

1 BEFORE THE NEW YORK STATE SENATE FINANCE  
2 AND WAYS AND MEANS COMMITTEES  
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3 JOINT LEGISLATIVE HEARING

4 In the Matter of the  
5 2021-2022 EXECUTIVE BUDGET ON  
6 MENTAL HYGIENE  
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7  
8 Virtual Hearing  
9 Conducted via Zoom

10 February 5, 2021  
11 9:36 a.m.

12 PRESIDING:

13 Senator Liz Krueger  
14 Chair, Senate Finance Committee

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

17 PRESENT:

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

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

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

24 Assemblywoman Aileen Gunther  
Chair, Assembly Committee on Mental Health

Senator John W. Mannion  
Chair, Senate Committee on Disabilities

1 2021-2022 Executive Budget  
2 Mental Hygiene  
2-5-21

3 PRESENT: (Continued)

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

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

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

10 Assemblyman Michael Cusick

11 Senator Diane J. Savino

12 Assemblyman Angelo Santabarbara

13 Senator John Liu

14 Assemblywoman Melissa Miller

15 Senator Gustavo Rivera

16 Assemblywoman Mary Beth Walsh

17 Senator Sue Serino

18 Assemblywoman Chantel Jackson

19 Senator Anthony H. Palumbo

20 Assemblyman Khaleel M. Anderson

21 Assemblywoman Vivian E. Cook

22 Senator Roxanne J. Persaud

23 Assemblyman Harry B. Bronson

24

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3 PRESENT: (Continued)

4 Assemblyman Jeffrion L. Aubry

5 Senator Robert G. Ortt

6 Assemblyman Harvey Epstein

7 Assemblywoman Carmen N. De La Rosa

8 Senator John E. Brooks

9 Assemblyman William Colton

10 Assemblyman Chris Burdick

11 Assemblywoman Judy Griffin

12 Assemblyman Erik M. Dilan

13 Senator James Tedisco

14 Assemblywoman Rebecca A. Seawright

15 Assemblyman Kenneth Zebrowski

16 Senator Peter Oberacker

17 Assemblyman Jarett Gandolfo

18 Assemblywoman Mathylde Frontus

19 Assemblyman Keith P. Brown

20 Assemblyman Edward C. Braunstein

21 Senator Simcha Felder

22 Assemblywoman Diana C. Richardson

23 Assemblywoman Karen McMahon

24

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 6 NYC Fair  
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 7 Kevin Allen  
 Chair  
 8 Local 372 NYC Board of Education  
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 9 -on behalf of-  
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 10 Intervention Specialists  
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 11 -and-  
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1                   CHAIRWOMAN KRUEGER: Good morning. My  
2                   name is Liz Krueger. I'm the chair of the  
3                   Senate Finance Committee. And my partner in  
4                   these dual hearings is Helene Weinstein,  
5                   chair of Assembly Ways and Means.

6                   Today is Friday, February 5th, it's  
7                   9:30. We're having our seventh virtual joint  
8                   legislative hearing on the 2021 Executive  
9                   Budget, the sections of the budget that  
10                  relate to mental hygiene.

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

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

24                  Following each testimony there will be



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

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

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

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

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

(Zoom interruption.)

SENATOR O'MARA: Good morning. Thank  
nairwoman Krueger.

CHAIRWOMAN KRUEGER: Good morning.

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

So, for example, Ann Sullivan will be

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

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

11 CHAIRWOMAN WEINSTEIN: Uh --

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

17 CHAIRWOMAN WEINSTEIN: Thank you,  
18 Senator.

19 So we have with us Assemblywoman  
20 Gunther, chair of our Mental Health  
21 Committee, Assemblyman Phil Steck, chair of  
22 our Alcoholism Committee, Assemblyman  
23 Abinanti, chair of our Disabilities  
24 Committee; Assemblyman Anderson, Assemblyman

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

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

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

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

21 CHAIRWOMAN KRUEGER: Great, thank you.

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

24 And also -- he's an Assemblymember,

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

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

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

21 Good morning, Commissioner.

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

1 Office of Mental Health.

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

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

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

1           50,000 calls from New Yorkers seeking help,  
2           including non-English-speaking individuals  
3           and individuals who are deaf or hard of  
4           hearing.

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

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

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

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

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

17 OMH surveyed recipients of care to  
18 ascertain the impact of COVID-19 on their  
19 lives and access to care. The survey found  
20 that 89 percent of the more than  
21 6,000 respondents participated in telehealth  
22 services, and 85 percent indicated that  
23 telehealth was easy and effective. Overall,  
24 there are positive findings to suggest that



1 access to care, including telehealth,  
2 medications, and physical health care, were  
3 largely uninterrupted, and telehealth claims  
4 from licensed OMH clinics increased from  
5 35 percent of claims in March of 2020 to 90  
6 percent of claims in April of 2020.

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

18 In accordance with the longstanding  
19 agreement with the Legislature to efficiently  
20 utilize taxpayer dollars within our state  
21 hospital system, OMH continues to right-size  
22 our state hospitals by closing inpatient beds  
23 which are vacant for 90 days or more. Since  
24 2014, more than \$100 million has been

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 to increase access to treatment by providing  
2 services on-site. Currently there are almost  
3 900 school-based mental health clinics in New  
4 York State -- and four years ago, there were  
5 less than 300.

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

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

24 Finally, OMH's goal is to increase

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

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

15 Thank you.

16 CHAIRWOMAN KRUEGER: Thank you very  
17 much, Commissioner.

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

1 the next commissioner, et cetera.

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

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

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

17 Put the clock on 10 minutes. Thank  
18 you.

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



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

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

1           that we must treat in the decades to come.

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

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

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

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

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

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

1 information?

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

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

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

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

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

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

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

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

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

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

24 We've had \$100 million so far, over

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

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

7                     OMH COMMISSIONER SULLIVAN: Sure.  
8           Sure.

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

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

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

1           it's had?

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

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

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

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

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

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



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

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

10 But it's building all those crisis  
11 supports that's really critical to make the  
12 system work. Because it -- it's not -- you  
13 really have to have the backbone of that  
14 continuum, as you said, Senator.  
15 Just answering crisis calls isn't as helpful  
16 if you don't have that in place. And that's  
17 what we're building.

18 SENATOR BROUK: That's helpful. Thank  
19 you.

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

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

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

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

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

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

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

1           of the illness.

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

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

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

20                    COMMISSIONER SULLIVAN: Thank you very  
21          much.

22                    CHAIRWOMAN KRUEGER: Assembly.

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

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

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

14                    With that being said, we go to our  
15          chair of Mental Health, Aileen Gunther, for  
16          10 minutes.

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

1                   Thank you, Helene.

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

4                   ASSEMBLYWOMAN GUNTHER: Is this part  
5                   of my time?

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

9                   CHAIRWOMAN KRUEGER: Thank you.

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

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

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

19                  OMH COMMISSIONER SULLIVAN: We --  
20                  we --

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

24                  OMH COMMISSIONER SULLIVAN: Quick

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

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

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

18                   OMH COMMISSIONER SULLIVAN: We're very  
19          carefully looking at the need for beds. That  
20          includes the -- these are long-term-care beds  
21          that are referred from the Article 28s. So  
22          we are looking at the need from the Article  
23          28s, we monitor that extremely closely, we  
24          have been since COVID. And when those

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

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

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

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



1           happened.

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

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

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

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

1 (Zoom interruption.)

2 UNIDENTIFIED MALE SPEAKER: And that's  
3 this year's proposal? We had some Medicaid  
4 --

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 ASSEMBLYWOMAN GUNTHER: Where are they  
9 going?

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

13 ASSEMBLYWOMAN GUNTHER: So if I'm a  
14 parent of a child and I live in Orange or  
15 Sullivan County, the most important thing  
16 that we can do during a therapeutic time is  
17 have family involvement. How are you going  
18 to get people without cars, in the COVID,  
19 they're not getting paid, to get on a bus for  
20 60 bucks to go down to the Bronx?

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

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

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

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

22 So I'm --

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

1                   You know, the census dropped by over  
2                   50 beds in March and April. Is that a  
3                   coincidence of pause? It's just a little bit  
4                   -- you know, it's kind of hard to believe  
5                   that all of a sudden everybody's okay, the  
6                   census drops by 50, and they're getting care  
7                   not in -- you know, not in the hospital, but  
8                   they're getting care someplace else.

