related calls. It seems like you were doing everything except your core mission, as you referred to it.

And I'm trying to figure out why you don't have the ability to continue that other

function or why we're maintaining your agency at the same level. I notice there's a slight cut, but not much.

EXECUTIVE DIRECTOR MIRANDA: So, happy to answer that question.

The Justice Center remained fully operational throughout the entire pandemic. In fact, we received 90,000 calls. We categorized approximately 11,000 cases last year as abuse and neglect. We also closed 9,000 cases.

So I just want to make sure that we're abundantly clear that the assertion that the Justice Center is not doing work during the pandemic is certainly far from true.

With respect to some of the other initiatives that I did speak about in my testimony, I am extremely proud of the folks at my agency who stepped up and volunteered their time after completing their work assignments -- on weekends and on evenings and holidays, to do a lot of this work. Because essentially --

ASSEMBLYMAN ABINANTI: You mean they

were not paid for this? There was no employees on state time were moved over to other departments to pick up the slack in these other areas?

EXECUTIVE DIRECTOR MIRANDA: What I can tell you is that the overwhelming number of individuals who contributed to those initiatives did so on their own accord and volunteered their time. And I'm extremely -- I'm sorry, I'm extremely proud of our workforce, their ability to maintain the core functions at the agency as well as step up on behalf of New York.

ASSEMBLYMAN ABINANTI: I would like to see some -- a chart as to how much -- how many hours, FTEs, whatever you want to say, that they devoted to these other departments.

EXECUTIVE DIRECTOR MIRANDA: More than happy to provide that to you, yes.

ASSEMBLYMAN ABINANTI: All right, very good. Thank you.

Now, on the issue of the Legislature granting prosecution powers to the Justice Center, I would tend to agree with

the challengers in that lawsuit. I do not believe we gave you the power to prosecute. I thought the agency was intended to be a backup for local district attorneys and that you were going to be providing expertise to the district attorneys, who were going to prosecute those matters.

And if you wouldn't mind highlighting in the statute and sending to me -- unless you have it right handy -- where the statute gives you that power. Unless you're talking about implied power, and I don't think that that was a statute that had any implied powers in it. I'd love to see that information.

EXECUTIVE DIRECTOR MIRANDA: So more than happy to send you a relevant copy and section of the statute that specifically delineates that we will have concurrent authority.

I also think it's worth pointing out that this legislation passed unanimously through the Legislature. And so I don't think there's any ambiguity in the statute

with respect to the authority that was granted or the fact that it was concurrent.

ASSEMBLYMAN ABINANTI: The fact that it passed unanimously has nothing to do with the meaning of the statute, because people had different interpretations of it.

In fact, as you probably are aware, I wrote a several-page critique of the legislation --

EXECUTIVE DIRECTOR MIRANDA: Yes.

ASSEMBLYMAN ABINANTI: -- at the time but had no choice but to vote for it because of the way it was presented. I don't remember if it was part of the budget or if it was a separate legislation, but I had serious critiques about the way it was drafted and the way it was sold to us.

And I think your agency has wisely chosen to do certain activities and not others that we were told you were going to do. Because the way it was presented, I saw a conflict of interest of doing some of the things. But I think your agency has gone off in the proper direction --

EXECUTIVE DIRECTOR MIRANDA: Thank you.

ASSEMBLYMAN ABINANTI: -- with respect to those conflicts.

I wanted to understand, during COVID, have you had on-site visits? How do you interview victims who have disabilities, et cetera? I mean, parents are not allowed into a facility, or were not allowed in. And so how was it you were going into a facility and interviewing someone without a parent or a guardian present?

EXECUTIVE DIRECTOR MIRANDA: Sure. So with respect to visitation schedules and access, the Justice Center does not play any role, as I'm sure you're aware. Those protocols are set forth by the provider and the state oversight agency.

With respect to our functions during the COVID pandemic, as soon as New York PAUSE was instituted, we took the opportunity to do a full assessment of all of our in-person interactions. We recognize that going into a facility in person bears a certain degree of

risk, and we wanted to be extremely mindful that our investigators were not going in and possibly increasing the opportunity for COVID to be brought into a facility.

That said, we were able to implement video as well as phone technology and do some of the interviews over the phone and as well as video. We were assessing every single case based on the circumstances to decide whether an in-person interaction was truly necessary. And those decisions were conferenced with supervisors, again, because the priority was ensuring the welfare and well-being of the individuals who were in the facilities receiving care.

We did have boots on the ground, and we went out to facilities when the circumstances were warranted.

ASSEMBLYMAN ABINANTI: Okay. I'm just a little concerned about that. You know, I've been critical of you for being a little bit overly aggressive. But on the other hand, I do want to make sure that you get the right information. And a lot of the people

in particularly OPWDD facilities are not capable of communicating or have difficulty communicating in the first place and clearly are not capable of communicating over Zoom or something like that.

Let me ask you about possible additional technology. There have been suggestions that technology could be helpful. For example, putting cameras into group homes in various locations -- clearly not in somebody's bedroom, but perhaps in a common area or by the doorways to see who goes in and out and whatever. And perhaps other types of information like that.

Do you have any opinion on those types of technologies?

EXECUTIVE DIRECTOR MIRANDA: So certainly we have cases that we've investigated where video has proven to be extremely helpful in trying to ascertain exactly what happened and what transpired. And so certainly video can be useful. But I think there also needs to be a balance with respect to the interests of privacy, as you

mentioned. Right?

So that falls within the authority and the purview of the state oversight agency. I can attest to the value of having video, but I also recognize that there are other considerations that really need to be contemplated as well.

ASSEMBLYMAN ABINANTI: All right, I'm going to stop at this point. Thank you very much.

EXECUTIVE DIRECTOR MIRANDA: Thank you.

CHAIRWOMAN KRUEGER: Thank you very much.

The next questioner, just three minutes, Senator Pete Harckham.

SENATOR HARCKHAM: Hello there, Madam Director. Good to see you again.

EXECUTIVE DIRECTOR MIRANDA: Good to see you.

SENATOR HARCKHAM: We've had this conversation before, but I think it's worth revisiting on an annual basis.

First, I want to say the work you do

is vitally important. We want to get folks who are either predators or don't have the temperament to be in the business out of the business.

But I have a number of facilities in my district, both small and large, and especially the ones that deal with adolescents, a more volatile population, I can say uniformly the employees of those facilities are terrified of you. And it makes it harder to retain qualified staff.

Senator O'Mara referred earlier to one of the other organizations. You know, when folks are barely making minimum wage, they can work at McDonald's and not have the liability risk, the risk of prosecution.

So, so much of your mission is also about education and prevention. And how are you continuing to transition with that work so the people can feel less afraid of you and more secure in the knowledge that you've given them?

EXECUTIVE DIRECTOR MIRANDA: Thank you for the question.

So certainly the priority for the Justice Center is to investigate abuse and neglect, but also to prevent it, as you pointed out. Right? And so we take very seriously the obligation we have to be accessible to answer questions, to dispel myths, and to be transparent about the work we do.

You know, you may be familiar, there are a lot of misconceptions about the work we do and about the purview of our authority. For example, we do not make discipline decisions, we do not set standards for care within facilities.

How do we deal with that as an agency? We deal with that through outreach. Right? And so last year, despite the fact that COVID was here and certainly placed limitations with respect to our ability to go and do these in-person trainings, we still conducted 44 outreach events. And I certainly have spoken to various unions and employees and provider associations, making sure that we are always readily available to answer

questions.

I believe education and outreach is key to ensuring that people are aware that we are here to make sure that people are safe. And what we've found is that I have never met a provider who's ever said that they want to have abuse and neglect within their environment. And we meet countless workers who are glad that there is someone to call if a colleague is perhaps committing abuse and neglect.

That said, I recognize that the overwhelming majority of individuals, especially in the settings that you mentioned earlier, are hardworking individuals who are committed to this work. And certainly we do not want to be an impediment, nor an additional stressor.

I'm more than happy to set up a time where perhaps we could speak with some of these associations and share our insight and answer questions.

SENATOR HARCKHAM: Terrific. Thank you very much.

EXECUTIVE DIRECTOR MIRANDA: Thank you.

CHAIRWOMAN KRUEGER: Thank you.

And now I believe we're going to Assemblymember Gunther.

CHAIRWOMAN WEINSTEIN: Yes, for -- I'm back.

CHAIRWOMAN KRUEGER: Great.

CHAIRWOMAN WEINSTEIN: Yes, for 10 minutes to Assemblywoman Gunther.

ASSEMBLYWOMAN GUNTHER: Okay, thank you very much. I won't be 10 minutes. But I do want -- my comment is I want to thank you because you have come to our communities, you have really explained the Justice Center, you've improved the quality of care. And I just actually wanted to thank you because it used to be like the boogeyman, but now they really welcome your visits to the facilities because you do do teaching and it's very important and you're protecting a vulnerable population.

So I just wanted to say thank you, Denise.

EXECUTIVE DIRECTOR MIRANDA: Thank you.

CHAIRWOMAN WEINSTEIN: Okay, back to the Senate if you have --

CHAIRWOMAN KRUEGER: Thank you. That was fast. Thank you.

Well, also, Denise I also want to say thank you, because I know that the whole history of this center, the Justice Center, has, you know, been a back and forth between people not understanding what you were set up to do, and perhaps not having the best protocols in previous years, but in really working with very large numbers of people throughout multiple communities to get if right.

So, first question. We're removing your authority over adult homes in this budget?

EXECUTIVE DIRECTOR MIRANDA: No. Our authority, as delineated within the statute, to have jurisdiction over abuse and neglect and adult homes, remains intact.

CHAIRWOMAN KRUEGER: It does.

EXECUTIVE DIRECTOR MIRANDA: The reference to adult homes is a contract of approximately, I believe, $230,000 where we fund services, advocacy services for adult homes.

But we will still have the same jurisdiction that's delineated in the statute. That will not be impacted in any shape or form.

CHAIRWOMAN KRUEGER: Good. I'm very happy about that.

And second -- and yes, obviously there are people who whistle-blow on their own agencies, and that's important so that you can get information.

During this time of COVID-19 have there been experiences where you learn people who probably really should have been sent to a hospital were not sent to a hospital, even when workers were saying, you know, This person's sick, I think we need to do something about this?

EXECUTIVE DIRECTOR MIRANDA: So our jurisdiction is very narrowly defined.

Right? And our jurisdiction allows for us to investigate abuse and neglect. And the threshold issue there is that there be an allegation that a custodian committed abuse and neglect to an actual individual who's receiving services.

So no, those circumstances were not something that we encountered on a regular basis here at the Justice Center.

But if a call were to come into the agency with some sort of allegation, even if it falls with -- outside of our jurisdiction, we take our obligation very seriously. And we will take that information and we will make sure that it is relayed to the appropriate state oversight agency.

We also have a mechanism internally whereby, you know, allegations that perhaps are very egregious but, again, fall outside of our jurisdiction, executive staff within the agency is immediately notified and we will reach out to the state oversight agency to make sure that there is complete awareness of the situation.

CHAIRWOMAN KRUEGER: Okay, so I am a little confused. So we know that immediate family members are not being allowed to go visit, for legitimate reasons. But then they might have reached out to say, I think my family member is sick and needs a doctor or hospital care. Or it could have been another worker inside the agency.

You wouldn't define refusing medical care as an abuse or neglect situation?

EXECUTIVE DIRECTOR MIRANDA: No, and I apologize if that was your understanding. I wouldn't say that it's not abuse or neglect.

What I would say is that we would have to take the report, we would do a complete assessment of the circumstances surrounding the allegation. More than likely, it would move over to our three-business-day review, which would give us an opportunity to get medical records, to get the policies and protocols from the provider for us to have an opportunity to make an appropriate evaluation, because it's critical to make sure that (a) we're within the statutory

framework, but also that we are evaluating these cases on the totality of the circumstances.

So certainly within the history of the Justice Center we have had instances of abuse and neglect where there has been a failure to seek medical care for an individual. We would make an assessment, we would look into all the circumstances and then make a determination as to whether it falls within our jurisdiction.

CHAIRWOMAN KRUEGER: And does your agency have the ability to track the rate of death by agency that you oversee?

EXECUTIVE DIRECTOR MIRANDA: Sure. So there's a statutory obligation. All residential facilities licensed, operated or certified by OMH, OCFS, OPWDD and OASAS, are mandated by law to make a report of any death that occurs within those facilities.

In fact, that requirement also extends to 30 days post-discharge. We receive those reports and then we review them to see if there are any quality-of-care issues or to

see if there's any indicia or evidence of abuse or neglect.

Medically complicated cases, we also have a wonderful resource here at the Justice Center, and that's our medical review board, where we will actually consult with them on the more medically complicated cases.

But I will point out that the majority, the overwhelming number of reports that we get are deaths related to natural causes. Right? There are aged populations within these settings, and there are also individuals with multiple vulnerabilities and compromised health situations.

So we will do the report, a report will be issued. If there are any findings, we will make sure that those go to the state oversight agency as well as the provider.

CHAIRWOMAN KRUEGER: So we can request that data from you?

EXECUTIVE DIRECTOR MIRANDA: Absolutely.

CHAIRWOMAN KRUEGER: For, say, the last 12 months, or the last time you did an

annualized report, and then for the year or two previous as well?

EXECUTIVE DIRECTOR MIRANDA: Absolutely.

CHAIRWOMAN KRUEGER: I mean, you know, we're learning more and more about what's happening for people who are in group settings with COVID. So I think it would be worth us taking a look and seeing, you know, how we're doing in the context of the agencies you oversee.

EXECUTIVE DIRECTOR MIRANDA: Absolutely. We'd be more than happy to provide that to your office.

CHAIRWOMAN KRUEGER: Great. Thank you very much.

Assembly.

CHAIRWOMAN WEINSTEIN: We go to the ranker on People with Disabilities, Assemblywoman Miller.

ASSEMBLYWOMAN MILLER: Hi. Good afternoon. How are you?

EXECUTIVE DIRECTOR MIRANDA: Good, how are you?

ASSEMBLYWOMAN MILLER: Good, thank you.

So on the same idea as Senator Krueger was just talking about, I want to ask specifically about our senior population, many of whom have special needs. Just, you know, they're in skilled facilities or -- because of their special needs.

Do you routinely look into that population? And if so, of the -- you said, about 90,000 calls that you received during the pandemic, were any or many of those calls from families of these seniors with special needs that were stuck in nursing homes, cut off from visitation, neglected, suffering from neglect or even abuse, and fearing for their well-being?

I know my office, we were getting tons and tons of calls and emails from worried family members. Many times we directed them to an ombudsman or tried to help them connect with the ombudsman to look into it. But is that something that your agency was doing?

EXECUTIVE DIRECTOR MIRANDA: So we do

receive a significant number of calls that fall outside of the jurisdiction that I mentioned before, right, which is abuse and neglect committed by custodians against individuals receiving services. So we do get calls at times that don't fall within our purview, and we will make the appropriate referral to the state oversight agency.

With respect to the aged population, I can certainly provide information to your office as it relates to the state oversight agency, a breakdown -- OASAS versus OPWDD, OMH. I'm not sure that we are able to provide data with respect to age groups or that demographic information, but I'm more than happy to check with our folks, our data folks.

ASSEMBLYWOMAN MILLER: I guess the definition would be what's in question here. So if you are here to advocate or look after the best interests of all people with special needs, wouldn't somebody, just because they're a senior citizen also in a home if they have special needs -- if somebody has

Alzheimer's, if somebody has, you know, a stroke and then they have special needs as a result of that, they don't fall into that jurisdiction.

EXECUTIVE DIRECTOR MIRANDA: Our jurisdiction is limited, and it's individuals who are within residential -- I'm sorry, individuals who are within licensed, operated and certified settings under the state oversight agencies.

So according to that jurisdiction, unless they are in one of those settings, we would not have jurisdiction. It's very narrowly defined within the statute, and we're constrained by the parameters set forth in the statute.

ASSEMBLYWOMAN MILLER: Okay. I will welcome that information, though, if you can email that to my office.

EXECUTIVE DIRECTOR MIRANDA: Sure.

ASSEMBLYWOMAN MILLER: Thank you.

CHAIRWOMAN WEINSTEIN: Back to the Senate.