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

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

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

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

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

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

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

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



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

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

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

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

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

14                   So we go back to the Senate now.

15                   CHAIRWOMAN KRUEGER: Thank you,  
16           Assemblywoman.

17                   Our first questioner is the  
18           Minority Leader, Robert Ortt.

19                   SENATOR ORTT: Thank you,  
20           Senator Krueger.

21                   Commissioner, good to see you.

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

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

4 Commissioner, I wanted to talk to you,  
5 though, about a glaring omission in the  
6 Governor's budget that is directly within  
7 your department, and it is the lack of  
8 funding for the Joseph P. Dwyer Program. It  
9 is not a ton of money when you talk about  
10 \$170 billion -- or, in this year's case, \$190  
11 billion. And yet once again it is not listed  
12 in the Governor's budget -- \$4.5 million,  
13 which as you know goes to prevent suicide  
14 amongst veterans, who have a much higher risk  
15 of suicide than even the general  
16 population -- and that was before COVID.

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

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

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

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

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

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

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

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

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

24 SENATOR ORTT: Okay, so two things.

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

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

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

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

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

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

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

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

5                     And I thank you for the time,  
6           Madam Chair.

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

10                    SENATOR ORTT: Thank you very much,  
11           Commissioner.

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

19                    Assembly.

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

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



1           being here with us this morning and for your  
2           testimony.

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

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

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

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

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

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

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

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

21                    OMH COMMISSIONER SULLIVAN: Thank you.

22                    CHAIRWOMAN KRUEGER: Okay, thank you.

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

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

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

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

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

11          CHAIRWOMAN KRUEGER: Okay, I  
12          apologize. Thank you.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24                   This is the clarification of the



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

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

9 OMH COMMISSIONER SULLIVAN: Yes.

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

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

14 CHAIRWOMAN KRUEGER: And --

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

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

23 OMH COMMISSIONER SULLIVAN: In that  
24 2200, probably 60, 70 percent. Time. Time.

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

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

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

21                 Is that under OMH's authority?

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

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

5                   OMH COMMISSIONER SULLIVAN: Yes. Yes.

6                   CHAIRWOMAN KRUEGER: How many have we  
7                   let out?

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

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

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

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

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

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

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

9 (Zoom interruption.)

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

12 Okay, sorry, keep going.

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

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

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

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

10 (Zoom interruption.)

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

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

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

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

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

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

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

16                   CHAIRWOMAN KRUEGER: Thank you very  
17          much.

18                   Back to the Assembly.

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

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

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

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

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

12                    Tom, you have five minutes.

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

16                    Commissioner, thank you very much for  
17          joining us.

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

24                    The state monies for mental hygiene

1 agencies over the last 10 years have actually  
2 decreased dramatically. From what I see, in  
3 2015 we actually spent \$7.72 billion. We're  
4 now proposing \$5.6 billion. This is six  
5 years later.

6 And it's affected the manpower in your  
7 department. Your department, on March 31,  
8 2010, had 16,173 employees. You are now  
9 proposing at the end of this fiscal year, in  
10 this budget, that we have 13,246 employees.  
11 That's a dramatic decrease.

12 And it's affected the voluntary OMH  
13 agencies. The All Funds disbursements in  
14 2010, with \$3.3 billion, that's the same  
15 thing you're proposing in this budget,  
16 10 years later.

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

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



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

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

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

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

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

18                      (Overtalk.)

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

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

24                      ASSEMBLYMAN ABINANTI: How much new

1 money is in the budget to do this?

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

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

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

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

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

24 ASSEMBLYMAN ABINANTI: Okay. So

1           there's no new --

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

6                   ASSEMBLYMAN ABINANTI:   You're saying  
7           next year, not the budget we're going to vote  
8           on now, but the next budget we're hoping to  
9           --

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

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

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

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

1                   OMH COMMISSIONER SULLIVAN: Not for  
2 these services, no.

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

5                   (Overtalk.)

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

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

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

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

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

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

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

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

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

24                  CHAIRWOMAN WEINSTEIN: Quickly,

1 Commissioner, because the time has expired.

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

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

18 And in addition, within the budget  
19 there's lots of training dollars, et cetera,  
20 for our individuals to be able to better  
21 screen and do work with autism and, just as  
22 you said, be able to move those clients to  
23 the appropriate services that they need, or  
24 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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

1 health field.

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

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

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

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

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

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

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

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

24                 And that gives us the ability to close

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

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

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

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

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

20                    SENATOR TEDISCO: Thank you,  
21           Commissioner. Appreciate that.

22                    OMH COMMISSIONER SULLIVAN: Thank you.

23                    CHAIRWOMAN KRUEGER: Thank you very  
24           much. Assembly?

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

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

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

8                   THE MODERATOR: No, Assemblyman Brown  
9                   is here.

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

13                  ASSEMBLYMAN BROWN: Can you all hear  
14                  me okay?

15                  OMH COMMISSIONER SULLIVAN: Yes, we  
16                  can.

17                  ASSEMBLYMAN BROWN: Okay. So good  
18                  morning.

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

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

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

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

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

24 So I know I have additional time to

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

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

20 We know that cannabis use can  
21 sometimes increase that risk or even make the  
22 psychotic episodes occur sooner. We also  
23 know that cannabis use among individuals with  
24 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

1 much, Assemblywoman.

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

4 SENATOR O'MARA: Thank you, Senator.

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

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

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

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

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

8 (Zoom interruption.)

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

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

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

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

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

15                    But I think the particular  
16          1.5 million, I believe, for CIT training was  
17          as a legislative --

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

24                    Do you not feel that the crisis

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

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

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

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

19 OMH COMMISSIONER SULLIVAN: Thank you.

20 CHAIRWOMAN KRUEGER: Thank you.

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

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

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

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

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

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

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

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

15 ASSEMBLYWOMAN BARRETT: Thank you.  
16 Thank you, Chairs.

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

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

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

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

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

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

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

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

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

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

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



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

5 Thank you.

6 CHAIRWOMAN WEINSTEIN: So we go back  
7 to the Senate.

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

12 CHAIRWOMAN WEINSTEIN: Okay, we have  
13 quite a few.

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

17 ASSEMBLYWOMAN MILLER: Yes. Can you  
18 hear me now?

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

21 ASSEMBLYWOMAN MILLER: Okay.

22 Good morning, Commissioner, how are  
23 you?

24 So I think a lot of what I'm hearing

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

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

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

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

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

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

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

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

24          So the parity compliance fund doesn't

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

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

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

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

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

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

15 ASSEMBLYWOMAN MILLER: Thank you.

16 CHAIRWOMAN WEINSTEIN: Thank you.

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

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

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

23 CHAIRWOMAN KRUEGER: Thank you.

24 John Brooks. I think he couldn't get

1 his hand up, but he texted me.

2 Are you there, John?

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

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

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

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

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

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

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

24                       So I share with everybody that's

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

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

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

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

23                    SENATOR BROOKS: Thank you.

24                    CHAIRWOMAN WEINSTEIN: Yes. We go to



1 Assemblywoman Griffin, three minutes.

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

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

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

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

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

24 OMH COMMISSIONER SULLIVAN: Yes, thank

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

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

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

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

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

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

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

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

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

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

13 ASSEMBLYWOMAN GRIFFIN: Thank you very  
14 much.

15 OMH COMMISSIONER SULLIVAN: Thank you.

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

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

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

23 Senator Michelle Hinchey.

24 SENATOR HINCHEY: Hello. I'm trying

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

3 CHAIRWOMAN KRUEGER: There you are.

4 OMH COMMISSIONER SULLIVAN: We can see  
5 you.

6 SENATOR HINCHEY: Wonderful. Thank  
7 you so much.

8 Commissioner, thank you so much for  
9 being here.

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

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

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

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

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

19 SENATOR HINCHEY: Okay, thank you.  
20 And --

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

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

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

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

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

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

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

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

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

18                      SENATOR HINCHEY: Thank you.

19                      CHAIRWOMAN KRUEGER: Thank you.

20                      Assembly.

21                      CHAIRWOMAN WEINSTEIN: We go to Ken  
22          Zebrowski.

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



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

3 So we go to Assemblyman Zebrowski now,  
4 Ken Zebrowski.

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

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

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

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

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

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

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

24 So in my opinion -- you know, I

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

10 Thank you.

11 CHAIRWOMAN KRUEGER: Thank you.

12 Assembly, please continue.

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

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

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

1 to restore funding.

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

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

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

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

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

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

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

12 OMH COMMISSIONER SULLIVAN: Thank you.

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

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

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

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

3 And here in Rochester, you know, we  
4 had the tragic death of Daniel Prude last  
5 year and the recent pepper-spraying of a  
6 9-year-old child. This has rightfully  
7 outraged our communities and shown that real  
8 change is needed to prevent more tragedies  
9 like these from occurring.

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

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

1 treatment.

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

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

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

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

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

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

20 ASSEMBLYMAN BRONSON: Thank you.

21 CHAIRWOMAN WEINSTEIN: Thank you.

22 We go to Assemblyman Epstein.

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



1           Commissioner, do you think it's in the  
2           best interest of New York to do cuts like  
3           what is proposed here, including the  
4           200 beds?

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

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

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

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

24          ASSEMBLYMAN EPSTEIN: So you don't

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

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

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

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

1 OMH COMMISSIONER SULLIVAN: Yes.

2 Critical. Critical. Community beds are  
3 critical. Please don't get me wrong.

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

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

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

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

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

24                   Thank you, Commissioner.

1 OMH COMMISSIONER SULLIVAN: Thank you.

2 CHAIRWOMAN WEINSTEIN: Thank you.

3 We go to Assemblyman Byrne.

4 ASSEMBLYMAN BYRNE: Yes, thank you,  
5 Chairwoman.

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

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

17 But my question specifically to you,  
18 Commissioner, is more about the jail-based  
19 substance use disorder treatment and  
20 transition services and the significant  
21 cut -- I believe it's a 50 percent cut, cuts  
22 in half from what we had last year, from  
23 \$3.75 million, and it takes away  
24 \$1.9 million.

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

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

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

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

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

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

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

16                  So thank you, Madam Commissioner.

17                  CHAIRWOMAN KRUEGER:   Thank you.

18                  Assembly, still yours.

19                  CHAIRWOMAN WEINSTEIN:   Mary Beth  
20                  Walsh, then.

21                  ASSEMBLYWOMAN WALSH:   Thank you.

22                  Good morning, Commissioner.

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

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

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

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

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



1           to close the beds.

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

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

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

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

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

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

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

22                  ASSEMBLYWOMAN WALSH: Okay. Thank you  
23                  very much.

24                  OMH COMMISSIONER SULLIVAN: Thank you.

1 CHAIRWOMAN WEINSTEIN: We go now to  
2 Assemblyman Aubry.

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

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

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

24 I don't know the number offhand of

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

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

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

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

1 issues, people with a mental illness. I  
2 believe the total of individuals on our  
3 caseload are about 8,000 in the prison  
4 system. About half of those -- a quarter of  
5 those have serious mental illness. So about  
6 8,000 individuals in a prison system of about  
7 fifty -- 49,000, 50,000.

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

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

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

1           together.

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

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

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

24                   OMH COMMISSIONER SULLIVAN: Yeah,

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

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

15                    ASSEMBLYMAN AUBRY: Do you know how  
16           you have --

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

19                    ASSEMBLYMAN AUBRY: Thank you so very  
20           much.

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

24                    ASSEMBLYMAN RA: Thank you.

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

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

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

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



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

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

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

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

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

1 Commissioner.

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

6 ASSEMBLYMAN RA: Thank you.

7 CHAIRWOMAN WEINSTEIN: Thank you.

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

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

15 What is the total amount for these  
16 reductions in funding? For the 5 percent  
17 withheld, can you provide me a list of what  
18 programs will be impacted, first of all. We  
19 heard from providers that the state is  
20 planning to restore all but 5 percent of the  
21 20 percent withheld, but there has not been  
22 any official word. Is there going to be  
23 official word on that? Can you commit today  
24 that those agencies will get their funding

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

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

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

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

1           counties. The --

2                   ASSEMBLYWOMAN GUNTHER: You know,  
3           during -- I just want to say for the  
4           counties, and to defend the counties at this  
5           point, the revenue is going down in the  
6           counties, the number of people that are  
7           having issues are going up. And to withhold  
8           5 percent to smaller counties and upstate  
9           counties really has a definite impact.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 ASSEMBLYWOMAN GUNTHER: So at this

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

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

20 CHAIRWOMAN WEINSTEIN: Thank you --

21 ASSEMBLYWOMAN GUNTHER: You're saving  
22 \$4 million from closing those beds. Why are  
23 you only investing \$2 million? So we need  
24 every bit of that \$4 million.



1                   CHAIRWOMAN WEINSTEIN: Thank you.

2                   Thank you, Assemblywoman.

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

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

10                  CHAIRWOMAN WEINSTEIN: Senate, do you  
11                  have anybody else?

12                  CHAIRWOMAN KRUEGER: No.

13                  CHAIRWOMAN WEINSTEIN: We do have one  
14                  other Assemblymember.

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

17                  CHAIRWOMAN WEINSTEIN: We have  
18                  Assemblyman Anderson for three minutes.

19                  ASSEMBLYMAN ANDERSON: Thank you. Can  
20                  I be heard?

21                  CHAIRWOMAN WEINSTEIN: Yes.

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

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

3                       So I have several questions and  
4           concerns regarding the cuts to the Office of  
5           Mental Health. I think that when we're  
6           looking at cuts to this degree, this  
7           5 percent that my colleague mentioned, it's  
8           also important for us to mention early  
9           intervention, prevention. I know there's  
10          some cuts to the crisis intervention budget.

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

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

1 we're not cutting those.

2 ASSEMBLYMAN ANDERSON: The prevention,  
3 the crisis prevention.

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

6 ASSEMBLYMAN ANDERSON: Yes.

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

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

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

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

22 ASSEMBLYMAN ANDERSON: Okay, that's  
23 fine.

24 OMH COMMISSIONER SULLIVAN: I'm sorry,

1 but I'm not.

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

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

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

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

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

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

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

23 ASSEMBLYMAN ANDERSON: Don't you think

24 --

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

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

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

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

12                  ASSEMBLYMAN ANDERSON: Thank you,  
13                  Chairwoman.

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

19                  CHAIRWOMAN KRUEGER: Thank you very  
20                  much.

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

1 OMH COMMISSIONER SULLIVAN: Thank you.

2 CHAIRWOMAN KRUEGER: Thank you.

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

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

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

1 strict gatekeepers.

2 So with that, welcome,  
3 Commissioner Kastner.

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

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

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



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

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

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

1           annually.

2                   The Governor's fiscal year 2022 budget  
3           builds upon these accomplishments. Despite  
4           the global pandemic, in fiscal year 2022  
5           growth in state spending on OPWDD programs  
6           will increase to almost \$4 billion, or more  
7           than \$9.1 billion when all shares funding is  
8           included. These new resources, which  
9           increase state spending on OPWDD supports by  
10          about \$110 million, or 2.8 percent year over  
11          year, will fund minimum wage increases for  
12          staff in the nonprofit sector with a new  
13          investment of \$32 million in state resources,  
14          which equates to \$58 million in all shares  
15          funding to support the transition to a  
16          \$15-per-hour minimum wage.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12                      SENATOR MANNION: Thank you, Senator.

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

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

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

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

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

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



1           this is a long and productive relationship.

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

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

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

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

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

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

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

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

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

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

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

19 SENATOR MANNION: Yes.

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

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

1 provided these questions ahead of time.

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

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

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

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

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

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

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

16 Moving a little bit beyond that, the  
17 Executive Budget includes more than  
18 \$330 million in cuts to voluntary providers.  
19 And this, combined with the October 1st, now  
20 May 1st cuts to residential programs, amount  
21 to more than \$550 million.

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

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

6                     Are there additional cuts that OPWDD  
7           is planning on?

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

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

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

1 look at where we could make reductions.

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

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

24 Unfortunately, that did mean that the

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

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

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

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



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

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

10 OPWDD COMMISSIONER KASTNER: Oh, I'm  
11 sorry.

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

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

19 ASSEMBLYMAN ABINANTI: Thank you,  
20 Senator.

21 Good morning, Commissioner.

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

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

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

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

12 ASSEMBLYMAN ABINANTI: Filed this  
13 year, thank you.

14 And what about the autism study? In  
15 2018 the Legislature passed and the Governor  
16 signed a bill that was A261 at the time that  
17 said that -- excuse me, that said we needed a  
18 study to determine what the needs of people  
19 with autism are and what it would cost the  
20 State of New York to meet those needs. When  
21 do we expect we'll get that study?