CHAIRWOMAN KRUEGER: All right, I see

John Mannion. But I'm curious, do you -- oh, your hand just went down. You had your questions, right? Or do you need another question?

SENATOR MANNION: No, I was just going to compliment the executive director on her clear, concise, detailed and informed answers.

EXECUTIVE DIRECTOR MIRANDA: Thank you.

CHAIRWOMAN KRUEGER: Beautiful. A beautiful thing. Thank you.

Assembly. Helene, you're on mute.

Who would you like? Assembly --

CHAIRWOMAN WEINSTEIN: Somehow the -- somehow they were muting -- they weren't letting me unmute.

CHAIRWOMAN KRUEGER: They're tired of us. They're telling us something.

(Laughter.)

CHAIRWOMAN WEINSTEIN: So Assemblyman Anderson for three minutes.

ASSEMBLYMAN ANDERSON: Okay. Can I be heard?

EXECUTIVE DIRECTOR MIRANDA: Yes.

ASSEMBLYMAN ANDERSON: Thank you, Chairwoman.

And thank you, Executive Director -- or Director -- for being here this afternoon to answer questions. Really commend the work. As I'm learning about the different agencies, as a new Assemblymember, you know, I commend the work that you all do at the Justice Center.

But I do have just one or two quick questions.

EXECUTIVE DIRECTOR MIRANDA: Sure.

ASSEMBLYMAN ANDERSON: In terms of the -- there's an Article VII to move your agency's ability to administer the Adult Advocacy Home Care Program. Can you just explain what that does for the agency and where does that actual programmatic -- very important programmatic piece of agency go?

EXECUTIVE DIRECTOR MIRANDA: So we don't perform that programmatic piece. We actually will fund that piece for outside providers, non-for-profits. So we do not

have any programmatic resources or staff that are tied to that particular funding.

ASSEMBLYMAN ANDERSON: But you contract out for it. So now that it's leaving the agency, what happens to that program?

EXECUTIVE DIRECTOR MIRANDA: So that program, a determination will have to be made by the various nonprofits as to whether they continue to prioritize that program and offer those services.

I understand -- the program is an important program, and it does good work. And certainly our decision to advance this as a cut does not reflect the importance of the work. But we are dealing with an extremely difficult and challenging fiscal crisis, and so we have to make --

ASSEMBLYMAN ANDERSON: But Madam Director -- Madam Director, sorry to cut you off, but my time is limited.

EXECUTIVE DIRECTOR MIRANDA: Sure.

ASSEMBLYMAN ANDERSON: But Madam Director, so I'm sure you've read the

Attorney General's report regarding nursing homes and adult homes. Isn't this a critically important program to protect that very same population of individuals who may be put in harm's way? Albeit via government policy, albeit via the leadership of the adult home or agency. Don't you think this is a very vitally important program that would prevent much of what we saw?

EXECUTIVE DIRECTOR MIRANDA: So I think there's an important distinction here that I want to make clear. We will retain our jurisdiction over the adult homes that are delineated specifically within the statute. That is not changing.

With respect to this contract, this contract does not fund investigations of abuse and neglect. This contract funds know-your-rights trainings. Which are important and certainly play a role with respect to people knowing their rights, which one could argue long term, right, prevents abuse and neglect.

But the function of the contract is

not to investigate abuse and neglect. And so I just want to make sure that that is clear.

ASSEMBLYMAN ANDERSON: Got it.

Madam Director, let me ask you, if I have a constituent who comes in and wants to say, hey, I'm being -- or wants to share that, hey, this is happening to me at this date and treatment facility in my district or at this adult home in my district or this adult day care in my district, your agency is where I would direct them, correct?

EXECUTIVE DIRECTOR MIRANDA: We would take that call and we would make a determination as to whether it falls within the statutorily delineated jurisdiction of the agency. And if it does, we will classify it appropriately. And if it doesn't and it falls outside, we would refer that matter over to the appropriate entity. Whether it's DOH or SED, we would make that referral.

We do not ignore those calls. I just want to make sure that we're clear. We don't ignore those calls. We take our commitment to individuals who are receiving --

ASSEMBLYMAN ANDERSON: No, no, and I wouldn't expect that you would. But I just want to understand that now we're losing this funding, what happens to that population of older folk who need that advocacy, who need that bridge, who need that --

(Zoom interruption.)

CHAIRWOMAN KRUEGER: Roxanne, go on mute. Sorry.

CHAIRWOMAN WEINSTEIN: If you could just quickly respond, since the Assemblyman's time has expired.

EXECUTIVE DIRECTOR MIRANDA: I certainly appreciate the importance of the work and the work that was being fulfilled by this contract.

CHAIRWOMAN WEINSTEIN: Thank you.

So now we'll go to the Senate.

ASSEMBLYMAN ANDERSON: Thank you, Director.

CHAIRWOMAN KRUEGER: We don't have any more in the Senate, so I think it goes back to the Assembly.

CHAIRWOMAN WEINSTEIN: Okay. So we

have Harvey Epstein for three minutes and then I believe Assemblyman Abinanti would like a second round.

So first to Assemblyman Epstein.

ASSEMBLYMAN EPSTEIN: Hi, Executive Director Miranda. How are you doing?

EXECUTIVE DIRECTOR MIRANDA: I'm doing well, Assemblymember. How are you?

ASSEMBLYMAN EPSTEIN: I'm well, thank you. It's good seeing you again.

EXECUTIVE DIRECTOR MIRANDA: Likewise.

ASSEMBLYMAN EPSTEIN: So you and I, we worked at a nonprofit together, and so we know how important those contracts are for staffing and for continuity. If you had additional funds, if there was additional revenue, state revenue, would you make a decision to be able to allocate some of the funding to these nonprofits if there was funding available?

EXECUTIVE DIRECTOR MIRANDA: The only reason why this program was cut was because of the lack of funding. Right? And so certainly, as you pointed out, yes, this is

important work and advocacy work is critical for vulnerable populations.

So certainly, if we were not in a fiscal crisis, this would not even be a topic today.

ASSEMBLYMAN EPSTEIN: Great. Well, thank you. And I encourage you, along with us -- we're trying to get additional revenue. You're in a different position than we are, of course. But we want more revenue because we don't want our vulnerable populations to not get the services they need.

I do appreciate all the work you do and have done. But I would encourage you to, you know, from your side, help as much as we can as we get more revenue to assist this population that really needs it.

Thank you very much.

EXECUTIVE DIRECTOR MIRANDA: Take care.

ASSEMBLYMAN EPSTEIN: You too.

Bye, Madam Chair. Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

So now we go to Assemblyman Abinanti

for five minutes.

ASSEMBLYMAN ABINANTI: Thank you, Madam Chair.

Madam Director, I'm interested in this issue of possible abuse or neglect with respect to COVID. The numbers that I got from OPWDD indicate that as of December 16th in 2020, they had 4,175 individuals who resided in certified residential programs who tested positive. And a total of 497 -- that's 10.5 percent, if these numbers are right -- passed away.

Now, they're telling me this reflects all of those who had been or were in a residence. I've been pressing to see if this includes those who went to the hospital or died in the facility or whatever. But that's a high number even there, 10 percent.

And at the same time a total of 7100 -- 7,156 staff were reported as confirmed COVID-positive. That's a very high number.

And yet, you know, the DOH gave a guidance that if you needed to have your

employees come in even after they were exposed to COVID, they could return to work. That's totally contrary to every other industry, business, the rest of the world, where if you've been exposed you should go quarantine for two weeks. Now they've reduced it to 10 days.

So as a result, my son has been out of school for three or four different sessions because different teachers keep getting COVID, and now the entire class is exposed so the entire class goes home.

On the other hand, if my son were in a facility, it wouldn't matter that his person was exposed to COVID, he would continue to be exposed to the -- so if a person's partner is home with COVID and the person working at the group home, let's say, is needed, then you would continue to get exposed time after time after time.

It seems to me there's something wrong with that, that there's an obligation on the person, entity running the facility or the group home to find other staff. And I was

just wondering if any complaints were made along this line and whether your agency actually did some investigations to see whether the agencies improperly exposed their residents to COVID-19.

You know, in this case -- I mean, if they had other employees they could have brought in, or just go out and hire different -- do whatever you can to protect them. Because when I'm looking at these numbers, these are very high numbers.

And so, you know, I would like -- I'm waiting to -- I really want to see the numbers that Senator Krueger asked for. I'd like to see how many complaints were made and what investigations you made. Particularly in light of the fact that your employees were doing all of these other things with respect to COVID, you know, that you said you were proud of.

Okay, well, did you do any investigations to see whether all of these agencies and all these residences were in fact following the proper protocols with

respect to COVID? That's something that I would have liked to have seen you do.

EXECUTIVE DIRECTOR MIRANDA: Sure. So as I mentioned before when we spoke last, we opened up over 11,000 abuse and neglect cases last year during COVID. So certainly we are taking our obligation to ensure that people are safe very seriously. And we look at all of those calls, and they're fully investigated.

A couple of things I think that I'd like to respond to with your question. First and foremost, the DOH guidance you referenced, that is guidance set forth by DOH. The Justice Center does not have any role in determining guidance for staffing. That is outside of our purview.

OPWDD, I believe you made some reference to some statistics. I would not be in a position to comment on the statistics provided by OPWDD. I will, however, make sure that our office provides the information with respect to the number of deaths and reports that were made to the agency last

year, as discussed with Senator Krueger.

And last but not least, I think it's also important to clarify that we do not set forth the definition of a COVID death or COVID-related incidents. That's not our jurisdiction, that is not our purview. That is done certainly within the state oversight agencies.

So I certainly appreciate the importance of your question, but unfortunately our limitations are clearly --

(Overtalk.)

EXECUTIVE DIRECTOR MIRANDA: -- are clearly defined. I'm sorry?

ASSEMBLYMAN ABINANTI: I'd like to know if you got any complaints from family members on this very issue, that they were concerned that perhaps their family members were being exposed unnecessarily.

EXECUTIVE DIRECTOR MIRANDA: So certainly --

ASSEMBLYMAN ABINANTI: Or not given healthcare properly, or were not sent to the hospital properly. I'd like to see the

COVID-related complaints.

EXECUTIVE DIRECTOR MIRANDA: So as I mentioned, we take in -- we classified 11,000 abuse and neglect cases. So certainly any call that comes into us, we evaluate on the totality of the circumstances, we would get information to make sure that we're making an appropriate classification. And if it falls within our statutorily defined jurisdiction, we would take that case and we would certainly investigate it.

Eleven thousand cases were opened last year. I can't speak to the specifics, but certainly we can follow up with your office at another time if you'd like.

ASSEMBLYMAN ABINANTI: Yes. Thank you.

EXECUTIVE DIRECTOR MIRANDA: Sure.

CHAIRWOMAN WEINSTEIN: Thank you.

So, Senator Krueger, the Assembly is done. So I think we're --

CHAIRWOMAN KRUEGER: Thank you very much, Assemblywoman.

So you also are done, Madam Executive

Director.

EXECUTIVE DIRECTOR MIRANDA: Thank you.

CHAIRWOMAN KRUEGER: So thank you very much for being here with us today. And we're looking forward to the materials that you have promised us.

EXECUTIVE DIRECTOR MIRANDA: Absolutely. Thank you and good afternoon, everyone.

CHAIRWOMAN KRUEGER: Good afternoon.

So now we start the portion of the hearing where people are not representatives of the government but have asked to testify.

And we call them up in panels. And the rules of the road are once the full panel has testified, then you can raise your hand for a three-minute question that's in for totality for any of the people on the panel, including their answers. So we move into the speed-dating round of budget hearings.

And our first panel is the Children's Defense Fund, Melissa Genadri; the New York State Coalition for Children's Behavioral

Health, Andrea Smyth; and the Family and Children's Association, Jeffrey Reynolds.

Are you here with us, Melissa?

MS. GENADRI: Yes, hi. Can you hear me?

CHAIRWOMAN KRUEGER: Yes, we can. I'm sorry, they also have three minutes each.

Yes, go right ahead, Melissa.

MS. GENADRI: Thank you so much, Senator. And good afternoon. On behalf of the Children's Defense Fund of New York, I would just like to thank the Legislature for this opportunity to center the needs and the voices of vulnerable children and youth at today's hearing, particularly children of color and low-income children whose mental health has suffered so greatly at the hands of this pandemic.

These children have suffered unprecedented and disproportionate parental and caregiver death, have been forced into poverty and food insecurity, and have also been spending increased amounts of time in isolation and in home environments that may

be unsafe or even abusive.

And on top of all of this, they have been weathering the toxic stress of systemic racism and police violence, most recently manifested in the horrific events which took place last week in Rochester.

These children have very real and very urgent mental health needs. And as New York looks to expand its telehealth program, it is incumbent upon our state to ensure access, equity and quality of behavioral health services that are being delivered via telehealth.

At CDF we work directly with vulnerable and impacted adolescents who either do not have the technology and access in their homes to access teletherapy services or whose home environments are unsafe, unstable, lack privacy, or are even abusive, and connecting with a therapist at home is just not an option. So we need more investment in community-based supports for these at-risk youth, and also community safe spaces, where they can access telehealth

services outside of their homes.

There is also a great need for an independent evaluation of the quality of telehealth services that are being provided, particularly with regards to teletherapy for adolescents and children.

And I will also say we have great concern with the steep rise in youth suicide and in psychiatric emergencies among young people in our state over the past year. We applaud the state for the suicide prevention work it's been doing, and we feel that as we progress in our pandemic response efforts, youth suicide prevention needs to be ingrained into that pandemic response, particularly the very high risk populations of Latina adolescents, Black youth and LGBTQ youth, who may not be receiving the mental health services they need right now and are even at an elevated risk of suicide.

So I thank you very much for your time today, and we at CDF look forward to continuing these conversations with you in the future.

CHAIRWOMAN KRUEGER: Thank you.

And I should have also said we have your full testimony, every member of the committees, and it's up online for all the Legislature. So we urge you to do exactly what our first panelist did: Summarize your key points in three minutes.

So next, Andrea Smyth.

Good afternoon, Andrea.

MS. SMYTH: Hello. Thank you for the opportunity to comment on the Office of Mental Health budget.

There are a number of important issues -- the 5 percent cut to local assistance, state-operated bed closures without community reinvestment, minimum wage funds without addressing the rest of the workforce through the human services COLA, maintaining a moratorium on cuts to children's Medicaid mental health services, the lack of investment in children's services and the supply versus demand crisis, the June prohibition of any newly graduated licensed mental health practitioner from fully

practicing in New York State, the inclusion of OMH-certified family peers and telehealth reform, and the need for tools to successfully restructure the Office of Mental Health with the Office of Alcoholism and Substance Abuse Services.

At 5:30 this morning the Vice President of the United States cast the deciding vote on the Rescue Plan, which adds $4 billion for the Community Mental Health Services Block Grant and the Substance Use Prevention and Treatment Block Grant. This funding is on top of 1.6 billion for each block grant that was added to the December COVID project.

Fifty percent of these funds must go directly to providers to respond to COVID. Please work with us to get the necessary services to children and families. Previously, the share to children and families from these block grants has been less than equal.

There are not enough children's mental health services. RTF beds have closed and

dropped from 517 to just 390. There are 887 school-based mental health clinics, but 4400 buildings, school buildings. There are 6,000 children enrolled in Home and Community Based Waiver, and only a thousand are receiving services. And the 400,000 children enrolled in the Child Health Plus program can only access whichever behavioral health services the Commissioner of Health identifies. The system is under capacity, underresourced, and risks our future.

Since 2002 when the Education Law licensed mental health practitioners, they have been safely practicing up to their full scope of training and education. If we sought a single word that captures the meaning of "the use of assessment instruments and mental health counseling and psychotherapy to identify, environmental and treat dysfunctions and disorders," the word would be "diagnose." We need to keep the pipeline of newly mastered, prepared, clinically trained, licensed mental health counselors, family therapists, and

psychoanalysts fully able to do what they're trained to do.

And lastly, when we merge, if we merge the Office of Mental Health with OASAS, they need all the tools to make it a successful reconstruction. And one of the things that's been missing is that the authority over medical assistance or Medicaid has been moved from the "O" agencies to the Department of Health. It is a barrier to successful program development for the disabled, when the funding decisions and the rate-making decisions are in a separate agency. And to fully support this transformation, we urge that that be changed.