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

24 ASSEMBLYMAN ABINANTI: Thank you.

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

13                 And if we take a look, this is also  
14                 affecting -- this is also affecting our  
15                 voluntary agencies. If you look at the  
16                 actual Aid to Localities in 2019, it was \$3.2  
17                 billion. But in 2020 it was only  
18                 \$1.9 billion. And now you're projecting, for  
19                 2021, about \$3 billion. With all of the  
20                 increased needs -- first of all, what  
21                 happened in 2020? Why did we spend so  
22                 little? How much is outstanding to the  
23                 providers and people with disabilities? How  
24                 much do we owe?

1 OPWDD COMMISSIONER KASTNER:

2 Assemblyman, I must apologize. Can you run  
3 the --

4 ASSEMBLYMAN ABINANTI: Sure. 2019 was  
5 \$3.2 billion, 2020 was \$1.9 billion -- is  
6 projected for the next few months -- and  
7 2021, you're asking for 3 billion in Aid to  
8 Localities.

9 OPWDD COMMISSIONER KASTNER: Well, our  
10 local assistance payments are much, much  
11 smaller than that. They're on the order of  
12 300 to 400 million dollars per year. I  
13 apologize, I don't know where you got these  
14 numbers.

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

18 OPWDD COMMISSIONER KASTNER: For  
19 OPWDD?

20 ASSEMBLYMAN ABINANTI: Yes.

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

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

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

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

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

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

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

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

24 ASSEMBLYMAN ABINANTI: Okay, but

1 almost all.

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

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

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

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

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

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

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

1 through, they're used to --

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

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

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

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

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

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

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

24 OPWDD COMMISSIONER KASTNER: --

1 engaged in determining their eligibility --

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

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

9 ASSEMBLYMAN ABINANTI: Commissioner,  
10 I'm very concerned about -- on March 31 of  
11 2010, OPWDD had 21,500 employees. You are  
12 proposing in your budget that on March 31,  
13 2022, there will be 18,600 employees. That's  
14 almost 3,000 employees fewer than you had in  
15 2010. Could that be why we have such waiting  
16 lists and why people can't get declared  
17 eligible for services?

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

22 ASSEMBLYMAN ABINANTI: Eventually.  
23 Eventually.

24 OPWDD COMMISSIONER KASTNER: No,



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

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

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

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

15          OPWDD COMMISSIONER KASTNER: I would  
16          be happy to.

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

24          OPWDD COMMISSIONER KASTNER: No, there

1 is an appropriation of \$32 million, state  
2 share --

3 ASSEMBLYMAN ABINANTI: Correct.

4 OPWDD COMMISSIONER KASTNER: -- which  
5 when --

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

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

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

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

18 ASSEMBLYMAN ABINANTI: Okay. Part of  
19 your system -- in July of 2018, the Governor  
20 -- or your department created this system of  
21 care coordination organizations, July of  
22 2018. For the first two years it was paid  
23 for 90 percent by FMAP funds, federal  
24 Medicaid funds. As soon as it became a state

1           fifty-fifty match, last year, July 2020, you  
2           imposed a 16 percent rate cut, correct? A  
3           \$73 million savings, is that correct?

4                   OPWDD COMMISSIONER KASTNER: Yes --

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

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

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

22                  OPWDD COMMISSIONER KASTNER: No.

23          As -- as you mentioned, this was a new  
24          program that launched in 2018. Prior to July

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

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

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

16 (Overtalk.)

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

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

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

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

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

10          I think my time is out, thank you.

11          CHAIRWOMAN WEINSTEIN: Thank you.

12          We go to the Senate.

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

16          THE MODERATOR: We have not seen him.

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

1 CHAIRWOMAN WEINSTEIN: Thank you.

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

4 ASSEMBLYWOMAN MILLER: Hi, good  
5 morning.

6 Good morning, Commissioner, how are  
7 you?

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

21                   OPWDD COMMISSIONER KASTNER:  
22          Certainly.

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

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

6 We go now to the Senate.

7 CHAIRWOMAN KRUEGER: Thank you.

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

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

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

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

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

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

1           you're describing.

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

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

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

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

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

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

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

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

20 CHAIRWOMAN KRUEGER: Got it. All  
21 right.

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

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

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

18 CHAIRWOMAN WEINSTEIN: Thank you.

19 Now we go to Assemblywoman Gunther for  
20 five minutes.

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

23 ASSEMBLYWOMAN GUNTHER: So -- good  
24 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



1 middle of July, using what were called  
2 retainer payments which were approved through  
3 our Appendix K application to CMS.

4 So from March 24th through July, there  
5 were no savings on day program services.  
6 Providers received the full amount of funding  
7 that they had received, and they were able to  
8 redeploy those staff --

9 ASSEMBLYWOMAN GUNTHER: Till July,  
10 right?

11 OPWDD COMMISSIONER KASTNER: -- to  
12 different settings, including residential  
13 programming.

14 In addition, at the same time we  
15 expanded the range of opportunities for  
16 people to receive day program services. So  
17 we added what was called COM-HAB R, the  
18 ability to provide community habilitation in  
19 residential settings, and made that available  
20 to the 35,000 people -- 36,000 people in  
21 certified residential who could no longer go  
22 to a day program.

23 So we were effectively paying for day  
24 program services twice, once through the

1           retainer program and the second through  
2           COM-HAB R.

3                     For those families who were --

4                     ASSEMBLYWOMAN GUNTHER: That was only  
5           for the first six months, though, right?

6                     OPWDD COMMISSIONER KASTNER: -- at  
7           home and couldn't access their day program,  
8           we afforded the opportunity to receive  
9           COM HAB on a tele basis. So we tried to  
10          support the 20,000 families who had  
11          individuals at home who lost access to their  
12          day program. So again, we were paying for a  
13          duplication of service for those four months.

14                    The federal government ended the  
15          retainer program for day programs in the  
16          middle of July. At that time the pandemic  
17          was waning. We removed the order to close  
18          all day programs. We allowed every day  
19          program to reopen based upon whether they  
20          wanted to. If they chose to reopen, they had  
21          to submit a safety plan. We received 225  
22          safety plans from our day program providers.  
23          Many providers told us that they didn't have  
24          the same demand as previously, partly in part

1           due to the now availability of competing  
2           services, Community HAB R and the delivery of  
3           COM HAB via tele.

4                     We increased the rate, effectively  
5           doubled the rate paid to day program  
6           providers by reducing the length of service  
7           required to bill for both full-day and  
8           half-days. That effectively doubled the rate  
9           for the services that we provided through day  
10          program, simultaneously with the ongoing  
11          commitment to COM HAB R and the delivery of  
12          COM HAB in a family's home via tele.

13                    So I think it's clear in terms of what  
14          we were doing that we actually bore more  
15          costs in providing these services than we had  
16          previously.

17                    ASSEMBLYWOMAN GUNTHER: Thank you.

18                    So, you know, during -- I had a lot of  
19          calls from parents during the time when their  
20          loved ones weren't going out to these  
21          programs, and a lot of them said there was a  
22          lot of difficulty in isolation, so I was  
23          concerned about that.

24                    So you had a little bit of savings

1           this year, and I just want to know how you're  
2           going to reinvest it.

3                   OPWDD COMMISSIONER KASTNER: Well,  
4           Assemblywoman, I'm not sure that we have  
5           savings this year as a result of --

6                   ASSEMBLYWOMAN GUNTHER: Okay, thank  
7           you.

8                   CHAIRWOMAN KRUEGER: Thank you.

9                   Senator Diane Savino, whose hand won't  
10          be raised for some reason.

11                   SENATOR SAVINO: I'm coming, I'm  
12          coming. Oh, there I am. Now I can't seem to  
13          -- the video won't open. Oh, there --

14                   CHAIRWOMAN KRUEGER: We've got you  
15          both ways.

16                   SENATOR SAVINO: All right, thank you.

17                   Dr. Kastner, I'll be brief, because I  
18          know there have been so many issues that  
19          people want to cover with you. But I want to  
20          cover an issue that is close to home to us  
21          here on Staten Island, specifically the fate  
22          of IBR. So if you could talk to us about --  
23          what we're hearing is the closure of IBR  
24          again, the shifting of the researchers that

1           are there.

2                   What's happening, and what can we do  
3           about this? Because there's a lot of concern  
4           about the loss of the Institute for Basic  
5           Research.

6                   OPWDD COMMISSIONER KASTNER: Well, the  
7           institute is not being lost. As I described  
8           in my testimony, we are transferring  
9           responsibility for the operation of IBR from  
10          OPWDD to OMH.

11                   OMH has experience running three  
12          research institutes; this would be their  
13          fourth. We believe that that can be  
14          effective in improving the quality of the  
15          research that's being performed there. OMH  
16          has numerous partners that they can work  
17          with, most notably the New York State  
18          Psychiatric Institute, and we hope that that  
19          can improve, again, the quality of the  
20          research that's being performed at IBR.

21                   SENATOR SAVINO: But what guarantee  
22          can -- do we have? I mean, are we talking  
23          about transferring the physical location of  
24          the Institute for Basic Research or just the

1 administrative oversight of it?

2 OPWDD COMMISSIONER KASTNER: The  
3 programmatic component, the staff and the  
4 programs that are affiliated with those  
5 staff.

6 SENATOR SAVINO: So you're taking it  
7 off of Staten Island, out of the facility  
8 that houses it.

9 OPWDD COMMISSIONER KASTNER: No, OPWDD  
10 is transitioning the responsibility for  
11 operating the program to OMH.

12 SENATOR SAVINO: Right, okay. That I  
13 understand. But will the Institute for Basic  
14 Research remain in its current building and  
15 then be operated by OMH? I think that's the  
16 question I'm asking.

17 OPWDD COMMISSIONER KASTNER: The  
18 program will remain at Staten Island. I  
19 can't speak to specifically what OMH would do  
20 with its various partners in terms of the  
21 specific research programs.

22 SENATOR SAVINO: Okay. But it will --  
23 the jobs will remain there, the program will  
24 remain there, you won't supervise it anymore,

1           they will.

2                   OPWDD COMMISSIONER KASTNER: All I can  
3 say is we have no plans to reduce any of the  
4 staff that are currently involved at that  
5 site, but I can't describe what OMH will do  
6 because I don't know how they propose to  
7 implement the program with their partners.

8                   SENATOR SAVINO: But their overall  
9 mission of research, particularly into the  
10 areas of autism, will continue, as far as you  
11 are aware of?

12                  OPWDD COMMISSIONER KASTNER: Yes, that  
13 is our hope, that actually it not just  
14 continue, but it will -- {audio dropped}.

15                  SENATOR SAVINO: Okay. I'll Probably  
16 reach out to you and to the commissioner of  
17 OMH offline to get some more detail on that.

18                  And I just want to echo the concerns  
19 that were raised by Senator Krueger. I'm a  
20 little concerned that you think we have  
21 enough capacity for parents who are  
22 approaching end of life and are concerned  
23 about what's going to happen to their adult  
24 children, who also are getting older and

1           older. I don't think we have that capacity.

2                   But thank you again for your efforts  
3           and what you're doing. Thank you.

4                   CHAIRWOMAN KRUEGER: Thank you.

5                   CHAIRWOMAN WEINSTEIN: Thank you.

6                   We go to Assemblywoman Griffin for  
7           three minutes.

8                   ASSEMBLYWOMAN GRIFFIN: Good  
9           afternoon, Commissioner Kastner.

10                   As Assemblywoman Missy Miller  
11           mentioned, I too am very concerned that the  
12           intellectually and developmentally disabled  
13           who live at home have not been prioritized to  
14           get a COVID-19 vaccine. These individuals,  
15           you know, still yet remain ineligible. And  
16           many of my constituents take care of their  
17           adult children and younger children at home,  
18           and they have been struggling immensely  
19           throughout the pandemic due to all of the  
20           issues that have come up with COVID-19.

21                   One constituent describes how his  
22           adult nonverbal son with autism, his whole  
23           life has been turned upside-down. He  
24           can't -- you know, for a while his day hab



1           was closed, he couldn't go anywhere, he was  
2           isolated. Now the day hab is open, it's  
3           sponsored by AHRC, but the van that picks him  
4           up no longer can pick him up because of  
5           COVID.

6                       But worse yet is a lot of the  
7           activities they normally do, they're not  
8           doing, again because of COVID. So if they  
9           were to get prioritized and get the vaccine,  
10          along with their family caregivers, that  
11          would be immensely helpful to these families.

12                      The other issue is the cuts that are  
13          pending for AHRC and other services are  
14          posing a great threat. So this is a facility  
15          in Oceanside, there are many throughout  
16          Nassau County and New York State; this may  
17          permanently close. So when everything would  
18          get turned back on after the pandemic, he may  
19          not have access to this wonderful facility  
20          that gave him, you know, great advantages  
21          while, you know, being a 23-year-old and  
22          wanting to have some purpose and  
23          socialization.

24                      So my questions to you are what is

1           your position on this population still yet to  
2           be made eligible and a priority for the  
3           vaccination, and also what is your position  
4           on the funding cuts that are causing AHRCs in  
5           Nassau County and around New York State to  
6           potentially close?

7                     OPWDD COMMISSIONER KASTNER: Well, I  
8           assume in terms of AHRCs you're referring to  
9           day program operations.

10                    ASSEMBLYWOMAN GRIFFIN: Yeah.

11                    OPWDD COMMISSIONER KASTNER: I think  
12           it's a very challenging time for providers of  
13           day programs. There's really a fundamental  
14           change in the business model. It's a new  
15           paradigm when we are now offering day program  
16           or habilitative services in residential  
17           settings, and we're also offering  
18           habilitative services in people's homes.  
19           That has fundamentally decreased the demand  
20           for day program services.

21                    And we've asked our day program  
22           providers to re-look at their business  
23           models, to try to come up with  
24           non-center-based options that would allow

1           them to be more flexible, to scale more  
2           easily, both up and down. But that's going  
3           to be a challenging transition.

4                       As far as vaccine, we're hopeful that  
5           we can make a lot of progress. We're  
6           grateful that we've got our residential  
7           individuals categorized as 1a. We're working  
8           very quickly to ensure that they get access  
9           to the vaccine as soon as possible. And  
10          hopefully as New York's supply increases, it  
11          can expand to other populations.

12                     ASSEMBLYWOMAN GRIFFIN: Okay, thank  
13          you very much.

14                     OPWDD COMMISSIONER KASTNER: Thank  
15          you.

16                     CHAIRWOMAN KRUEGER: Thank you.  
17          Senator Tom O'Mara for five minutes, ranker  
18          on Finance.

19                     And then we will be turning it back  
20          over to the Assembly for a number of  
21          Assemblymembers.

22                     For people who don't necessarily know  
23          this, the Assembly has two and a half times  
24          the number of members we do, so it just takes

1 a little bit longer to get through their  
2 questions. Thank you.

3 Tom.

4 SENATOR O'MARA: Thank you, Senator  
5 Krueger.

6 Thank you, Commissioner, for your time  
7 here today. I appreciate it.

8 Can you give us the status -- for the  
9 last several years, due to the -- primarily  
10 the \$15 fast-food minimum wage, it has really  
11 hurt the workforce for the developmentally  
12 disabled across upstate New York. We still  
13 have not, across the board, reached that \$15  
14 minimum wage in upstate New York, and our  
15 providers are still struggling with employees  
16 that choose to flip burgers at McDonald's  
17 because they can get paid more.

18 Where do we stand this year on the  
19 extra funds that were budgeted to make up  
20 those wage differences, and where do you see  
21 us going forward to help with that  
22 differential?

23 OPWDD COMMISSIONER KASTNER: Well, as  
24 I said, we've made a sustained and

1           significant commitment to our direct support  
2           professionals. Over the past five years, we  
3           have increased funding for our DSPs by \$710  
4           million, in an effort to increase their  
5           compensation and make it more competitive  
6           with the types of other jobs that you're  
7           describing.

8                       In this year we will be increasing the  
9           amount of funding again to support an  
10          expansion of that effort. We are part of a  
11          consortium of 20 states that provides data, I  
12          think it's to the University of Minnesota,  
13          and we look at our efforts to raise the wages  
14          of DSPs relative to other states.

15                     I didn't look this year; last year we  
16          were I think fourth in the country in terms  
17          of the average annual starting salary. We  
18          were in the high \$13 per hour range. I think  
19          with this increase we should get into the low  
20          \$14 per hour range. We're getting closer and  
21          closer to the \$15 minimum wage.