CHAIRWOMAN KRUEGER: Thank you.

Jeffrey Reynolds.

DR. REYNOLDS: Good afternoon. Thanks for having me. Just wave if you can hear me so that I know I'm not talking into an abyss. Okay, I see my friend Assemblyman Ra waving. Good to see you, Ed.

My name's Dr. Jeffrey Reynolds. I have the privilege of running Family and

Children's Association. We're based on Long Island and, in any given year, serve about 30,000 Long Islanders.

Most germane to this conversation is the fact that we run a pretty large children's mental health program as well as a mental health program for seniors. We run two OASAS-licensed chemical dependency treatment centers, and then we run Long Island's only two recovery centers, one in Nassau and one in Suffolk County.

I heard a number of you throughout the course of the day use the term "mental health crisis," and that's exactly spot-on. I've been in the field for a long time and have never seen anything as bad as this. And I can tell you that the implications for our young people, particularly those from Black and Brown communities, are going to span generations. Long after everyone's been vaccinated, long after COVID is but a footnote in our history, the mental health implications are going to continue on.

I will say, first and foremost, the

cuts to local assistance termed as "withholds" have been devastating for my organization. It's meant immediate staff freezes, it's meant staff layoffs, and it's meant much longer waiting lists for kids who are looking to access services. It's had a huge impact on us.

And although we're thankful that this state has modified regulations to allow for telehealth, none of us had the equipment to do it. Our staff turned on a dime to make it happen. We're working really hard to serve kids that have a very, very high level of acuity.

At the same time we're trying to battle off budget cuts. There's no elected official in this state who would not stand up and fight for PPE. These services are our PPE and our families' PPE against suicides, against fatal overdoses and against ED visits that are unnecessary and expensive.

In the last minute I have, I do want to talk a little bit about revenues. And I think it's very important that as we talk

about the opioid settlement dollars, that those be segregated and tagged directly to prevention, harm reduction, treatment and recovery services, not dumped into the General Fund.

I feel similarly about the expansion of gambling opportunities here in New York State, and I know that there's a lot of traction behind sports betting. There hasn't been a significant increase in the number of problem gambling programs in many, many years. And in fact the Comptroller's done two reports about the fact that we don't have a good handle as to how many problem gamblers there are.

We ought to make sure that we're setting aside a portion of that money now to do a problem gambling campaign aimed at young men who are likely to be the targets for sports betting advertising.

And then, finally, I'm aware that the issue of adult-use marijuana is once again a subject of discussion. I would argue strenuously that that not be a part of the

budget bill and that a significant portion -- more than is allocated now -- is set up to deal with prevention, treatment and recovery implications associated with legalization and that a public health campaign be rolled out right now to get ahead of this issue.

So thank you very much for your attention here all day. Thank you for your hard work. And I look forward to participating in the rest of the budget process.

CHAIRWOMAN KRUEGER: Okay. I don't see the hand of any Senator -- oh, wait. Yes, Senator Samra Brouk, our Mental Health chair.

SENATOR BROUK: Thank you so much.

Hello, everyone. Thank you for this speed round of testimony.

I just -- I wanted to dig in just quickly, Andrea, with some of what you talked about around the school-based mental health. Can you speak if you have any other information on where those inequities lie, and on the fact that we don't have adequate

investment today and now we're looking at cuts?

MS. SMYTH: School-based mental health clinics are run by Article 31 mental health clinics, so it's their option of whether or not, after working with the school, whether they can open a clinic in the school.

There are a number of limitations to Article 31 school-based clinics. One is space limitations at the school. Two is the fact that the programs don't have any base funding, so they have to bill insurance.

So my providers bill as many as 10 different insurance providers to make sure that any child in any particular building can come to the school-based mental health clinic. It's a very heavy burden on the provider to operate the school-based mental health clinics. And so there's no kind of grant funding, seed funding to start up or do anything like that. And I believe that that's one of the reasons why the number's so low.

I'm involved with a campaign, we'd

like to see a 10 percent growth in the number of school-based mental health clinics every year, until there's access in every school building.

SENATOR BROUK: Thank you.

And very quickly, I think it was Melissa, you had talked about suicide rates and prevention. Can you just fill in some of the details on that, of what you've seen and what you think you need to see to better assess where these trends might be going? I think that was you who talked about that.

MS. GENADRI: Yes, absolutely. Thank you so much for the question.

We have definitely seen increases in psychiatric emergencies among young people statewide. The Suicide Prevention Task Force of New York State that put out a great report last year particularly highlighted elevated rates among Latina adolescents as a population of high risk and concern. And we've seen nationally, in the past year, a lot of data around elevated risks for Black youth.

These are two populations that we are very concerned about, particularly given the sort of digital divide right now, and that these are precisely the populations of kids who aren't able to access therapy services right now because so many of them have transitioned to teletherapy. And the students that we work with from these backgrounds just aren't accessing those services right now.

So we fear that this problem, you know, it's sort of the tip of the iceberg and maybe it's not going to be until later down the road that we see, you know, the true spikes in youth suicide in these populations. But it's of a lot of concern to us. And it's something we desperately want to see more -- more work done around.

SENATOR BROUK: Thank you so much.

CHAIRWOMAN KRUEGER: Thank you.

Assembly.

CHAIRWOMAN WEINSTEIN: Yes, we go to -- actually, we go to Assemblyman Abinanti, the chair of People with

Disabilities.

ASSEMBLYMAN ABINANTI: Thank you.

I have two questions. One -- Andrea, hello again. Nice to see you. It's been a long time since I've seen you.

I am intrigued by your concern that Department of Health is making decisions for all of the other departments in the guise of regulating the amount of Medicaid spending that's being done by the state. Could you elaborate on that? And any suggestions on how we can resolve that issue? I have a similar concern, just not sure how to deal with it.

MS. SMYTH: Thank you, Assemblyman.

I can just speak to the experience that I've had with some of my programs. So I'll speak to the residential treatment facilities. This is a high-cost service delivery, and the Department of Health has taken over the rate-setting from the Office of Mental Health.

That would be fine, but the Office of Mental Health is still submitting policy

changes. So the policy changes are happening, but the rate-making isn't changing, or we're not being informed in a timely way of the reimbursement methodologies. So in this way, it is contributing to the closing of residential treatment beds. Which at this time is such a valuable resource, and especially at a time when the state is also proposing to close children's beds.

So we just feel that the programmatic ties to the reimbursement are being -- the gap is too wide for there to be good coordination, and we really think that the rate-making and the oversight of the spending should revert back to the "O" agencies.

ASSEMBLYMAN ABINANTI: Okay. Secondly, I guess to everyone, there's this proposal for a crisis center, and I'd just like a quick comment from each of you, what do you think -- if you're familiar with the proposal, what do you think of it? And how do we make sure it actually works? Is there anything we as a legislature can do, in the

language of the legislation or something? Because it's a good idea. But how do we make sure it works? At least I think it's a good idea. I'd like to hear what you guys think. Thank you.

DR. REYNOLDS: Assemblyman, I think it's -- if I'm correct, it's basically the DASH program that's been created out here on Long Island.

And if that's the model, I will tell you it's been hugely successful. It's been a great resource for families that would otherwise wind up in emergency rooms and kind of do that dance where the kid goes in, gets discharged, and they do it again and again.

I don't know their latest numbers, but it's been a phenomenal resource for Nassau and Suffolk County, particularly during this time, and it has served its purpose very well.

ASSEMBLYMAN ABINANTI: Who did it out there?

DR. REYNOLDS: Family Service League, in conjunction with the local field Office of

Mental Health.

But I will say they've been very good. And unlike some other projects, very good about bringing in community partners. And so it's something that all the agencies have access to and use on a regular basis.

CHAIRWOMAN KRUEGER: Thank you.

I don't see another Senator, so Assembly, go ahead.

CHAIRWOMAN WEINSTEIN: I'll go to Assemblyman Ed Ra, then. Three minutes.

ASSEMBLYMAN RA: Thank you, Chairwoman. Thank you all for being here today and the work of your organizations during a very difficult time.

Jeff, you talked a lot about -- in your written testimony about the withholding. And I'm just wondering if you could further elaborate on it. Because one of the things -- number one, we see obviously there was the uncertainty that was created by the withholding throughout the last fiscal year. And now there's a partial restoration. But (A) have you gotten any indication of when

you would get that back? I know it's supposed to be reconciled in this last quarter of this fiscal year.

And then (B) what the long-term implications of that 5 percent reduction nevertheless becoming, you know, a new baseline and becoming a permanent funding cut.

DR. REYNOLDS: Yeah, I'll be really direct. The withholds have had a huge impact on us. We have not got any notification that that's been changed. In fact, I got our letter from Nassau County pulling another $150,000 out of the system just yesterday. And this is a system that was already threadbare to begin with. We were barely holding on, like every other provider, with rates that are insufficient and a demand for services, and complicated cases that far exceed our ability to do that.

And so whereas 5 percent doesn't sound like a lot, when you look at how we were barely holding on, it's almost like the death blow for us.

And so our hope would be that providers get back all the money they were supposed to have in 2020, there be no cuts going forward -- and I hesitate to say this, but when I go back and look at my staff and our clients, I'm no longer that hesitant. The reality is that there should have been a whole bunch of money in this proposal to deal with the mental health crisis that we have on our hands.

There shouldn't have been: Go talk to the feds and maybe at the end of the day you'll only have a 5 percent cut. It should have been exactly the opposite of that. It should have been: We recognize this is important, as COVID, and we're going to take it seriously, and there should have been a chunk of money in the budget to support these services. There wasn't.

Instead, it was -- honestly, I can't throw a party that we're only going to have a 5 percent cut. It still decimates services.

CHAIRWOMAN WEINSTEIN: Thank you.

ASSEMBLYMAN RA: Well, thank you.

Thank you again to all of you for your organizations' work. I don't know if anybody else had any thoughts or anything to add on that.

MS. SMYTH: Assemblyman Ra, I think that the most chilling part of the 5 percent withholds is that that is local assistance funding generated through community reinvestment of years past.

Not only are we taking the money that is the legacy of the community mental health system and cutting it with paper cuts at 5 percent, 15 percent, 20 percent, but we're not reinvesting in more community mental health services. This is devastating to the providers. They have about three months of cash on hand for operating expenses for their non-Medicaid services. It's a crisis.

CHAIRWOMAN KRUEGER: Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

We go to Assemblywoman Miller, three minutes.

ASSEMBLYWOMAN MILLER: Hi. Can you hear me?

CHAIRWOMAN WEINSTEIN: Yes.

ASSEMBLYWOMAN MILLER: I just -- you know, I'm very moved by all of your testimonies. And I just want to (A) thank you all for what you're doing and (B) tell you how much I agree with you. I cannot understand how, in light of what we've all gone through, we've all experienced, but people with -- you know, at most risk: people with mental health issues, people -- you know, these young children without the in-person nurturing and contact that they need. We're failing on so many levels not to have this be increased in the budget and more funded.

And so I couldn't agree with you more. And whatever -- you know, certainly I -- I can't speak for anybody else, but whatever I can do to help, please, I'm there. It's just devastating to me that I agree with you, we are looking at a potential big, big crisis of mental health, and they're turning their heads the other way.

So thank you for what you're doing.

CHAIRWOMAN WEINSTEIN: Thank you.

We go to Assemblyman Bronson.

ASSEMBLYMAN BRONSON: Good afternoon, everyone. Thank you for your testimony.

I'm going to direct my questions to Andrea. And it's going to be a three-part question. But in the context of what so many of my colleagues and what you all have just testified to, and that is the mental health crisis we're facing.

You know, we had a crisis before COVID-19, and it's only gotten worse. And our families deserve better than what the state's providing in this area.

But particularly, Andrea, I'm going to talk to you about the Article 163 mental and behavioral health professionals. As you know -- and you've worked with me on a number of bills in connection with reimbursement from Medicaid and direct reimbursement from commercial carriers -- this is really about access.

So my first question is if you could explain a little bit why it's so vitally

important that we have that reimbursement structure in place. The Governor vetoed the bills and said we should talk about them in the budget. So what better way than have you testify to that today.

Second is the exemption that I've asked a couple of commissioners to talk about that expires at the end of June, and what that means in the field in the state facilities if that exemption is not extended and hopefully made permanent.

And then lastly if you could talk about expanding the diagnosis, the scope of practice, for the Article 163 professionals.

MS. SMYTH: Sure. Thank you, Assemblyman. I'll take the nexus between the exemption sunset and the diagnostic authority.

We would prefer that the budget address the scope of practice of the 163s so that their full training and clinical capacity is acknowledged and they're allowed to diagnose. Then we don't need to do the exemption again. We did the exemption in

2002, in 2010, in 2013, in 2016 and 2018.

You have helped us write a bill that solves the problem permanently, that's the diagnosis authority. They've been doing it, they're trained, the bill standardizes their training and their clinical practice, and that's what we'd like to see have happen.

Regarding the medical assistants' eligibility, this is just an issue of people who are doing this work, if they work for an agency, but they're not allowed to enroll in Medicaid and take clients from the community. We think that's wrong. We need more people practicing, we need access to more mental health services, and this is the workforce that we have, the licensed practitioners.

We have the social workers, we do have the mental health counselors, we have the family therapists, we have the creative arts therapists, we have the psychoanalysts. We want to use every single one of them, up to as much as they're willing to do in the field to address the crisis.

ASSEMBLYMAN BRONSON: Well, and I'll

just say this. The situation as it exists today, if you're a wealthy person in Manhattan, you have access to mental health. If you're a person living in poverty in Rochester, New York, you don't have access to mental health.

That's wrong. We need to correct it. Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Are there any other members?

CHAIRWOMAN WEINSTEIN: We are done in the Assembly.

CHAIRWOMAN KRUEGER: Thank you.

Only to edit Harry's last comment, Assemblymember Bronson. If you're poor anywhere, you're not really getting mental health. So I don't disagree with your point about people with money and private insurance, but I don't know that that's actually radically different in various cities of the state.

Thank you.

We're going to go on to our next panel, and we will have Leslie Feinberg,

director, Supporting Our Youth & Adults Network, followed by the CUNY Coalition for Students with Disabilities, Luis Alvarez.

Are we both here? Leslie?

MS. FEINBERG: Yes. Yes, I'm here.

CHAIRWOMAN KRUEGER: Okay.

MS. FEINBERG: Can you hear me?

CHAIRWOMAN KRUEGER: Yes, I can.

MR. ALVAREZ: I am also here.

CHAIRWOMAN KRUEGER: Hi. Great.

Go right ahead, Leslie.

MS. FEINBERG: Sure.

Greetings, Chairs Krueger, Weinstein, and members of the committees. SOYAN is an organization of family members and self-advocates dedicated to preserving dignity and self-determination for people with I/DD, safeguarding the progress gained for them, and protecting and enhancing their quality of life in a community.

Thank you, Senator Mannion -- I hope you're listening -- for providing questions in advance to Dr. Kastner.

And Assemblyman Ra, thanks. You have

given us comfort, knowing that OPWDD has affirmed that rental subsidies are carved out from the withholds.

New York State has long prided itself on providing quality services for people with I/DD. We heard that OPWDD enrollment is growing. With fewer dollars, OPWDD will be forced into cutting critical services to people, eligibility changes or creating waiting lists. New York State's image will be tarnished.

We heard New York State has already received additional enhanced Medicaid dollars from the federal government. Please ensure that OPWDD receives its share of these funds and applies it to service delivery.

We applaud OPWDD's continued support of community integration. We are concerned that lessons learned during the '80s have been forgotten. The failure to provide sufficient community-based supports led to the well-documented high costs to safety and dignity. Please do not replicate these types of devastating insults now to our most

vulnerable citizens.

We applaud OPWDD for including initiatives for long-term housing. The process for determining an individual's rental subsidy for self-direction in a community, and the subsidy amount itself, have not been recalibrated and reviewed for years, causing many people in high-rent counties to choose between healthy food, necessary out-of-pocket expenses, or the rent payment that they must pay their landlords above the subsidy amount. This is not sustainable.

We heard Dr. Kastner mention wraparound services without providing details, and family care, which is similar to a foster care scenario, that relies upon host families. Integrated community living is best achieved by working with landlords who already have rental properties. SOYAN has a no cost to the state housing support initiative and would welcome the opportunity to discuss it in greater detail at another time.