22                     But it's a priority. We keep making  
23          investments in it, and hopefully we can  
24          continue to make progress in the years to

1           come.

2                   SENATOR O'MARA: I would think that  
3           being fourth on that list nationwide, if you  
4           actually compared that to what the cost of  
5           living is in New York State, we would be much  
6           farther down that list in the desirability of  
7           this type of work. When we have individuals  
8           that really have a calling to do it, yet have  
9           to make that choice to take a fast-food job  
10          to put more money on the table at home, it's  
11          concerning. And this minimum wage has caused  
12          an imbalance in many areas.

13                   But you're saying that since we  
14          started trying to make up this difference for  
15          minimum wage, the state is paying  
16          \$710 million a year more to offset that  
17          minimum wage loss?

18                   OPWDD COMMISSIONER KASTNER: Since  
19          2015 we've invested \$710 million in funding  
20          in our DSP salaries.

21                   SENATOR O'MARA: What is that on an  
22          annual basis that we're doing? And what's  
23          your projection on where we're going with  
24          that?

1           OPWDD COMMISSIONER KASTNER: Well, as  
2           I said, we're making progress and moving  
3           towards a \$15 per hour minimum wage. And  
4           every year we get closer to that goal.

5           I don't know quite how else to respond  
6           to the question.

7           SENATOR O'MARA: Okay. Well, I guess  
8           suffice it to say that our providers are  
9           still struggling with disparities in the  
10          workplace and being able to work at a higher  
11          wage in certainly much less important work, I  
12          think, from our perspective and I'm sure  
13          yours as well.

14          To move on to another quick subject,  
15          on vaccinations. What is being done to help  
16          the -- those with developmental disabilities  
17          that are living in their home or with family,  
18          to get them on the priority list to receive a  
19          vaccine? Because it's certainly restricting  
20          everyone else in the household's ability to  
21          get back to a more normal life, with the  
22          concerns of bringing COVID home to an  
23          individual that they're caring for, keeping  
24          it out of a home or out of the system, so to

1 speak.

2 How are we working to help get  
3 vaccines to those individuals?

4 OPWDD COMMISSIONER KASTNER: I  
5 understand that that's a significant hardship  
6 for families. The Centers for Disease  
7 Control established the priorities for  
8 vaccination. We were fortunate that the 1a  
9 designation included all of our individuals  
10 who live in congregate care, and all of their  
11 staff. The subsequent expansions have  
12 included all of our direct support  
13 professionals and clinical staff working with  
14 individuals, so that includes not just staff  
15 in residential settings but staff throughout  
16 our system working in self-direction, working  
17 in families' homes, working in day programs.

18 New York, just like every state, is  
19 challenged by a lack of supply. New York  
20 received approximately 300,000 doses per  
21 week, and that was reduced to about 250,000  
22 doses per week. With the announcement last  
23 week that the state would receive an  
24 additional 16 percent supply, we've been able



1           to focus on ensuring that all of our  
2           individuals in congregate care have access to  
3           the vaccine. We've created a distribution  
4           channel through the county Departments of  
5           Health. We've activated our Office of  
6           Emergency Management to interface with them  
7           directly and provide them with any logistical  
8           support. We have surveyed our providers to  
9           identify every individual who wants a vaccine  
10          who's in congregate care, and every staff  
11          person who wants a vaccine, to try to  
12          coordinate their access to vaccine --

13                 CHAIRWOMAN KRUEGER: Thank you,  
14                 Doctor. You're a minute over, so we're going  
15                 to cut you off here. But we'll be happy to  
16                 hear more from you. Thank you.

17                 Assemblywoman.

18                 CHAIRWOMAN WEINSTEIN: Yes, so we're  
19                 going to go to Assemblyman Ra for five  
20                 minutes.

21                 ASSEMBLYMAN RA: Thank you very much,  
22                 Chairwoman.

23                 Commissioner, good afternoon.

24                 I know you did speak a bit earlier

1           about reimbursement rates for retainer day  
2           and therapeutic leave days. Just a plug on  
3           that in terms of there does seem to be some  
4           confusion out there in terms of what agencies  
5           are communicating to families. I know that  
6           was delayed. But there seems to be some  
7           confusion out there in what families are  
8           being told about, you know, their loved ones  
9           coming home to visit from those facilities.  
10          And certainly I think it's something that we  
11          need to look at opportunities to maybe make  
12          some restorations there and simplify that  
13          once again, because the costs are steady for  
14          the agencies housing those individuals.

15                 But I wanted to talk about another  
16          housing issue with regard to self-direction.  
17          And I know there's a restoration, but there  
18          remains a 5 percent cut that could affect the  
19          budget allocation for many of these  
20          individuals that they use towards rent, which  
21          allows them to live independently.

22                 I know on Long Island there's a \$1339  
23          maximum for rent for a one-bedroom apartment.  
24          High cost of living here, and it's very

1           unlikely that you're going to find an  
2           apartment for that, so some use other money  
3           to supplement.

4                       But given that a cut like this  
5           directly affects the ability of these  
6           individuals to find appropriate housing, is  
7           it possible to restore some of the kind of  
8           flexibility and discretion that had been in  
9           the past, to maybe use, you know, other  
10          allotments that are for other things that are  
11          not fully used to help with these costs?

12                      OPWDD COMMISSIONER KASTNER:   So when  
13          the 20 percent withhold was enacted, it was  
14          for non-Medicaid local assistance payments,  
15          and that did include some rental subsidy  
16          payments, in addition to environmental  
17          modifications and assistive technology.

18                      We were able to carve those out of the  
19          cut, or out of the withhold.   So there was no  
20          withholding of funding for payments to  
21          support apartments and individuals, you know,  
22          living independently.   We were very pleased  
23          with that, and I think that's important for  
24          folks to know.

1 ASSEMBLYMAN RA: Okay, thank you.  
2 Definitely, you know, a very important --  
3 both of those issues, obviously, that and,  
4 you know, the issue I mentioned previously  
5 are -- have an impact on individuals and  
6 their living situations.

7                    So I thank you for your work and your  
8                    answer. Thanks for being here.

9 OPWDD COMMISSIONER KASTNER: Thank  
10 you.

11 CHAIRWOMAN WEINSTEIN: We're going to  
12 just go to the next Assemblymember. The  
13 order is, for your information, Epstein,  
14 Bronson, Cusick, Burdick, and Anderson. Then  
15 we'll go to the Senate for a second round.

16 ASSEMBLYMAN EPSTEIN: Thank you, Chair  
17 Weinstein.

18                               And thank you for your time,  
19                               Commissioner.

20                   So 30 years after the ADA, people with  
21           disabilities have really stubborn high  
22           unemployment rates. And I'm wondering,  
23           especially with people with developmental  
24           disabilities, you know, do we need a new

1           approach to this? Because it doesn't seem  
2           like we're moving the needle at all in our  
3           current approach.

4                   OPWDD COMMISSIONER KASTNER: Well,  
5           thank you for the question. We actually were  
6           making progress. Unfortunately, COVID set  
7           those efforts back substantially.

8                   We've asked our day program providers,  
9           as I described earlier, to look at  
10          alternatives to site-based support --

11                   ASSEMBLYMAN EPSTEIN: So,  
12          Commissioner, you know, I only have three  
13          minutes. So like how much money is in the  
14          budget for employment programs for people  
15          with disabilities?

16                   OPWDD COMMISSIONER KASTNER: I don't  
17          know exactly. I apologize.

18                   ASSEMBLYMAN EPSTEIN: You agree that  
19          it's a high rate of unemployment for these  
20          New Yorkers, right?

21                   OPWDD COMMISSIONER KASTNER: Yes.

22                   ASSEMBLYMAN EPSTEIN: And so I hear  
23          what you're saying about making progress, but  
24          it's -- you know, it feels like it's moving

1           at a snail's pace. We really need a real --  
2           like a Marshall Plan, to get people  
3           employment opportunities that want to work.  
4           Right?

5                     OPWDD COMMISSIONER KASTNER: This year  
6           was extremely challenging --

7                     ASSEMBLYMAN EPSTEIN: A hundred  
8           percent, for so many New Yorkers. You know,  
9           millions losing their jobs. But that doesn't  
10          mean we don't need to marshal our forces now  
11          to have a real plan.