We applaud OPWDD's recall of the 20 percent withhold against reimbursements for non-Medicaid local assistance. However, that 5 percent cut that goes towards paying for essential services such as utilities, phones and internet for adults living on their own, is going to be contrary to our concerns about safety and isolation. Please recall these proposed cuts.

In our society, adults feel empowered receiving a paycheck for a job well done, and have a sense of community by having a job. We look forward to increased solutions for meaningful employment.

Thank you for permitting SOYAN to share the thoughts that run through our minds and keep us awake at night. We need OPWDD's mission to be actualized. Please do not cut OPWDD funding; investments are needed. We look forward to participating in the budget process. Thank you.

CHAIRWOMAN KRUEGER: Thank you.

And next, Luis.

MR. ALVAREZ: Good afternoon,

distinguished members of the state. My name is Luis "Junior" Alvarez, and I'm a proud student with a disability at Bronx Community College, majoring in education, where I serve as the president of the CUNY Coalition of Students with Disabilities -- CCSD-BCC Chapter. I'm also honored to be the chair of the university-wide CCSD that represents more than 11,000 students with disabilities.

According to CUNY, more than 1800 students with disabilities are enrolled in our degree programs in my borough of the Bronx. Go Bronx, yeah! I and so many others rely on reasonable accommodations from our college to have an equal opportunity to succeed, especially in distance learning made necessary by COVID-19.

The enrollment of students with disabilities at CUNY is at an all-time high, with more than 11,000 of us enrolled at our university. At CUNY our disabled student enrollment has grown by more than 50 percent over the last few decades, and yet our state funding for personal accommodation and

support services has remained the same for the last 27 years.

CCSD supports the New York State Education Department's $7 million budget request to enhance support services for students with disabilities all around the state, statewide. This new source of funding will supplement, not replace, existing college and university support for students with disabilities.

The CUNY Coalition for Students with Disabilities enthusiastically supports the State Education Department's budget request for students with disabilities that would be the first of its kind in the nation. Come on, New York, let's lead the way for the rest of the country.

I also want to say thank you to Abinitez {ph} and Elio {ph} for attending our CCSD virtual ceremony, and a big happy birthday to Epstein. Thank you.

CHAIRWOMAN KRUEGER: Thank you both very much.

Okay. I'm going to go on to the next

panel. We have Ruth Lowenkron, New York Lawyers for the Public Interest, and Harvey Rosenthal, New York Association of Psychiatric Rehabilitation Services.

Hello, Ruth and Harvey, assuming you're here somewhere.

THE MODERATOR: They're coming in.

CHAIRWOMAN KRUEGER: There we go. I see Ruth. Hi.

MS. LOWENKRON: Okay, hi. Shall I get started?

CHAIRWOMAN KRUEGER: Please.

MS. LOWENKRON: Thank you, Senator. And hello to all the other Senators. Ruth Lowenkron, I'm the director at -- Senators, is that not a horrible way to begin. Hello to all the elected officials, no slight intended. I'm just on a roll to get there quickly.

CHAIRWOMAN KRUEGER: Doing great.

MS. LOWENKRON: So I'm Ruth Lowenkron. I'm the director of the Disability Justice Program at New York Lawyers for the Public Interest.

And I wanted to start with a searing quote because I think to me this crystallized everything when I came upon it. From C.S. Lewis: "Of all tyrannies, a tyranny sincerely exercised for the good of its victims may be the most oppressive, and those who torment us for our own good will torment us without end, for they do so with the approval of their own conscience."

And I bring that up because clearly this is not a suggestion by me or by any advocates that anyone has any ill motives here. We are all here to ensure that people with disabilities are best taken care of. But we disagree fundamentally on how to take care of people with disabilities.

And I'm going to limit my comments to the area that I am most concerned about, and that is about the amendments, potential amendments to the hospital commitment section and extending the Kendra's Law, the AOT, assisted outpatient treatment.

Those are forced treatment modalities. And forced treatment is not treatment. My

colleague Harvey Rosenthal is going to talk much more about it. He's in the trenches, he'll tell you about the programs that work. But there are programs out there that work. Voluntary programs. And that's where -- the direction that we have to see ourselves in. And we've had other speakers talking about that as well.

So in particular, I just want to mention the self-directed care program I don't believe anyone has mentioned today. That has been on the chopping block altogether, notwithstanding the fact that it is a brilliant program that provides people with psychiatric disabilities the opportunity to make their own plans for their treatment, so you know there's a fighting chance for them to get involved.

So these options, they would not only help fulfill the Olmstead integration mandate but also they're humane, they're less costly, and they're legal.

So quickly, on the psychiatric hospital commitments. Unlike what the

commissioner said, it is not written narrowly. It is not a mere clarification. It would involve potentially thousands of people.

And there is absolutely no need, as Senator Krueger said, to have this amended language because the current language would take care of it just by virtue of the fact that if somebody has any problem, whether it's problems with living or problems with clothing or anything of that sort, if that means that they are in imminent danger -- or danger, of course, but imminent danger, then they will be helped. But otherwise, they cannot be forced into treatment.

And similarly -- I see my time is up, so I'm hurry-hurrying -- with Kendra's Law it's a similar situation. All of a sudden we are going to suggest somebody's Kendra's Law, which is a reduction in liberties -- we're going to say that it's appropriate to do that without a physician coming to testify? That is not due process. It just simply is not.

And similarly, the ability to have

someone come after six months and have their period extended with much reduced procedural safeguards is just inappropriate.

So in closing, there are less costly, proven community-based peer-led alternatives. No more forced treatment. And to circle back to C.S. Lewis, what he might have said is "No more tyrannies."

CHAIRWOMAN KRUEGER: Thank you.

MS. LOWENKRON: Thank you.

CHAIRWOMAN KRUEGER: Harvey?

MR. ROSENTHAL: Hi, I'm Harvey Rosenthal. I'm CEO of the New York State Association of Psych Rehab Services. We're a coalition of people with mental illnesses and providers across the state. We fight for rehab, recovery rights, community inclusion, criminal justice reform. And I'm here today to talk about a number of issues, so I'm going to have to talk fast.

A number of the issues -- some of the issues I'm concerned about, my colleagues will talk about in terms of the pandemic and the cuts and reinvestment and housing. So

I'll be talking more about a variety of rights issues.

Number one, the adult home residents have a cut of $170,000. It's a little bit of money for a lot of advocacy for people who really need it.

I too am very tied up with self-directed care. Strategic purchases that really move people's outcomes -- whether it's housing, employment, transportation, education, stable housing -- improve self-care. It's an extraordinary program with great success.

Criminal justice reform, I want to thank Senator Brouk for introducing Daniel's Law. It's really the way to go. It's about mental health alternatives to the police. We know the police shouldn't be first responders. We've seen the tragedies in Rochester and throughout.

Mental health responders. And I would say to the Senator, if we can include some peer counselors, that would be really critical.

Halt the torture of solitary confinement. It's abysmal. It's outmoded. It's torture. The United Nations says it's torture. We have people in jail and prisons, a lot of people of color, a lot of people with mental illnesses, a lot of people who commit suicide. Because this is not about rehabilitation, it's about punishment.

The law would ban solitary confinement for people with mental illnesses. It would extend -- it would stop the extension of time in solitary confinement. It would build some rehab units. The Governor says it's too expensive, the study says it's not.

Back to what Ruth has said, I'm very concerned about the expansion of outpatient commitment. It will let the state go out and take all kinds of people and cart them off to hospitals, whether that's appropriate or not.

We know how to serve people in that level of need. We have crisis respite programs, we have peer bridgers, we have halfway home programs, peer crisis stabilization. We know how. And there's a

program in Westchester we helped design, 80 percent engagement rate with people who are not supposed to be engagable. We know how to do that. And we need to do that. It's not about the law, it's about mental health help. That's why we're here.

And folks in need, need housing, not a hospital. They need compassion, not coercion, containment and control. The affected population is going to be much larger than the commissioner said. It'll be hundreds and eventually thousands of people using hospital beds along the way.

It's racial inequity. We already know forced treatment on Kendra's Law is -- two-thirds is people of color. There's no reason to think otherwise.

Also, the commissioner has to monitor whether there's abuses in overcommitment. She can't possibly do that. They're not doing it with Kendra's Law, making sure it's a last resort. It's too much.

The Legislature has rejected an extension of Kendra's Law for 20 years. They

know it's a controversial program, it violates people's rights, and it -- and you have understood that. And instead, you have focused on these alternative voluntary approaches. It cannot be increased. We've asked for your help, you've done it for 20 years in a row.

Finally, in crisis stabilization centers, especially the peer ones, like we have in New York State, up in Poughkeepsie, for example -- we're in strong support of them, as long as no voluntary transport. And they should be run by nonprofits, not hospitals.

Thank you.

CHAIRWOMAN KRUEGER: Thank you both very much. Seeing no hands, moving along, thank you.

Christine Khaikan, Legal Action Center, and Briana Gilmore, community advocate.

MS. KHAIKAN: I think I am starting. Hi. Thank you, chairs, members of the committee.

My name is Christine Khaikan. I am a health policy attorney at the Legal Action Center. And we have a long history of working to remove barriers to health insurance coverage and care for people with substance use disorders and mental health needs. And we thank everyone for the opportunity to provide input today.

I don't have to tell all of you this is a horribly tough time, obviously the pandemic and of course these extra things caused by the pandemic -- increases in overdose, suicide, depression, isolation. So a really strong and functioning mental health and substance use disorder system right now has never been more critical.

And it's never been more critical to not waver from a focus of equitable access to quality care, ensuring the whole full scope of treatment, prevention, recovery, harm reduction services. So I want to address a few items in the budget.

The first is the merger of OASAS and OMH and creating a new agency. We just want

to ensure that there's a laser focus on the populations served by these agencies, ensuring that the expertise they possess is preserved. You know, there needs to continue to be equitable access -- in fact, expanded access to services. And the same goes for moving towards integrated licenses and the integrated centers.

We -- this is a long time coming. Whole-person care is so important. And again, it just needs to be hyperfocused on serving the people in need, and equitable access.

Also, telehealth. You know, we're really happy to see lifting certain regulatory barriers and expansion of those services. But they can't become a replacement for needed in-person services. And patient choice needs to be preserved, and there needs to be access, when people want them, to broadband and the appropriate technology.

And also, we wanted to address crisis stabilization services. You know, this is a

great thing and we laud the goal of making sure people in crisis, mental health crisis, substance use crisis, are not entering the carceral system. But we just want to make sure, again, a strong focus on health and social service needs.

You know, there are funding opportunities coming through the federal block grants, but also the opioid litigation making its way through the courts. And we heard yesterday New York will be getting 32 million from one settlement. More will be coming. But we just want to ensure this money needs to be dedicated exclusively to this population for treatment, prevention, recovery supports, harm reduction services. It cannot supplant existing funding.

And we're really concerned about the 50 percent cut in funding for jail-based transition services for substance use disorder care. This is a really important touch point in reducing overdose services, and we really would like to see that restored.

And in my remaining seconds, I just want to say, you know, we continue to focus on mental health and substance use parity enforcement, removing prior authorization for Medicaid. And we want to also really thank members of the committee for their support of CHAMP, the ombuds program in New York that has served as a critical lifeline for people struggling to access their mental health and substance use disorder services and health insurance coverage.

So thank you so much.

CHAIRWOMAN KRUEGER: Thank you. And I think no questions either -- oh, excuse me. Can we have the second person on this panel, please.

MS. GILMORE: Thank you. Good afternoon, chairpersons and members of committee. Thank you for hearing my testimony today.

I want to offer particular gratitude to Senator Brouk for grounding us this morning in honoring our collective grief at watching a 9-year-old child being brutally

attacked by Rochester police last week, and for grounding us in the memory of the life and murder of Daniel Prude in Rochester last year.

Every day in my advocacy work I also honor the legacy of Dontay Ivy, a black man in Albany, New York, who was murdered by Albany police in 2015. His crime was committing -- his crime was performing his mental health in public outside of his house.

We know that Black and Brown young men across New York State are disproportionately likely to be murdered by police, victims of violence, incarcerated in jails and prisons. And if they escape that fate, they're disproportionately likely to be incarcerated by the Office of Mental Health.

It is time to end our collective delusionment that AOT and involuntary commitment are mental health programs. These are extensions of mass incarceration, extensions of our police system. They're not mental health care. The research from across the country indicates that as soon as a

person is involved involuntarily in the mental health system, they immediately disregard any respect for that system and no longer trust involvement in that system.

We see, you know, decreased involvement in meaningful work and education, a decrease in community tenure, a decrease in stable housing, increase in rates of incarceration and future systems involvement. We need to roll back the extension of AOT and involuntary commitment in this year's Executive Budget.

I want to switch gears rapidly and offer you something to smile about. The easiest way for you to really hold on to a program that's offering recovery-based community services in New York this year is the self-directed care pilot, which was eliminated from the OMH budget. This is a tiny, tiny project; you're probably already wondering why so many advocates are talking about it. And that's because self-direction, more than any other program, holds the promise of recovery.

When OMH implemented this pilot in 2015, they stated their intention to expand it statewide and to research ways to really offer it through Medicaid managed care or as a value-based-payment initiative. And despite overwhelming successes in this program, funding has been cut for it.

Early success in the program indicates an increase in recovery goals, both for mental health and physical health, an increase in wellness supports, increase in educational and employment attainment, increase in housing stability, decreased use of hospitalization, and even a savings -- a systemwide savings -- because of self-directed care.

I assure you, each member of this committee has constituents in their county who have been advocating for a decade for self-directed care. A decade. And I implore you to work with me in the coming weeks and months, and providers at Community Access in New York City and Independent Living Center in Newburgh, so we can demonstrate to you the

transformative impact of self-directed care in your communities.

Thank you for your time. I look forward to working with you this session.

CHAIRWOMAN KRUEGER: Thank you both very much.

Seeing no hands, we're going to keep moving. Panel E, the New York Association of Alcoholism and Substance Abuse, John Coppola; the Coalition of Medication- Assisted Treatment Providers and Advocates, Allegra Schorr; and Friends of Recovery, Dr. Angelia Smith-Wilson.

We'll start with John Coppola.

MR. COPPOLA: Senator Krueger and Assemblywoman Weinstein, I just want to thank you for your perseverance here and for the work that you do every year.

If you were to go back and look at the testimony that has been provided by our association over the course of the last decade, you'd see almost every year a plea for additional resources and a warning that there's a significant uptick in addiction --

and in more recent years, driven by a real concern about opioid overdose deaths and addiction.

And every year we were talking about a little bit of disbelief that from one year to the next there was really no remedy, there was no additional resources that were being brought to bear on this, as we looked at the upward trajectory. And we have right now this juxtaposition with COVID, and we see what we're capable of doing and marshaling our resources for a serious, you know, pandemic.

I want to really just talk a little bit first about how during COVID, with a lack of protective equipment, et cetera, and an escalating rate of addiction and overdose, addiction service providers did not receive the additional funds that they had requested last year. And not only that, but they were cut. And how do you apply a cut to a field that's dealing with the kind of crisis that we were dealing with?

I want to suggest to you -- I was

thinking a lot about Senator Brouk's remarks, and I really appreciate the way that she started this hearing by calling our attention to the failures of our system, particularly when it's inadequately funded and inadequately financed, and the important role that we play. And I want to be also mindful and ask this question: Where is the structural racism in our budget? And is it possible that it's structural racism and sexism because we largely have a women's workforce, that's the reason why we're not getting the resources we need.

You have at your disposal this year resources, resources from increased block grants and the federal grant. We have settlement funds that you could put toward this. There's the opioid surcharge. There's possible revenue from gambling, there's possible revenue from marijuana. So this is not about creating new resources. A simple question: We have an opportunity to correct what have been serious wrongs over the course of decades. The resources are on the table.

They can be allocated to help us or not. If we come back next year and say we did not receive the additional resources, it's going to be -- we'll be hard-pressed to explain why that is, because there are resources there.

We need you, Assemblywoman and Senator, we need you to watch those resources and make sure that they don't disappear off our table. Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Our next testifier, Allegra Schorr.

MS. SCHORR: Thank you. Good afternoon, chairs, committee members. I'm Allegra Schorr, president of COMPA. COMPA represents New York State's opiate treatment programs and the medication- assisted treatment providers. And thank you for the opportunity to testify today.