12                    OPWDD COMMISSIONER KASTNER: As I  
13          said, we have a tremendous commitment in  
14          funding to our day program services. We've  
15          asked our providers to look at alternatives  
16          to site-based day programming, to look at  
17          things like supported employment, job coaches  
18          and other types of roles, where we can  
19          redeploy those funds and that service to  
20          support people in more competitive employment  
21          environments.

22                    ASSEMBLYMAN EPSTEIN: I'd love to know  
23          the numbers of people -- you say you've made  
24          real progress. I'd love to see those

1           numbers. Can you share that with the chairs  
2           so they can distribute it amongst the  
3           members?

4                   OPWDD COMMISSIONER KASTNER: Certainly.

5                   ASSEMBLYMAN EPSTEIN: And so when you  
6           say to redistribute money, you mean taking  
7           money away from other programs so they can be  
8           put into these employment programs?

9                   OPWDD COMMISSIONER KASTNER: So we're  
10          asking -- we've been asking our day program  
11          providers since the summer to try to come up  
12          with alternatives to delivering services in  
13          congregate settings. Because of the risks of  
14          COVID, because of now I think in some regard  
15          a lesser degree of interest in that service  
16          model, there's an opportunity for our  
17          providers to look at being more involved in  
18          supported employment and other opportunities  
19          that are not site-based.

20                   ASSEMBLYMAN EPSTEIN: Right. (Pause.)

21                   OPWDD COMMISSIONER KASTNER: I'm still  
22          here. I'm sorry, did you have a question?

23                   CHAIRWOMAN WEINSTEIN: Harvey, I  
24          believe you've been frozen.

1                   We have to see if we can do that for  
2                   some other hearings.

3                   (Laughter.)

4                   CHAIRWOMAN WEINSTEIN: I think you  
5                   answered the question.

6                   So now we go on to Assemblyman  
7                   Bronson. Harry?

8                   ASSEMBLYMAN BRONSON: Okay, I think  
9                   I'm here, thank you.

10                  Commissioner, I want to talk about an  
11                  issue that I brought up when we were talking  
12                  to the commissioner of OMH -- and it impacts  
13                  OPWDD, OASAS, as well as OMH -- and that is  
14                  the exemption for Article 163 mental and  
15                  behavioral health professionals.

16                  That exemption expires at the end of  
17                  June this year. It was last extended for  
18                  another three years, and there was an  
19                  agreement that we would work on legislation  
20                  and work with your agencies to modernize the  
21                  scope of practice, including diagnosis for  
22                  those various professionals licensed under  
23                  Article 163.

24                  Earlier when I was talking to OMH,



1           they pointed out that there's no plan in  
2           place to address not only the end of the  
3           exemption from licensure, but also the  
4           licensed mental health professionals working  
5           in state facilities, even though there was a  
6           commitment to work on modernizing the  
7           delivery of those services, including  
8           diagnosis.

9                        So what is your understanding of  
10           what's happening among your agencies on this  
11           issue? Can we commit to move forward on the  
12           critically important diagnosis issue? We  
13           need this. We need this to help address the  
14           workforce crisis and address the access to  
15           care crisis that we're facing. And we were  
16           facing it before COVID, and it's only gotten  
17           worse.

18                       So where is your agency on this, and  
19           can we try to work to get this resolved?

20                       OPWDD COMMISSIONER KASTNER: Well, I  
21           have to apologize, but I don't think that  
22           what you're referring to has much  
23           applicability to the OPWDD service system. I  
24           can go back and look, but I think this is

1           primarily a mental health issue.

2           ASSEMBLYMAN BRONSON: Well, it  
3           actually crosses all the O agencies, if you  
4           will. These professionals work in many of  
5           the facilities for OPWDD, and certainly the  
6           community-based organizations as well.

7           But if you could take a look at that.  
8           You know, my understanding is previously,  
9           before I was involved in this area, that  
10          there were conversations among those three  
11          agencies. That's where the exemption came  
12          up. There was an exemption six years ago, a  
13          renewal of the exemption three years ago with  
14          a commitment to actually talk about and work  
15          toward the scope of practice and in  
16          particular diagnosis.

17          So if you could check on that, and I'd  
18          appreciate it if you'd get back to me and all  
19          of us on this hearing. Okay?

20          OPWDD COMMISSIONER KASTNER: Sure, I'd  
21          be happy to do that.

22          ASSEMBLYMAN BRONSON: Thank you.

23          CHAIRWOMAN WEINSTEIN: Thank you.

24          Assemblyman Cusick.

1                   ASSEMBLYMAN CUSICK: Hi. Hi,  
2                   Commissioner. Thank you. Thank you for  
3                   appearing here today.

4                   And, you know, because of time  
5                   constraints, I'm not going to ask a question  
6                   about the Institute of Basic Research that  
7                   was brought up. Your staff has briefed me  
8                   before the budget announcement. But it is  
9                   something I do want to sit down with you and  
10                  your staff on. There are concerns that I do  
11                  have.

12                 I understand that the IBR section that  
13                 houses the Jervis Center will remain, but I  
14                 do have concerns about possible staff moving,  
15                 office staff moving off of Staten Island for  
16                 the research part in the merger with OMH.  
17                 And those are things that I certainly want to  
18                 continue discussing with you and your staff.

19                 And I want to also just say, you know,  
20                 with the budget -- this budget includes, as  
21                 my colleagues have said, you know, many cuts,  
22                 and cuts to the residential provider agency  
23                 rates for therapeutic leave and retainer day  
24                 payments at 50 percent, and on top of that

1           the 1 percent across the board for the  
2           Medicaid.

3                     In talking with a lot of the families,  
4           and with the Staten Island Developmental  
5           Disabilities Council on Staten Island --  
6           which you have met with personally in my  
7           office, and I thank you for that -- they've  
8           stated that there will be a real struggle for  
9           a lot of these agencies with paying operating  
10          costs for group homes and due to these  
11          proposed cuts. Residential provider agencies  
12          will still need to pay their mortgages,  
13          utilities, you know, all of the expenses that  
14          go into running these agencies.

15                    My question is a general question, but  
16          I know in the past this has been done. When  
17          your budget team is looking at these cuts --  
18          you know, we have a Staten Island  
19          Developmental Disabilities Council, but do  
20          they bring in the agencies and the families  
21          and the folks that are on the ground to  
22          confer as they're deciding these budget cuts?

23                    OPWDD COMMISSIONER KASTNER: So we had  
24          a public process last year, meeting with our

1 stakeholders and talking about what they  
2 would recommend as to specific cuts. And it  
3 wouldn't be a surprise to say that there were  
4 very few stakeholders that volunteered that  
5 -- the programs that they were particularly  
6 interested in should not be the cut target.

7 ASSEMBLYMAN CUSICK: Okay --

8 OPWDD COMMISSIONER KASTNER: That was  
9 a position that --

10 ASSEMBLYMAN CUSICK: I didn't mean to  
11 cut you off, Commissioner, I apologize, but I  
12 just see my time running down to 20 seconds.

13 I would just -- you know, the folks I  
14 deal with on Staten Island would probably  
15 argue that they don't have a say in this  
16 process and that they would like more input  
17 on this. And I would work with your team to  
18 include more of the on the ground folks who  
19 are really, you know, providing these  
20 services and the families that are involved  
21 to be part of this process, particularly now.  
22 Right? Even as we're negotiating the budget,  
23 to be included and have some communication  
24 from OPWDD.

1                   OPWDD COMMISSIONER KASTNER: Yes,  
2                   thank you.

3                   ASSEMBLYMAN CUSICK: I know my time  
4                   has run out, Madam Chair. Thank you.

5                   CHAIRWOMAN WEINSTEIN: Thank you.  
6                   Assemblyman Burdick.

7                   ASSEMBLYMAN BURDICK: Thank you. I  
8                   wish to thank the chairs and also the  
9                   commissioner for the presentation.

10                  I share the view that the  
11                  developmentally disabled should be  
12                  prioritized for vaccination.

13                  I wanted to talk about the Padavan Law  
14                  and about group homes. I completely support  
15                  the mission of OPWDD to work closely with  
16                  nonprofit partners to help individuals with  
17                  developmental disabilities. And I had direct  
18                  experience with that, actually, some seven  
19                  years ago as supervisor of the Town of  
20                  Bedford, when Cardinal McCloskey Community  
21                  Services, under the Padavan Law, had applied  
22                  for a permit to provide a group home for four  
23                  young adult autistic men who had aged out.