In 2016, the Surgeon General, Dr. Vivek Murthy, appeared on television to introduce the landmark 400-page report "Facing Addiction in America." And Dr. Murthy was asked to share just one point with the audience in 30 seconds. And

Dr. Murthy said "Methadone." The critical takeaway from the Surgeon General's report on addiction was methadone. Why? The Surgeon General wasn't saying that methadone was magic, and he certainly wasn't saying that it's the answer for everybody. But he was making a fundamental point. Scientific evidence clearly supports the effectiveness of methadone and medication-assisted treatment for opiate use disorder. But it is underutilized, and it is stigmatized. So the Surgeon general was highlighting that ignorance is beating science.

So we're in the midst of a worsening crisis, and the COVID-19 pandemic is colliding with an opioid epidemic, and we're seeing record overdoses. At this point all of our treatment resources and all of our funding should be prioritized and should incentivize science, and that means medication-assisted treatment. Unfortunately, COMPA's main and most urgent concern right now is to prevent closures of opiate treatment programs, and that's because

of OMIG audits.

This issue threatens to destabilize the entire opiate treatment system, and this could have a cascading impact on the public health of New Yorkers because of the whole pandemic.

And as you heard earlier today, an OPT recently had to close a program site, and that disrupted treatment for 1500 patients, after OMIG had an extrapolation of 12 clerical errors, which had a total value of $400, but it resulted in a $7.7 million disallowance. And right now a similar situation is being played out in Western New York, and there's several more audits in the pipeline.

So compliance audits of OTPs, which are conducted by OMIG, are resulting in vastly disproportional disallowances, and those have and they will continue to result in the loss of treatment slots.

So what we're asking for is a reevaluation of this OMIG's process. And we're asking for some statutory protection

that's going to prevent the OMIG from their actions that are going to lead to a reduction in access to service. And this is when there's no fraud and no abuse whatsoever.

So I thank you for your concern and for hearing this, and I ask you to please prioritize science. We need that now. Thank you very much for your concern.

CHAIRWOMAN KRUEGER: Thank you.

So we do have a few questions for this panel. First, the chair of Alcoholism and Substance Abuse, Senator Pete Harckham.

SENATOR HARCKHAM: I think you have one more speaker, Madam Chair.

CHAIRWOMAN KRUEGER: Oh, I apologize. I was so excited about people wanting to ask questions. Excuse me.

Let's go back and let Dr. Angelia Smith-Wilson testify first.

DR. SMITH-WILSON: Thank you. Thank you. Good afternoon. I am Dr. Angelia Smith-Wilson, executive director, Friends of Recovery, and a family member and an ally to the recovery movement.

I'm grateful to be invited by the Senate Finance chair, Liz Krueger, and Assembly Ways and Means chair, Helene Weinstein, to examine the fiscal year 2021-2022 budget. I'm equally honored to share with you the collective voice of the New York State recovery community, which represents over 260,000 individuals.

We are proud to bring the voice of the recovery community to discuss the potential impact of this year's budget. And I say potential impact because there's still time to mitigate some of the reductions which, if left unmitigated, would result in a reduction of community-based recovery services, further causing harm in this time of COVID ravages and the opioid epidemic, as well as racial unrest.

Recovery is not just an individual or family issue, it's a community issue. It is and should be addressed as such by the people who were diligently elected to represent the people. FOR-New York has worked since 2008 to build an infrastructure around the state

through local recovery community organizations, a network that saw over 44,000 visits to the recovery community organizations last year alone.

We know that recovery works. It wraps itself around treatment, and it should be treated on par as treatment. And so we know that the federal money has been strategically funneled through OASAS to the state-targeted response to the opiate crisis grants. But we know that that is not enough.

We hope that any and all funding streams, whether increased federal dollars -- which you've heard about today -- the opiate litigation funds, which could potentially bring millions of dollars, or through other tax revenue streams related to addictive substances or behaviors, be allocated specifically to prevention, treatment, recovery, as well harm reduction services.

These funding streams could be exactly the ticket to filling the health gap for our vulnerable population, or they could become another Band-Aid for our state budget. It is

our hope that they help to fill the gap. We ask the Legislature and the executive branch to put this funding where it belongs, back into addiction services and supports where it is needed.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Now let's try Pete Harckham.

SENATOR HARCKHAM: Thank you, Madam Chair.

And thank you to all three of you for your testimony today and your partnership and your collaboration on these important issues.

Since time is short, I'll ask my questions first to Allegra. We -- in legislation last year, we ended prior authorization of MAT for Medicaid. I understand that has not worked out as we had planned, and there's some issues, if you could address that.

And then to both John and Angelia, what I'm hearing in the community is that it's hard to retain staff right now. Morale is low. We in the state have not kept up

with the reimbursements for staff. You alluded to the lack of COVID funding. So if the two of you could also address the state of the industry and where morale is at.

So we'll go to Allegra first. It looks like about a minute for each of you.

MS. SCHORR: Sure. Thank you so much. And thank you, Senator, because we did -- I think we had a really great piece of legislation, and certainly the intention was to get rid of that prior authorization, which is a real barrier to treatment.

And I would say it was very successful in the -- for commercial insurance, and that had been a real barrier. Unfortunately, on the Medicaid side, as you said, it didn't work out. And now what we have is I think even greater disparity between people with commercial insurance and people with Medicaid.

And the difference here is that the state is planning a single formulary for our Medicaid population, and they are -- instead of having real open access to any kind of

medication-assisted treatment, for buprenorphine product, depending on what you have, unfortunately they've limited it to certain -- ironically, to a brand. So normally you would think, well, a generic, that's pretty common. But in this case they're saying a brand.

And there are several patients that are with addiction medicine very used to and familiar with their particular formula, and they're now going to be moved to a different product if you're Medicaid. That will not happen if you're commercial -- if you have commercial insurance. So that's -- that's -- we're definitely concerned about --

SENATOR HARCKHAM: All right, so let's keep in touch on that one and we can do some more work on that.

MS. SCHORR: Great. Thank you.

MR. COPPOLA: Senator, on your point about the state of the field, you know, morale is very, very low. I mean, during PPE people were considered to be first responders and essential staff, but they didn't get the

equipment.

And also, you know, in a world where our workers are paid $5,000 to $7,000 less than comparable workers in other fields, it's a significant uphill battle for folks. It's amazing that they stay in our programs.

SENATOR HARCKHAM: Thank you.

Angelia?

DR. SMITH-WILSON: Yes, to speak to John's point, I think that, you know, there's an incredible amount of resiliency within our field. But because of the work that folks do in helping people to transform their lives, that can be a lot and that can be heavy.

And it's not like work in light of reductions and hold-backs. Obviously that is going to bring a sense of, you know, folks not being able to have the resources that they need as they continue to work with people to transform their lives. I mean, it's just been -- it has taken away from the amount of energy that folks have to give.

But I will always say that recovery offers resiliency. We have seen it. Peers

in the workforce have stepped up and done -- and in between. But I'm not sure how much longer that can continue with the cuts that they are seeing.

CHAIRWOMAN KRUEGER: Thank you. I'm sorry, but you ran a minute over so I had to cut you off. I'm sorry.

Assembly.

CHAIRWOMAN WEINSTEIN: Yes, we go to Assemblyman Steck, chair of our Alcoholism and Drug Abuse Committee.

ASSEMBLYMAN STECK: Thank you very much.

I wanted to ask Ms. Schorr what statutory changes she felt were needed to OMIG's enabling legislation to make sure that it doesn't become an abusive process.

MS. SCHORR: Well, one thing I want to be clear, we have an understanding that compliance is important. And we're not saying in any way, shape or form don't audit, because we're highly regulated. We're frankly audited all the time by any number of federal as well as state and frankly local

agencies. So there's no argument from us on the importance, frankly, and belief in audits. And in compliance.

What we're saying here is frankly, I think, excessive and overreach and, in particular, a sense that this is disproportional and the -- what can you say, the punishment doesn't match the so-called crime. There's actually no crime, so it's probably not an adept analogy. But in this case what we're looking --

ASSEMBLYMAN STECK: Can you get to examples of what you mean?

MS. SCHORR: Yes. So we're looking at situations where there may be a misstated visit or a treatment plan that they didn't find, and so they're going back in time. As we pointed out, $400 in total claims when you're look at this universe -- and it's essentially because OTPs are -- every single visit, including medication visits, are billed separately, claimed separately. You're seeing a really huge universe that you wouldn't see in another type of modality.

MR. COPPOLA: Sometimes it's as simple as a caseworker did not initial a case record. Or did not put the date in the date column. There's all kinds of other documentation that the service was provided on a certain time and date, but there's a technical error in the case record, and you get a disallowance.

MS. SCHORR: No question that these are services that were provided. There's no question about the quality of service. There's no -- these are simply documentation, small documentation errors that are resulting in -- in this case, that resulted in a program closure.

So that's where the difference that we're -- the disputes that we're having. It's clearly excessive.

ASSEMBLYMAN STECK: One question. Have you been impacted by these so-called algorithmic audits, and how so? And what might be done to address that problem?

MS. SCHORR: Well, one thing we might I think consider is, because there's no fraud

and no abuse, the use of this kind of extrapolation I think is not warranted, frankly. And so I would suggest that legislation that limits this kind of huge extrapolation to a penalty where there maybe is a real intent, where clearly someone was out to game the system in some way. That seems certainly reasonable, no question.

But in this case that's -- none of this is -- goes to that. And frankly, there's -- I think providers at this moment in time are subject to a number of audits. This is -- this is -- our system is under one kind of siege at the moment. There's a number of OPRA audits that have come up, and that affects many, many more providers. And these are hundreds of thousands of dollars --

ASSEMBLYMAN STECK: What kind of an audit is that?

MS. SCHORR: This is an Ordering Provider Referral Audit. And so these are audits that --

ASSEMBLYMAN STECK: Is that an OMIG audit?

MS. SCHORR: This is another OMIG audit. And this is another technical audit that's caused by -- frankly, really could have been stopped by a simple edit in the eMedNY system, claiming system, and did not have --

(Overtalk.)

CHAIRWOMAN WEINSTEIN: Thank you. We're going to go back to the Senate now.

CHAIRWOMAN KRUEGER: Thank you.

Senator Diane Savino.

SENATOR SAVINO: Thank you, Senator Krueger.

I actually have a question for John Coppola. Good to see you. And thank you to everyone on the panel.

John, I want to ask your opinion about the proposed merger of OASAS into OMH. I've spoken to some of the providers here on Staten Island, and they're a little skeptical and a little concerned that OASAS, which has kind of always been a little -- gotten a little short shrift from the government, even in the midst of probably the worst opioid

crisis in history and drug crisis since the crack epidemic -- might get lost in the bigger agency.

Do you share that concern or -- what do you think about this proposed merger?

MR. COPPOLA: Thank you for the question, Senator.

What I would say is the field is very divided. There are a lot of people in the field that think the new agency would be a good idea for some of the reasons that I think Senator Harckham mentioned when he offered remarks to the commissioner a little bit earlier.

But the more you talk about the concerns that people have -- so for instance, you know, will the peer professionals in the addiction field, the certified addiction counselors, will they retain their ability to continue to provide services or will there be sort of new additional academic standards put in, basically putting them out of jobs? To what extent will the treatment models be different, et cetera? To what extent will

people with criminal records, who are a vital part of our workforce and frequently are discriminated against in the mental health system -- to what extent will they be able to retain their jobs and to retain their important, you know, part in our workforce? The culture of the fields are a little bit different.

So when people start feeling, you know, like what's at risk, what -- how can we potentially lose our identity, then people start getting nervous, and then the numbers of people saying, Well, I'm not so sure it's a good idea.

So I think the process of how the agency gets designed is going to be vital. And there has to be some respect for differences. Just a simple thing like the use of the word "prevention." Just because it is applied differently in the two systems doesn't mean one definition is correct and the other one is incorrect.

So the process of creating new departments and new service programs, it's

going to have to be really important that the language and the culture of both systems is respected so that the people who are ultimately getting services are getting the best possible services.

SENATOR SAVINO: Thank you. I guess that will help inform us as we move forward on this. Because I think Senator Harckham made some very good points. For too long we did not look at addiction as anything other than a character defect. We now know so much more about it.

But I do think you're right, we've built out a system where we brought in people who have been affected by the criminal justice system because we have criminalized addiction for so many years, and we would not want to see those people who built careers post the criminal justice system shut out of an opportunity.

So thank you for your answer.

MR. COPPOLA: You're welcome.

SENATOR SAVINO: Thank you for your work, everyone.

MR. COPPOLA: You're welcome.

CHAIRWOMAN KRUEGER: Thank you. Yes, thank you for your work, everyone.

On to the next panel, all right? The Mental Health Association of New York State, Glenn Liebman; the New York State Conference of Local Mental Hygiene Directors, Kelly Hansen; the National Alliance on Mental Illness, Wendy Burch; and the Coalition for Behavioral Health, Amy Dorin, in that order.

MR. LIEBMAN: Thank you. Thank you very much, Senator. I appreciate it very much. Thank you to both the chairs. And I just want to also acknowledge and thank our Mental Hygiene chairs, Assemblymember Gunther and we welcome Senator Brouk as well to our community.

So my name is Glenn Liebman. I've been the director of the Mental Health Association for the last 17 years. We're comprised of 26 affiliates in 52 counties. And most of our members provide community-based mental health services, the

kind of services that Commissioner Sullivan was talking a lot about this morning.

But we're also involved a lot in advocacy training and education. We've certainly been very involved in the recent initiative around the Trauma-Informed Care Advisory Council set up by and initially introduced into legislation by Assemblymember Gunther.

We're also very involved with mental health instruction in schools. That's a mandate that New York has -- we're very proud of that -- since 2018. We're the only state in the country that has that. We're very proud of that.

So we're here today to talk about -- really, it's about two pandemics. We all know the one pandemic, we're all very familiar with the over 450,000 people who died, the racial injustice, the lost jobs, everything that that's about. But I'm here to talk about the second pandemic. And we talked about it a little bit this morning. I've heard several legislators talking about

it, and Governor Cuomo's referenced it many times as well.

Kaiser Permanente did a study early on around COVID and said that 42 percent of adult Americans are suffering from a mental health issue. That's up from the usual 20 percent. That's 90 million Americans.

Those between the ages of 18 to 24, 25 percent of them have seriously considered suicide. Think about that: 25 percent of 18-to-24-year-olds. And we certainly know, we're very familiar, we're all familiar with the school-age children and everything going on with isolation, anxiety and depression around that.

We are facing the worst mental health crisis of our lifetimes. Now, we appreciate -- the state is responding in some really strong ways. We're appreciating what they're doing around restructuring of telehealth, the emotional support line, the crisis counseling, crisis stabilization centers. That's all really good stuff.

But the reality is the budget is very

painful. People have talked about this. A 5 percent across the board funding cut to our already deeply underfunded system. We were here last year talking to you about 3 for 5 and the need for more funding for our community. And now we're facing a 5 percent budget cut.

We are losing $22 million in reinvestment this year. We talked about it, you asked a lot of great questions this morning about it. Those are community services that are lauded by the Office of Mental Health and by our community. It's not about reinvestment, it's investing. You invest this funding in the community, and you're keeping people out of hospitals, out of emergency rooms, out of the criminal justice system. So it's really an investment.

And the cut that really bothers me the most is the 1 percent across-the-board COLA cut of $50 million. That's the worst cut of all, because that is the heroes -- we're impacting the heroes who have gone in during

COVID, our mental health community heroes. We've been talking about the larger group of healthcare heroes? These are our mental health heroes. They're going in, and unfortunately they're not even getting a 1 percent increase in terms of the COLA.

And not to mention, obviously, the Dwyer, CIT, mental health first aid, the funding cuts to -- and Harvey talked about this too, the adult homes and non-protection. I could go on and on, but I know my time is up.

But really, this -- to sum it up, this is such a painful budget for many of us, for all of us. And it's coming at the worst possible time in terms of the pandemic.

Thank you very much.

CHAIRWOMAN KRUEGER: Thank you.

Second?

MS. HANSEN: Good afternoon. Can you hear me?

CHAIRWOMAN KRUEGER: Yes.

MS. HANSEN: Okay. Good afternoon. Thank you to the committee chairs and the

members who are joining us today.

My name is Kelly Hansen. I'm the executive director of the New York State Conference of Local Mental Hygiene Directors. And who we represent are the county mental health commissioners, who are responsible on the local level, the community level, for integrated services and developing priorities, programs, funding, oversight for individuals -- adults and children -- affected by mental illness, substance use disorder, and developmental disabilities. So from the local standpoint, these are all -- they're merged already. They've always worked in an integrated way.

I'd like to use my time today to touch quickly on two pieces and then talk much longer on the jail-based SUD funding.

So to echo my colleague Glenn and others, the 20 percent withholds are devastating. Devastating. This is state aid money that goes to the counties and the counties contract with providers based on the needs in their communities and their counties

to be able to provide services.

So at the same time this funding was withheld for 20 percent for three quarters, the need in the community has significantly increased due to COVID. Our members work very closely -- they're responsible for crisis services in the community. And the calls to the crisis lines and mobile crisis are going up significantly. The requests for individuals who are seeking treatment, what the county commissioners would tell you is we're seeing people crossing -- coming in through our doors and seeking treatment who we have never seen before.

So the impact of COVID will be lasting, too. We will have -- this doesn't just get, you know, fixed when a vaccine is available and everyone feels safe and comfortable. And the cuts to state aid and local assistance -- and of course now the $22 million proposed redirect out of reinvestment into the General Fund is important as well.

The 50 percent cut to the funding that

goes to counties for SUD treatment and transition services in jails, this was an initiative of the conference from the county commissioners, who kept seeing individuals, those same folks coming in and out of jail, in and out of jail, and they had no funding to be able to provide services for them.

So we, together with the State Sheriffs Association and the New York State Association of Counties, came together and advocated for -- our budget ask at that time was $12 million. We received $3.75 million. And then in this budget, we -- it's cut to 1.8, theoretically because bail reform has reduced the number of individuals in our jails.

Well, we needed 12 million to begin with. And so with the 3.75, there are a number of counties that got $60,000 to be able to provide group therapy, transition services, to be able to give someone a glide path as they're being discharged and part of reentry. Peer services, which are so critically important -- the peer is always

the most important person in the room, and they -- those are at risk of being cut as well.

So we ask that you restore that funding fully. And I'm happy to answer any questions. And I apologize for going 40 seconds over, but happy to answer any questions you may have.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Our next speaker?

MS. BURCH: Good afternoon, Senator Krueger, Assemblywoman Weinstein, chairs and members of the committee. Thank you for the opportunity to provide testimony today.

We are seeing a significant surge in the need for behavioral health services which cannot be met without substantial efforts from our behavioral health providers, yet they have been met with crippling withholds and are now facing permanent cuts. To avert program closures, access barriers and reductions in service availability, the state must immediately provide full funding for

mental health services and restore the 5 percent across-the-board cut the budget is imposing on providers.

To maximize every dollar that is supporting the system, we must ensure reinvestment of any savings into behavioral health community-based services. And vitally needed federal funds received cannot be used to supplant existing state funds.

We ask that new funds be used first to support our workforce and strengthen existing services, and then for new initiatives. Our provider agencies are in fiscal distress, experiencing a staffing crisis, and we have been severely impacted by COVID.

The creation of an adult-use cannabis program, if enacted in the final budget, must ensure that substantial revenues are dedicated to prevention, harm reduction, treatment and recovery programs. If the Senate and Assembly approve marijuana for adult use, we ask that you include a significant commitment to this funding.

The need for robust community-based

behavioral health services is also heightened as we see psychiatric and detox inpatient beds being disproportionately reduced by private hospitals in order to meet state overhead mandates. The loss of these beds is disturbing, both because of the increased burden it places on the underfunded community-based system as well as the human toll this is taking on those in need.

Along with restoring the funds to community providers, and ensuring that those most in need of care receive it, there are also funding measures that need to be put in place to ensure appropriate access to mental health services.

We also ask the Senate and Assembly to strengthen the Governor's proposed expansion of telehealth services by adding telehealth rate parity so that rates for audio-video services are the same as in-person rates, helping cover the full cost of services, and that all OMH and OASAS peers be included in telehealth reimbursement.

Now more than ever it is critical that

an individual receives the psychiatric medicine their doctor believes would best advance their recovery. This is why we are advocating for prescriber prevails language for Medicaid services to be included in the final budget.

NAMI-New York State is calling for investments in services necessary for adequate community care, like mental health housing, ACT teams, mobile intervention teams, respite centers, crisis stabilization centers, CCBHCs, telehealth, first-episode psychosis programs, and school-based mental health clinics.

We also ask for continued funding for New York's Institute for Police, Mental Health and Community Collaboration, which has been so successful at addressing crisis response.

With the upcoming implementation of the 988 crisis number, New York has the opportunity to transform our crisis response system. We will be recommending measures that adhere to NAMI's model bill for core

state behavioral health crisis service systems.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

And the last on this panel, Amy Dorin.

MS. DORIN: Thank you. Good afternoon. Thank you for the opportunity to testify this afternoon.

I'm Amy Dorin, president and CEO of the Coalition for Behavioral Health. The coalition represents over 100 community-based behavioral health providers who offer the full array of outpatient, mental health and substance use services to over 600,000 New Yorkers annually.

With COVID and a racial reckoning affecting historically underserved communities, demand for behavioral health services is skyrocketing. And yet one-quarter of providers can barely make payroll, showing the behavioral health system is at a breaking point.

Rather than cutting programs, the Legislature should look at the various

opportunities to raise revenue and invest in behavioral health at this critical moment.

We are deeply concerned by the proposed 5 percent cuts to local aid funding. These cuts will devastate already struggling organizations and communities and threaten critical services. We also oppose the proposal to suspend community reinvestment for one year. It is critical that the closure of inpatient psychiatric beds is followed with a reinvestment into community-based services. These services are essential to keep individuals from needing to be hospitalized.

Instead of these cuts, the Legislature has an opportunity this year to truly invest in behavioral health and ensure ongoing critical support to individuals with mental health and substance use disorders.

The virus may be under control soon, happily, but the behavioral health fallout will last for decades to come if we do not ensure services now. As the state looks to legalize marijuana, we encourage revenue to

be dedicated into prevention, treatment and harm reduction, as included in the Legislature's proposals.

Additionally, the opioid settlement funds provide an opportunity to infuse new dollars into treatment for substance use and co-occurring disorders, and to turn the tide on the deadly overdose epidemic. Overdose deaths have increased in the past year to new, ever more tragic heights. We must invest these funds now to prevent cuts. Opioid settlement dollars must be kept out of the General Fund, and we encourage the Legislature to include language to this effect in the budget.

COVID showed a clear need to reform our telehealth laws, and the proposal in the budget makes several important changes, including allowing individuals to receive care wherever they are located. However, the proposal falls short in two key ways. Telehealth must be covered at the same rate as in-person services. However, rates are not mentioned in the budget.

Telehealth requires a significant investment from providers, including the purchase of devices and program licenses, as well as training staff in this modality. This must be compensated at the same rate as in-person care.

The proposal also fails to include all peers. Peers, who are individuals with lived experience with mental health or substance use disorders, provide critical services. They're a proven part of treatment and recovery and should not be treated differently from other professionals. All peers who are eligible to be reimbursed for in-person services must be eligible for telehealth reimbursement.

Thank you again for the opportunity to testify today.

CHAIRWOMAN KRUEGER: Thank you all very much for your testimony this afternoon. Appreciate it.

Our next panel -- Panel G, for those of you following along -- the New York Alliance for Developmental Disabilities,

Russell Snaith; the Association for Community Living, Sebrina Barrett; the New York Self-Determination Coalition, Susan Platkin; and the New York Disability Advocates, Susan Constantino.

We'll go in that order. Russell.

MR. SNAITH: Great, thank you.

Good afternoon, committee chairs, distinguished members of the Assembly and Senate, and Committee on Mental Hygiene. My name is Russell Snaith, and I'm the founding member of the New York Alliance for Developmental Disabilities, also known as NYADD. With over 5,500 members across New York State, we advocate for and represent families and essentially the consumers of services.

I come before you today to speak very plainly and frankly. When it comes to funding for the disabled and those with special needs, this is not a discussion about money. It's a referendum on morality and priorities in New York State. So what I'm really here to do is to kind of reframe and

rebrand the context and the tone and the tenor of this discussion away from money and more about priorities, obligations, responsibility and morality, as people who are learned and in high positions, to take care of the most vulnerable in our state.

There's never going to be enough money. We all recognize there's never going to be enough money. So we need to change the key here away from money and put it more toward priorities. Basically, money is a red herring, but priorities are real. And I'd just like to say that one more time, that money in the budgeting process is really a red herring because there's never enough of it and at the end of the day, there are decisions that are made to allocate money that are not always the most efficient or wise or effective decisions.

So -- but priorities are real. While we are always hopeful for federal aid, we must first manage the revenues that New York State does have. We have to manage our own books and the revenues that we generate.

Service providers have become much more efficient and effective in the use of their budgets over time, but has New York State? Has New York State looked at the money that it has and the efficiency of the state and the decisions that it makes to run the projects that it does run? We must take a look at and rationalize all of the waste, the inefficiency and noncritical discretionary projects New York takes up at the expense of greater needs for greater people, and disabled and special needs.

Let's put the emphasis of special interests on those with special needs. NYADD is a loud, clear voice for over 5,000 members who vote in New York State, and there's a real accounting in terms of the way people vote to allocate funding for those with special needs.

The state has done a reasonable job in assessing the demand for services. And I would like to acknowledge and thank the partnership with OPWDD. I do think that they listen and they're doing their darndest to

work with what they have. Yet the demand continues to rise, and funding continues to be cut.

Service providers are being squeezed to the brink of extinction and unhealthy consolidation. Incessant cuts to the disabled are forcing policy decisions that put service providers in precarious situations -- policies that occur in isolation, warehousing and separation from the community and families.

We must pay direct support professionals a living wage. They provide care to our most vulnerable citizens. The skill set is unique and deep and is not comparable to a fast-food worker. High staff turnover reduces care and creates risk. It costs more money to operate like this than to pay staff properly in the first place.

So I would just like to close by saying that we're not living up to the credo of Governor Mario Cuomo. What happened?

Thank you for your time.

CHAIRWOMAN WEINSTEIN: Thank you.

Sebrina Barrett?

MS. BARRETT: My name is Sebrina Barrett, and I am the executive director for the Association for Community Living.

Thank you to Senator Krueger, Assemblywoman Weinstein and the chairs and members of the Senate and Assembly Mental Health Committees for this opportunity to testify.

ACL's members provide a home and a path to recovery for about 40,000 New Yorkers with severe and persistent mental illness. Before the pandemic -- before the pandemic, mental health housing faced a $180 million shortfall. This is because the funding model, which was developed 30 to 40 years ago, has not kept pace with inflation and the changing demands of our community.

For example, employee health insurance premiums have risen 740 percent since 1984. Our providers cannot afford health insurance for staff at current reimbursement rates. More than 30 years ago, our staff made $6 to $7 an hour, double the then-minimum wage.

Today they make just at minimum wage, leaving them unable to afford childcare. Many have to work more than one job. We are losing staff to fast-food restaurants and retail, which can pay them more.

Plus, over time, these jobs have become harder, as residents' mental and physical needs have grown.

Today staff manage more than a dozen medications for residents, rather than one or two when these programs first started. We are facing a staffing crisis. We have a 25 to 30 percent staff unavailability rate, vacancies that cannot be filled due to low pay, staff who must stay home to care for children, staff who themselves are ill or have had to quarantine.

No one is applying for our jobs. Even when unemployment was at its highest levels, people needed jobs, but no one wanted our jobs.

This impacts recovery. This week I spoke to a former resident whose recovery time was more than doubled because of staff

turnover. She had more than 10 different staff members over the course of her treatment. Just when she would begin to trust a staff member and progress in her recovery, that employee would leave and she would have to start over at square one.

Also, staff are on the front lines of COVID. Because residents have co-occurring medical conditions, of those who became ill with COVID, more than 45 percent required hospitalization, and more than 15 percent died.

New York's 2021 enacted budget included $20 million for mental health housing, but due to the fiscal crisis those dollars were never allocated. We are pleased to see these dollars are in the '21-'22 budget, and we urge that they be allocated as soon as possible. We know New York has a difficult budget year, but the $180 million gap remains.

We also hope that continued investment in existing mental health housing will be made. In addition, we are pleased that the

proposed budget includes 250 million for the development of new supportive housing. This funding is crucial for New York State to be able to live up to its obligation to promote strong mental health housing programs.

Finally, mental health housing is not only the right thing to do, it's fiscally smart. It is much less expensive than hospitals, prisons, and homeless shelters. We save lives, and we save money.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Next?

(Overtalk.)

MS. PLATKIN: Can you hear me?

CHAIRWOMAN KRUEGER: There you are.

MS. PLATKIN: Good afternoon. My name is Susan Platkin. Thanks for the opportunity to comment on the budget. I'm here representing the New York Self- Determination Coalition, a volunteer group which advocates for self-directed services through OPWDD. We also mentor families going through the process.

Self-directed services represent the most authentic expression of the ADA, the Olmstead decision, and the HCBS home and community settings rule.

Essentially, self-direction allows people with disabilities to live, volunteer, work and play while getting the supports they need, not just in their communities but as part of their communities, using an individualized budget based on their level of need.

I bring to this table the perspective of many families, but most importantly that of a mom to my 34-year-old daughter Ruth. Ruth loves parties, board games, and sports. She also has intellectual disabilities and bipolar disorder, and functions pretty much as a second-grader. Because of her poor judgment, she needs continuous supervision.

Using self-directed services, she rents a house with a roommate who also gets services. Ruth shops, cooks, cleans, does her laundry, takes out the trash -- reluctantly -- with a lot of assistance from

staff. Despite all of her challenges, Ruth is living a good life with friends, a part-time job, and volunteering in the community where she grew up and went to school.

We appreciate that there's a small increase in OPWDD's budget. However, it is inadequate. Children with I/DD are being born every day and living longer. Serving more people with a minimal budget increase has the potential to significantly degrade OPWDD services for everyone.

It's not like people have a choice. They don't say, My kid is great, family's fine, let's try and get some services from OPWDD to make us happy. People need these services to live their lives.

And this doesn't just affect the person with I/DD, it affects the entire family -- for example, a mom who can't work because she has to care for her 40-year-old son.

At the same time, we understand the need to balance the state's budget. We urge

you to use COVID as an opportunity and New York's financial pressures as an imperative to right-size the system away from an institutional model of care.

Self-directed services give people choice in their lives and support them to be productive citizens. In this new age of pandemics, we know they're safer than congregate programs. Relevant here, they are cost-effective. In programs, everyone gets the same services. People who self-direct get only the services they need, without wasted money for overhead.

One other imperative. Decisions need to be based on data and consideration of both their short- and long-term consequences. OPWDD should be required to make public all the data they use for decision-making before making significant changes to how services and supports are delivered.

We're happy to work with you on these issues. Thank you.

CHAIRWOMAN KRUEGER: Thank you.

There was one more --

MS. CONSTANTINO: I think I'm number four.

CHAIRWOMAN KRUEGER: Ah, thank you. Susan, yes.

MS. CONSTANTINO: Good afternoon. I'm Susan Constantino, representing NYDA. And NYDA is the New York Disability Advocates.

NYDA is comprised of seven statewide organizations: The Arc New York, which many of you know the name; the Alliance of Long Island Agencies; Cerebral Palsy Associations of New York State; Developmental Disabilities Alliance of Western New York; Inter-Agency Council of Developmental Disabilities; the New York Alliance for Inclusion and Innovation; and the New York Association of Emerging and Multicultural Providers.

I give you all those names because all of these groups together represent about 130,000 individuals with disabilities and their families.

Before COVID, about one in three of our providers was experiencing financial hardships. You've heard us, we've been

before you before when we've talked about the need for a COLA, the need for some kind of increase, and you have always been responsive, as we've looked at our direct support staff, in providing some additional dollars. But we are desperately in need of dollars now because of COVID.

From the start of the pandemic, there had been no reimbursement for any of our additional expenses. The PPE, which when it was finally available, was exceedingly expensive -- and we worked for so many weeks without having enough of it. We were also having to pay our staff. In my written notes, as I look at them, I say we had to pay our heroes, because our heroes were there every day and they needed to be paid combat pay -- again, with no reimbursement, and again despite the fact that there was an increased FMAP from the federal government to the state.

I would like to first just clarify something that Commissioner Kastner had said earlier today, and that was that the retainer

program, which was implemented to offset the losses for the providers since the day programs were closed, only reimbursed providers not at 100 percent, but at 80 percent. And this only lasted for four months. And generally the providers had kept all their staff employed, so their expenses were the same. Even -- and there was no double billing. Even with COM HAB R, there was absolutely no -- no -- OPWDD was not paying twice.

We also know that statewide providers had incurred reduced revenue of about $330 million, and we are concerned that OPWDD has not identified any of those savings due to the reduced disbursement to providers.

We're also very concerned about the cuts that were scheduled for 10/1 and now are 5/1. These are true cuts to programs. When there are vacancies, it takes months to fill those vacancies, and OPWDD controls that. So there are no dollars to the providers. And a vacant bed still costs money. We still need to have people -- our staff there, and we

still need to pay the rent. So it does cost money.

The proposed 1 percent rate reduction that's in the Executive Budget, combined with the lack of a COLA, again, for 11 years, is going to be devastating to our providers, absolutely devastating.

We do want to say how much we appreciate the opportunity to continue on telehealth, and we are asking the Legislature to just put in a special specific amendment which is called distance site, to make sure that the providers can be -- of those services can be in another site besides a clinic.

And our workforce, as everyone has said, it's getting more dire. Our percentages are very large. We are asking the state, with the money that they get for COVID relief from the federal government, to create a $25 million fund for recruitment, training and retention, but using that fund.

Thank you so much for allowing me to be here.

CHAIRWOMAN KRUEGER: Thank you.

And just -- so sorry. Okay. Oh, I see several hands up. So I will pass it to the Assembly.

CHAIRWOMAN WEINSTEIN: Okay. So first we have Assemblyman Abinanti.

(Pause.)

CHAIRWOMAN KRUEGER: Perhaps not. Oh, there you are.

CHAIRWOMAN WEINSTEIN: Yeah, there he is.

ASSEMBLYMAN ABINANTI: No, I'm trying to click in. I've got all these things they're telling me I have to click here and there and --

CHAIRWOMAN WEINSTEIN: Okay.

ASSEMBLYMAN ABINANTI: Let me start -- first of all, I want to thank all of you for joining us.

Either Susan -- or either Susan, there we go. One of the things that I started to talk to the commissioner about this morning and really ran out of time was how long it takes to get into the system. Now, I'd like

-- I mean, my understanding of the way this works -- and I went through it myself, and I'm still going through it, actually -- is first you have to go to OPWDD to get somebody to qualify you as having a disability, correct?

MS. CONSTANTINO: Correct.

ASSEMBLYMAN ABINANTI: And then the next step -- I'm trying to remember what it was. You have to go to local social services to --

MS. CONSTANTINO: Somebody has to help you where you go to social services, right, absolutely.

ASSEMBLYMAN ABINANTI: And then you go back to OPWDD, right. And then you go back to social services again to -- and get -- then you get a care coordinator.

MS. CONSTANTINO: Correct.

ASSEMBLYMAN ABINANTI: Now, the care coordinator helps you set up a whole outline of what your needs are and how you tie the needs into the services that are available, maybe apply for Medicaid --

MS. CONSTANTINO: Medicaid, yup.

ASSEMBLYMAN ABINANTI: -- or maybe food stamps or all of the other programs that are available, right?

Then from the care coordinator -- now, there's only like 3,000 of them in the state, right?

MS. CONSTANTINO: Right.

ASSEMBLYMAN ABINANTI: It's a limited number. And they're doing all of this work, and there's waiting lists for some of the care coordinators, right?

MS. CONSTANTINO: That's my understanding.

ASSEMBLYMAN ABINANTI: Right, okay. And then the next step after care coordinator is we go to -- we go where? Where do we go from there, for -- after care coordinator we go to fiscal intermediary?

MS. CONSTANTINO: I think you -- well, if it were self-direction -- and I would let Susan speak of that -- it might be a fiscal intermediary. If it's not self-direction, you would be going to the Front Door of

OPWDD.

ASSEMBLYMAN ABINANTI: Okay. Now, they've just announced that because they've put in a new assessment system, CAS, they can insert somebody else in there. Right? A CAS coordinator.

So if it's self-direction, you have to go to a fiscal intermediary and then a support broker and then a CAS director. Then you get to OPWDD.

Otherwise, you go -- okay. Now, this whole process takes how long? I figure about two years?

MS. CONSTANTINO: Well, I'm not sure if it takes that long. Susan, you talk, because you know what happens with self-direction.

MS. PLATKIN: Yeah, with self-direction -- I was just actually speaking to somebody this morning who had two children that she was trying to get into it. And I think she was like -- she was on her like sixth care manager and had just tried to find a -- found a broker but wasn't sure what

she was doing next and had to switch brokers because that's a whole other conversation.

ASSEMBLYMAN ABINANTI: And the fiscal intermediaries in the Mid-Hudson area, or the Lower Hudson area, have a waiting list because there's not enough of them.

MS. PLATKIN: Right. And you know, part of the problem with the system is that it's just at a whole lot of levels, things are getting slow-walked because of lack of resources within the system, I think. And although that doesn't look like a budget change -- or a policy change, I mean, it really is a policy change because it's taking so long. You can't really have a waiting list because you can't do that on the waiver. But things are just taking a very long time.

ASSEMBLYMAN ABINANTI: Thank you.

CHAIRWOMAN WEINSTEIN: Thank you.

Now we -- I don't believe there's any Senate.

CHAIRWOMAN KRUEGER: No Senators. Do you have other --

CHAIRWOMAN WEINSTEIN: Let me go to

our People with Disabilities ranker, Missy Miller.

ASSEMBLYWOMAN MILLER: Hi. Can you hear me?

CHAIRWOMAN KRUEGER: Yes.

ASSEMBLYWOMAN MILLER: Okay. Thank you, everybody. This is probably one of the panels that I can relate most to.

Just to pick up right where Tom left off there, that slow-walk that you're referring to, like after this ridiculous crazy process, equals people home with no services, people not even getting into the system that's available to help them, they're just sitting there at home languishing.

It used to be that these services were provided -- or the intake was done through the Medicaid service coordination agency, there were waitlists for that. We were guaranteed that the CCOs were alleviating that. That whole nightmare was going to be washed out with the introduction of CCOs. If anything, it just seems more cumbersome than ever. And I just -- it's just, you know,

very, very frustrating, especially when, you know, we -- those of us that live in this system and rely on this, you know, can't access what's on paper and what looks so wonderful.

And I just want to highlight once again what Russell was saying. It's -- you know, there's two very poignant parts of in. Number one, for a population that seems to be discarded, overlooked, forgotten about repeatedly throughout this whole pandemic, it's just striking to me that they're always the first ones on the budget cut list or on the cut service providers list. So it's kind of insulting being one of those in the population.

And the other is that it's even more upsetting and frustrating because now, you know, as a parent I was just told that, and you're like, all right, what can you do, you can't get blood from a stone, right? But now being a little bit on another side of it and having some insight into the legislative process, into the budget process, I was

appalled to hear the Governor talk about the $306 billion of capital improvements and other, you know, projects, special interest projects that were in his State of the State, but yet there's no money, we just keep getting cut and cut. And it's at the expense of a growing vulnerable population.

So I just again think that the priorities are so out of whack. And shame on us, shame on New York State. This is not how we were. We were the gold standard, we were, you know, the leaders in taking care of our individuals with special needs. And where are we headed?

So thank you all for your advocacy and for doing what you do. I'm right there with you.

CHAIRWOMAN WEINSTEIN: Thank you.

I think we're back to you, Senator Krueger.

CHAIRWOMAN KRUEGER: Thank you. I think we are complete with this panel. Thank you all very much for testifying.

And we're moving into Panel H,

NYC Fair, Carlene Braithwaite; Local 372, DC 37 AFSCME, Kevin Allen; the Self-Advocacy Association of New York State, BJ Stasio -- who I hope is going to testify as the Muppet picture he had for himself for much of today -- and LIFEPlan CCO NY, Nick Cappoletti.

So we'll start with NYC Fair.

MS. BRAITHWAITE: Good evening. Can everyone hear me?

CHAIRWOMAN KRUEGER: Yes.

MS. BRAITHWAITE: Yes, my name is Carlene Braithwaite, and it's my pleasure to be here representing NYC Fair. NYC Fair is a group of families and those who support individuals with intellectual and developmental disabilities throughout the entire spectrum.

We have anxiously awaited this opportunity to talk to you today, but what I would like to do is to principally, for all of us and for all of you, rest on the testimony which we have provided you and then stick to the points that I think that have

come up over and over again today that I think warrant clarification and certainly further questions from the members here today to the commissioner, to Dr. Kastner.

And I'd like to start with the residential issues. We heard, from many questions posed by the members, about how residential opportunities, specifically those in certified settings, are allocated. What we know is there is a lack of transparency as to how this is done. Families repeatedly tell us that they have been on waiting lists for inordinate amounts of time. We know that those waiting lists are very, very long, with estimates in the thousands as to how many folks are actually there waiting.

We know that OPWDD has failed to follow 5.07, the plan required by the Mental Health Law of the State of New York. We know that they have failed to file a report, a residential needs survey report, which the Legislature had required that they file with you every two years.

And most importantly, they have simply

failed to provide any detail in how they will migrate people into these less-restrictive settings which they emphasize. Which we know will be less expensive, less of a cut on the budget, but we know we also have an obligation to serve this vulnerable population. So we're very concerned as to how they will do that.

So I'd like to move next to the second important issue here, and that is, I think, the workforce issue. I don't think there's perhaps an issue of more importance to the day-to-day operation of these programs than the men and women who serve, at the ground level, these folks in these programs. These are not minimum-wage jobs. We should all put our heads together to figure out how to get them a living wage.

We heard Kastner's testimony that he will bring them up to minimum wage, but we need them to be higher.

And briefly on the October 1, 2020, cuts. They will be rolled back to May. They should be eliminated. They are not

fact-based. You've heard the testimony from this morning. They're based on the idea that these beds will be empty for periods of time for hospitalizations and therapeutic leave.

We know, it's common sense, that when the beds are empty, the costs keep running. If the costs keep running, they need to be reimbursed.

And I see I'm slightly over my time. I appreciate the chairlady's indulgence. Thank you very much.

CHAIRWOMAN KRUEGER: Thank you. Thank you.

Next? Are you with us, Kevin Allen?

MR. ALLEN: Yes. Yes, good afternoon --

CHAIRWOMAN KRUEGER: Good afternoon.

MR. ALLEN: -- Chairwoman Krueger. I'm here. Good afternoon.

CHAIRWOMAN KRUEGER: Well, we would love to hear you bring --

MR. ALLEN: I'm ready. Good afternoon, Chairpersons Krueger, Weinstein, and the distinguished members of the New York

State Senate Finance Committee and the Assembly Ways and Means Committee.

I, Kevin Allen, chapter chair, speak today on behalf of President Francois and the approximately 270 substance abuse prevention and intervention specialists representing DC 37 and Local 372, New York City Department of Education employees who operate in the New York City public school system.

The SAPIS system is currently funded by the Legislature through a joint $2 million appropriation, and I am here seeking an increase of $1 million for a total of $3 million in joint legislative appropriation for SAPIS.

The OASAS-sponsored SAPIS program has never been more vital than now during this unprecedented time. Our kindergarten to 12th-grade students have been positively influenced by the services offered by SAPIS, with blended in-person and virtual remote classes in all New York City school districts. We work as key members of the guidance departments in schools providing

strategies and resources that help students to utilize relevant prevention skills through our evidence-based program curricula, classroom presentations, positive alternative activities, and our group and individual counseling groups.

Since 1971, SAPIS have provided essential social-emotional strategies and services to help youth remain learning-ready. The SAPIS program has always been equipped to serve the needs of one of our most precious populations in New York City. We are 12-month employees that service the entire school and provide scheduled daily classroom presentations in our school settings.

Because of the COVID-19 epidemic, the emotional, mental, economical, physical and social stress upon families cannot be measured. SAPIS have always been a valuable part of the life of our students, schools, and our communities at large. SAPIS are already trained and ready to respond to this COVID-19 crisis. Our program is already tailored to address risk factors affecting

our students' lives.

Our requested increase of $1 million in SAPIS funding would support an additional 12 full-time SAPIS positions. This would create services for up to 6,000 more students.

On behalf of Local 372, once again I thank the Senate and the Assembly for your ongoing support for the SAPIS program. We look forward to working with you all to make this possible. I am available to answer any questions you may have.

Thank you.

CHAIRWOMAN KRUEGER: Thank you.

Thank you. Continuing on with Number 27, BJ Stasio, Self-Advocacy Association of New York State.

MR. STASIO: Thank you.

SAANYS is an association founded by people with developmental disabilities. We speak up for ourselves and others for over 30 years, and it's an honor to be here today. We've spoken a lot of years, and it's an honor to be here today.

And I'll give you a little background about myself. Not only am I currently honored to be SAANYS' president -- and I'm from Western New York, specifically Buffalo -- but I also have worked for the Office for People With Developmental Disabilities for over 20 years, and I am honored to do so.

The Self-Advocacy Association has submitted written testimony which is more detailed, but I won't be reading that today. I just want to speak from the heart.

SAANYS has been testifying for a number of years. We often speak about the many areas of supports that require investment and innovation. However, over the past few years, it has become clear to us that there is a real risk to our system of services and supports as a whole. The simple fact is that more and more people require services each year, and the New York State budget has not kept up with this.

While it is good that OPWDD and provider organizations are working to find

efficiencies, cost savings alone can't keep up with growing needs.

New York State has invested an additional 2 percent in OPWDD each year for the past few years, and this is appreciated. However, our understanding is that the demand for services exceeds 2 percent and may be as high as 10 annually. We now see a number of signs that our system of supports and services is at risk.

Among these signs is an ongoing staffing crisis and a lack of responsive services. We have many people waiting for new residential and other opportunities as well, people currently in services facing significant barriers to real choice when seeking new opportunities. Signs that we are not keeping up include our staffing crisis, which has been created by a lack of investment and fair wages for DSPs, which you've heard a lot about today.

Without my DSPs, I wouldn't be able to be on this legislative meeting today, so I appreciate them. The importance of a stable

DSP workforce can't be overstated, because without my DSPs I wouldn't have the job that I do, I wouldn't be able to support the people that I work with and for, and let OPWDD and the Legislature know their wants and needs.

We also see people waiting for new services or to make a change in their existing services. Often a real choice isn't available and just isn't enough. That's why we need more person-centered services so the system can survive long. And, importantly, it cannot innovate and become more person-centered if it does not have a stable foundation.

The core value of SAANYS is to be person-centered, so it is very important to keep that in mind, and I want everybody to know that. Investment must keep up with growth if people are to have the quality of supports and services they need.

Like I said, without the quality of support, some people will fall through the cracks. And SAANYS -- more, all of New York

State -- doesn't want that because New York State is the greatest state in the country for services for people with developmental disabilities. I want you to keep that in mind, please.

We are concerned that OPWDD will need to make cuts in the budget --

CHAIRWOMAN KRUEGER: BJ, you're a minute and a half over, so I'm going to cut you off now, okay?

MR. STASIO: Thank you.

CHAIRWOMAN KRUEGER: We have your testimony. Thank you.

MR. STASIO: Sorry about that.

CHAIRWOMAN KRUEGER: No, it's okay. You were very poignant. I didn't want to cut you off.

Our next speaker -- I believe actually our last speaker for the panel -- is Nick Cappoletti, from LIFEPlan.

Are you here, Nick?

MR. CAPPOLETTI: Yes, good afternoon.

CHAIRWOMAN KRUEGER: Good afternoon.

MR. CAPPOLETTI: I want to thank the

chairs and the members of the Assembly and Senate for holding this hearing and the opportunity to testify today.

My name is Nick Cappoletti. I'm the CEO of LIFEPlan, one of the seven care coordination organizations that serves people with I/DD in New York State.

I'm also the parent of a 30-year-old son with a rare genetic syndrome who's also the recipient of services from OPWDD.

Ten years ago Governor Cuomo committed that New York State would provide care management for all as part of the state's Medicaid Redesign Initiative. The seven CCOs were created three years ago to provide integrated and coordinated healthcare to the over 108,000 people with I/DD in the state. Of that number, approximately 80,000 people live either on their own or with members of their family. Many of these people have fragile support networks and are only one heartbeat away from needing crisis services or a placement.

Care coordination organizations are

specialty health homes responsible for coordinating all aspects of an individual's health and well-being, including medical, behavioral health, and long-term I/DD services. When care coordination organizations were started, we invested heavily to develop a new workforce, reduce caseloads, to provide services to medical and behavioral health, to implement sophisticated electronic health records, build clinical departments to respond to the need and reduce unnecessary emergency room and hospitalization utilization and perform comprehensive healthcare management.

Care coordination is very different than Medicaid service coordination. Commissioner Kastner referenced the fact that the care coordination rate is 60 percent higher than MSC. It's a completely different service. It was designed differently. I/DD care coordination is responsible for the full scope of services: Healthcare, primary healthcare, secondary care, coordinating those services, coordinating food and housing

supports, advocating for access to I/DD services -- at a time when we do have significant waiting lists for almost every program -- preventing crisis and responding to people's and families' needs. And also ensuring the quality of services.

Last July the state arbitrarily implemented a 16 percent cut to the CCOs. That's only been followed by a proposed 23 percent cut effective July 1st. That, combined, represents a 39 percent cut. No Medicaid program has ever received a cut of this magnitude and survived.

The state is creating a scenario where CCOs will no longer be financially viable entities, ending the promise of care management for the most vulnerable population during a national pandemic. Suggesting that a Medicare incentive payment will address the damage of this cut is not realistic and will only make it more difficult for us to help our members. OPWDD has acknowledged that there's literally tens of thousands of people out there who don't even know about these

services and are not eligible yet but would be eligible based on the definition by Mental Hygiene Code.

Parents like me continue to ask the question: Who's going to care for our children when we are gone? Our current system cannot answer this question. We have people who are not served, we have people on waiting lists, we need care management now more than ever.

This is a social justice issue. This is a vulnerable population that has historically been marginalized and requires a quality care-management program.

I appreciate your interest in this program, and I'd love to take any questions that you may have.

CHAIRWOMAN KRUEGER: Thank you very much.

I see several hands on the Assembly side. Helene Weinstein.

CHAIRWOMAN WEINSTEIN: Yes. So let's go to our ranker on People with Disabilities, Assemblywoman Missy Miller.

ASSEMBLYWOMAN MILLER: Thank you.

Do I not get five minutes?

CHAIRWOMAN KRUEGER: No, I think it's three minutes now for everyone.

CHAIRWOMAN WEINSTEIN: No, on the panels everyone just gets three minutes.

ASSEMBLYWOMAN MILLER: Oh, okay.

So I just want to ask a question for Nick Cappoletti. You know, I hear your testimony, I read it, I listened to it, and I relate to so much of what you're saying. Certainly, you know, as a parent as well, it sounds so on target.

I'm struggling still to understand. The CCOs are new, it's new to all of us. I'm still struggling so much to understand. It just seems that so many of our population and so many people that I hear from feel that they're not getting from the CCO what you're describing, certainly, and certainly not what we were promised would be coming.

You testified asking for more money, that we can't sustain with the proposed cuts, but we're not getting the services that are

supposedly being delivered. In fact, from -- in my attempt to understand, I've done a little research of this whole system, and so I just have a few questions based on that.

I'm going to ask my questions first so that in case we run out of time I can ask that you just respond to Ways and Means so that they're on record.

The intention of New York State for creating these CCOs was to provide conflict-free case management between self-coordination and provision of services. So based on that, do you believe that this is actually happening? When I reviewed your website, I saw that every member of your board represents a provider agency. And do you believe this is a conflict of interest? And isn't that contrary to what was intended with respect to conflict-free case management?

My second question, on the fiscal side, can you share with us if there were surpluses generated in fiscal years '18, '19 and '20, and what did LIFEPlan do with these

surpluses?

And my last question, as a for-profit company, has LIFEPlan ever disclosed to New York State how much revenue you've generated so the Division of Budget can accurately gauge your fiscal situation so that we can move, you know, forward?

There were -- I had so many other things as I was reading and researching, there were just so many things that pop out at me that I don't understand. I'm not -- I'm not -- I must not be understanding how this is supposed to be working. What I can say is on the receiving end of it, and hearing from so many others, we're just not getting any of these services.

I happen to have one of those very complex kids who has a variety of different services. I've had multiple care coordinators. The care coordinator that we have now calls every month and asks to speak to my nonverbal child on the phone to check in and find out what's going on. I just don't see how this is working.

I'm sorry, I see we're already out of time, so --

CHAIRWOMAN WEINSTEIN: Assemblywoman, we do have the email, all the contact information for this panel, if you want to, through -- either directly to me or through Assemblyman Ra, if you prepare a list of questions, we'll be happy to send it to the panel and ask them to respond and make it part of the official record of this hearing.

ASSEMBLYWOMAN MILLER: That would be great. Thank you very much.

CHAIRWOMAN WEINSTEIN: Okay, now we go to Assemblyman Abbate {sic}. You had your hand raised, Tom? Did you want to --

ASSEMBLYMAN ABINANTI: Oh, you're confusing me with Peter.

Anyway, can you in 25 words or less, Nick, explain the function of a care coordinator? You don't hire the people to do the work, correct?

MR. CAPPOLETTI: Correct. Correct.

ASSEMBLYMAN ABINANTI: Tell us what you do.

MR. CAPPOLETTI: So the design point -- and again, this is the design point as proposed by OPWDD -- is that the CCOs are actually -- by design, were created by the provider organizations. So to address Ranker Miller's question, that is part of the OPWDD design, that the CCOs would be started by the providers.

But there is a degree of separation. The point of the care coordinators is to look at the person -- first of all, we help many people, most people -- you talk about the issue between front door, going to social services, back and forth. The care coordination organizations, we have dedicated teams that try to make that easier, but it's not an easy task given how complicated the OPWDD system is in the system of getting Medicaid.

But we assist with eligibility. We then develop a person-centered plan and help the person apply for services. But it needs to be recognized that OPWDD ultimately approves all services. It's not the CCO.

We actually combine -- the seven CCOs, we actually track how many people are not getting services and try to advocate for them. And then we're there as kind of the safety net looking at does the person have adequate healthcare, housing, do they get supports as determined by OPWDD, are the providers actually providing that support. So there is the level of separation. And --

ASSEMBLYMAN ABINANTI: Who actually hires -- who actually hires -- if you're talking about self-direction or that piece, who actually hires the staff? That's not a care coordinator, correct?

MR. CAPPOLETTI: No, it is not. So there's actually agencies that serve as fiscal intermediaries that work with the individual and family to actually identify the staff, and the person chooses who they hire. And ultimately that organization does hire them.

ASSEMBLYMAN ABINANTI: I think part of the confusion and part of the problem here is what we're talking about today is the

totality of somebody's life. And the job of the care coordinator, as I understand it, and as I've seen it work, is that that care coordinator is supposed to look at the totality of that person's life --

MR. CAPPOLETTI: Correct.

ASSEMBLYMAN ABINANTI: -- and ensure that every piece of it is taken care of.

So if you have an intact family that's providing services and who's really just looking for self-direction to get some money to provide those services themselves, in effect -- they can hire people, et cetera -- the care coordinator doesn't have to do very much.

But if you have a broken family with a young man who has no support, no services, no nothing, then the care coordinator becomes a substitute mother, in effect.

MR. CAPPOLETTI: So it ranges. That is correct, Assemblyman. The range of need is wide. At minimum --

ASSEMBLYMAN ABINANTI: I just want to go to one other thing, then.

MR. CAPPOLETTI: Sure.

ASSEMBLYMAN ABINANTI: Now, understanding that there's a 5 percent cut this year, this budget will cement that in place, correct? And then they're proposing another cut on top of the 5 percent cut from this year.

So if you compare what you're going to get in April of 2021 with what you got in February of 2019, it will be 5 percent less plus another 1 percent cut, correct?

MR. CAPPOLETTI: No. Actually, Assemblyman, it's actually worse than that.

So in July of last year we received a 16 percent cut. And it's proposed that we will receive another 23 percent cut July of this coming year, in 2021. So, combined, a 39 percent cut.

ASSEMBLYMAN ABINANTI: But the system itself also, across --

MR. CAPPOLETTI: And the system is getting cut. And we have waiting lists for all services. And this is a new program. So it was a significant change in scope from

what we had with Medicaid service coordination to moving to this health home model and having to train over 3500 workers on delivering a whole new model of service, hiring clinical supports, data analytics, new integrated health systems to support them. So it has been a significant transition.

CHAIRWOMAN WEINSTEIN: Thank you. Thank you for your answer.

We go to Harvey.

ASSEMBLYMAN EPSTEIN: Thank you, Madam Chair.

So I really appreciate what you're saying. The cuts seem really horrific. And I'm wondering how much you guys are talking about revenue, because there's an Invest in Our New York Coalition talking about raising revenue. And, you know, I think we've heard -- you know, every day we hear of these horrific cuts. And I'm wondering if you're putting some energy on the revenue side to try to get new revenue to New York State. And that's for anybody on the panel.

(No response.)

ASSEMBLYMAN EPSTEIN: Because the cuts are bad. And, you know, the question is are we going to divide up a smaller pie together? Or we're going to seek new revenue sources so the necessary social service for people with disabilities can happen? And if we have less revenue, we're all going to get cut and we're all going to be -- we're going to really feel the pain.

The only way around that is to have more revenue. And that's some federal dollars, but it's also going to be New York State dollars. And Investing in Our New York is an effort across the board, across issue areas, to put more resources in. And, you know, as Assemblywoman Miller said earlier, this used to be where New York really shone, and now we're -- we are not.

So we could really -- I would love to see you guys engaging on the revenue side because if we don't, this is -- we're just going to have -- this conversation is going nowhere.

MR. CAPPOLETTI: And I think,

Assemblyman, we -- as part of the creation of the CCOs, that allowed New York State to access significantly more Medicaid dollars.

CHAIRWOMAN WEINSTEIN: We'll be discussing the revenue at our revenue hearing. It's not necessary every witness --

(Overtalk.)

ASSEMBLYMAN EPSTEIN: I appreciate that. But just to -- just if I -- just finally, if the cuts come down as they propose, what does that mean for your programs? What realistically is going to happen with your programs? Can you stay afloat?

MR. CAPPOLETTI: Well, for care coordination organizations, I can tell you that all seven would be projected into a deficit either by the end of this year or certainly in 2022. We've already given that information to OPWDD.

And to the point that Assemblywoman Miller said, the CCOs are all required to require CFRs and are in the process of doing so.

ASSEMBLYMAN EPSTEIN: Thank you. Thank you, Chair, I appreciate it. Thank you all.

CHAIRWOMAN KRUEGER: Thank you. Oh, I see --

CHAIRWOMAN WEINSTEIN: I just want to --

CHAIRWOMAN KRUEGER: I see a couple more hands, Helene.

CHAIRWOMAN WEINSTEIN: Oh, do we? Ah. Okay.

So Assemblyman Ra, please.

ASSEMBLYMAN RA: Thank you, Chairwoman.

And as the chairwoman said, maybe I will work with Ranker Miller to follow up further in writing.

But I just -- in light of Assemblywoman Miller's questions and Assemblyman Abinanti's questions, Mr. Cappoletti, if I could just ask something I guess a little more open-ended, because I'm getting a little bit more of an understanding through your answers.

I mean, do you feel -- I know you said there was kind of a continuum here depending on the need of the individual, the family and all of that. But, I mean, do you feel that this system is working in the way it was intended when it was set up a few years ago?

MR. CAPPOLETTI: So I think the care coordination organizations are definitely having a major impact. I'll just give you one example. We had -- now that we're looking at not just the I/DD services but also the person's healthcare, their behavioral health, et cetera, we have newly formed clinical teams that are working together with the care coordinators to identify people who are high users going into the ERs, hospitals, et cetera.

We're forming partnerships with non-I/DD providers like Federally Qualified Health Centers, hospitals, et cetera, to make it easier for people -- one of the big challenges, and I'm sure the other parents here could attest to this, is finding qualified primary care providers, secondary

or specialty providers who will serve this population. So we have a lot of work going on right now to do that.

Like I said, we're only 30 months into this care coordination model, and it does have a much broader scope than just coordinating disability services. So I think we're on our way.

But we have to recognize that there are a lot of challenges with this current system. It's not set up to easily serve people. It's got a lot of complicated processes between going from OPWDD front door of applying for services, going to social services, going back, applying for self-direction. We know that there's a lot of complicated things here, and we have shared those with OPWDD to hopefully streamline some of that so that when a care manager identifies somebody who is in crisis, we can get them, you know, services.

We have a young man right now that has been over three months in a hospital. That's unacceptable. You know, people can't -- we

can't be using our institutions, the hospitals, the jails, the institutions as a service. We have to develop more community-based services.

ASSEMBLYMAN RA: Well, thank you. Thank you for your answers, sir. Thanks for being here.

CHAIRWOMAN WEINSTEIN: Now we go to Assemblymember Anderson.

ASSEMBLYMAN ANDERSON: Thank you, Madam Chair.

And thank you to this panel that has testified on this critically important issue.

I want to just speak to the importance of care coordination and the need for us to have care coordinators in a healthcare system that is extremely opaque and robust and large and massive. So being able to have folks that help with folks with disabilities navigate the system, be able to get the services that they need, to get the care that they need, to make sure that they're seeing the right doctors and all the services is vitally important.

My mom relies heavily on her care coordinator, who checks in on her every month to make sure that all of her services are needed and met. And I do want to provide this constructive criticism to the industry of care coordination. I'm sure you don't represent the whole industry, but I just want to put this out there.

As we're trying this new model, it's important that -- and this piggybacks off of Member Miller's point -- we've got to make sure that our outreach to the patients makes sense to the disability that that patient lives with. There's no sense in reaching out to a nonverbal patient in a way that's not effectively and adequately communicated with that person.

You know, my mom has a variety of different ailments that I will respectfully not share. But just finding that effective way to best communicate with folks is crucial and critical, especially in a healthcare system that has so many layers of confusion, so many layers of how to get help on how to

get resources.

We haven't had the best experience with care coordinators and consequently had to switch insurances and providers and things of that nature. But I do believe in the program, and I do believe in making sure that we preserve it. And I will encourage you to join -- I know, Chairwoman, you've heard this several times, but I do encourage you, Nicholas and the folks who are here today, to join us in the fight to make sure that we increase revenue so that we can continue to fund programs and models like this.

Because this is how we will improve healthcare for seniors, this is how we'll improve healthcare for folks who live with disabilities, this is how we'll improve healthcare for people who truly, truly need a navigator and someone that they can trust to support the system. So join us in the fight for more revenue so that we can fund your program.

I yield the rest of my time.

CHAIRWOMAN WEINSTEIN: Thank you.

And Senator Krueger, I think it's back to you to close us out for tonight.

CHAIRWOMAN KRUEGER: All right, thank you.

I want to thank everyone who participated today, all the panelists on all of the panels, all of the members of the Senate and the Assembly, all our staff who work so hard for us to pull off these virtual hearings. And we either had three or four this week -- I think we had four hearings this week.

CHAIRWOMAN WEINSTEIN: Three. Three.

CHAIRWOMAN KRUEGER: Well, we had one that was a two in one day.

CHAIRWOMAN WEINSTEIN: That's true. Four hearings, correct.

CHAIRWOMAN KRUEGER: Four hearings.

So I want to thank my partner in crime Helene Weinstein. And we will be back not Monday, but I believe Tuesday.

CHAIRWOMAN WEINSTEIN: Tuesday morning at 9:30 for the Human Services hearing. And we look forward to people's participation.

CHAIRWOMAN KRUEGER: Yes, thank you. Yes.

So thank you all for all your good work. And I hope you can do something a little more relaxing with your weekend, if possible. Take care.

SENATOR SAVINO: Goodbye, everyone.

(Whereupon, at 5:35 p.m., the budget hearing concluded.)