24                  I have two questions. The local

1 process was painful, as I'm sure you're  
2 aware. And I understand that at one point  
3 the state statute was revised to make it  
4 somewhat easier, but it still raises great  
5 questions and push-back from communities and  
6 long waits for determinations from the  
7 community. And these waits have human tolls.

8 Do you feel that revisions in the  
9 Padavan Law may help reduce the wait for  
10 placement? And if so, what areas do you  
11 think we might consider?

12 OPWDD COMMISSIONER KASTNER: Well, I  
13 think you're specifically talking about a  
14 site in the Hudson Valley where they're  
15 trying to develop a group home for four  
16 individuals with autism.

17 We work very closely with local  
18 authorities to assist in any way that we can  
19 to improve the process. We think it's gotten  
20 better since there were amendments to the  
21 law. I haven't heard an overwhelming number  
22 of concerns about that specific issue, and I  
23 think that it's working reasonably well at  
24 this point.

1                   ASSEMBLYMAN BURDICK: Well, what I'm  
2                   hearing -- what we had, and I've heard it  
3                   from other chief electeds, is that you have  
4                   neighborhoods that would rise up against it,  
5                   we had unfounded concerns regarding the  
6                   impact on their neighbors -- on the  
7                   neighborhood, and that's the concern that I  
8                   had.

9                   And as I say, it's a painful process.  
10                  And maybe offline I could explore with you,  
11                  you know, in greater detail what we went  
12                  through on that. I mean, it -- I had  
13                  supported it from the outset, that it was  
14                  something that I felt was greatly needed.  
15                  There wasn't an over-concentration. But I'd  
16                  like to see if it can be facilitated for  
17                  people who desperately need this help.

18                 OPWDD COMMISSIONER KASTNER: We'd be  
19                 happy to talk further about that.

20                 ASSEMBLYMAN BURDICK: Thank you so  
21                 much.

22                 OPWDD COMMISSIONER KASTNER: Thank  
23                 you.

24                 CHAIRWOMAN WEINSTEIN: We now go to



1 Assemblyman Anderson, for three minutes.

2 ASSEMBLYMAN ANDERSON: Thank you.

3 Thank you, Chairwoman, and thank you,  
4 Commissioner, for the presentation.

5 I have several questions, some I'm  
6 going to ask in the beginning, and others I'm  
7 going to ask you to just address at another  
8 time, just in respect for the limited time we  
9 have.

10 So I notice that the Executive Budget  
11 mentions some program eliminations. They've  
12 proposed about \$440,000 in a reduction in  
13 targeted grants for community-based  
14 providers. What impact do you think that  
15 this cut will have on the extension of  
16 services for people in this population?

17 OPWDD COMMISSIONER KASTNER: I'm not  
18 sure that that's a cut that's -- would be  
19 made to our budget.

20 ASSEMBLYMAN ANDERSON: It is. It is a  
21 cut of \$440,000 in targeted grants to  
22 community-based providers.

23 OPWDD COMMISSIONER KASTNER: Within  
24 OPWDD?

1 ASSEMBLYMAN ANDERSON: Correct.

2 OPWDD COMMISSIONER KASTNER: I'll look  
3 at that. I apologize for not knowing about  
4 it.

5 ASSEMBLYMAN ANDERSON: But -- so  
6 knowing that this information is in the  
7 Executive Budget, what sort of impact will  
8 that have for the agency?

9 OPWDD COMMISSIONER KASTNER: Again, I  
10 apologize for not having specific information  
11 about that specific cut, so I can't really  
12 answer --

13 ASSEMBLYMAN ANDERSON: Understood.

14 OPWDD COMMISSIONER KASTNER: I  
15 apologize.

16 ASSEMBLYMAN ANDERSON: Access VR is a  
17 -- no problem, Mr. Commissioner.

18 Access VR services provide technology  
19 opportunities for folks who live with  
20 intellectual and developmental disabilities,  
21 among other different health concerns. And  
22 so they generally participate in this program  
23 for young people ages 21 and up who have aged  
24 out of the school system.

1                   What role does your agency have with  
2                   Access VR?

3                   OPWDD COMMISSIONER KASTNER: I'd have  
4                   to look specifically and find out what  
5                   services we may contract with them to  
6                   provide.

7                   ASSEMBLYMAN ANDERSON: Okay. And last  
8                   question on this before I go on to my next --  
9                   I'm running out of time here. But in terms  
10                  of the community-based expansion -- I mean,  
11                  sorry, in terms of the care coordination, I  
12                  know that you're absolutely aware of the \$20  
13                  million in reductions that CCOs will receive.  
14                  Can you explain what impact that would have  
15                  on the agency's ability to provide care  
16                  coordination for folks who need it?

17                  OPWDD COMMISSIONER KASTNER: Sure.  
18                  Our goal is to ensure that we're paying the  
19                  correct amount for the services that are  
20                  being provided.

21                  The context of the CCO program is that  
22                  when we launched the program in 2018, we  
23                  actually increased the rate paid to CCOs by  
24                  about 60 percent above what we had previously

1           been paying to the Medicaid service  
2           coordination organizations. So that was  
3           intended to address the fact that this was a  
4           new program, these were organizations that  
5           were just starting and had just launched.

6                     Over the past two budget cycles, your  
7           questions are correct, we have --

8                     ASSEMBLYMAN ANDERSON: Commissioner,  
9           I'm sorry -- Commissioner, I'm running out of  
10          time here. But let me just say this. That  
11          program is vitally important to helping  
12          people who are on Medicare/ Medicaid, one, to  
13          be able to navigate the system but, two, be  
14          able to navigate services. So it's vitally  
15          important.

16                    And I just want to know what the  
17          impact of losing these funds will be for  
18          folks that need services.

19                    OPWDD COMMISSIONER KASTNER: I agree  
20          it's vitally important, and we believe that  
21          the cuts will not reduce access to services  
22          through the CCO program.

23                    ASSEMBLYMAN ANDERSON: So you can  
24          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

1 second round for the chair of the  
2 Disabilities Committee, Senator John Mannion.

3 SENATOR MANNION: Thank you, Senator.  
4 Thank you, Commissioner.

5 Just following up on my questions  
6 earlier about residential vacancies, I have  
7 to say, you know, there should never be this  
8 paradigm that we have with the open beds and  
9 people sitting on a waiting list waiting to  
10 get in. You know, it's really the opposite  
11 of what we're trying to achieve. And I'm  
12 also, you know, hearing that there's fewer  
13 and fewer staff to help connect these people  
14 to these services.

15 So I'm just wondering, you know, in  
16 the grand scheme of this, you know, why is  
17 this happening, why do we have so many beds  
18 that are vacant out there and so many people  
19 on the waiting lists, and how can we fix  
20 these problems that are clearly evident to  
21 not just the people who are asking the  
22 questions today, but also the families that  
23 are out there?

24 Thank you.

1                   OPWDD COMMISSIONER KASTNER: Well, as  
2                   I described earlier, we think there's an  
3                   opportunity to improve the quality of  
4                   operation of the overall residential program.

5                   Again, for the new folks, we're going  
6                   to try to improve the function of the Front  
7                   Door, their access to the continuum of  
8                   services.

9                   But for those individuals who are  
10                  currently in residential, I think there's an  
11                  agreement between OPWDD and our providers,  
12                  our individuals, that a payment methodology  
13                  based on the needs of the individuals would  
14                  be more appropriate than one based on the  
15                  agency's costs. That will help agencies  
16                  support individuals with high needs, it would  
17                  match funding to the specific individuals,  
18                  and hopefully address any vacancies that  
19                  might occur.

20                  We also believe that there is an  
21                  opportunity to help individuals currently in  
22                  more restrictive settings move to  
23                  less-restricted settings. We hope that in  
24                  the context of an acuity-based payment

1 methodology that we can create a pilot  
2 program, which would then assist individuals  
3 who are in a more-restrictive setting move to  
4 a less-restrictive one, and that we can use  
5 an alternative payment model which would  
6 support providers who undertake that  
7 transition of individuals.

8 So we think there's an opportunity to  
9 improve the manner in which we support our  
10 residential providers, and we've had a lot of  
11 discussion about it, we're looking forward to  
12 working with them in the future.

13 SENATOR MANNION: Do we know, you  
14 know, how many vacant beds there are out  
15 there and how many people are on the waiting  
16 list?

17 OPWDD COMMISSIONER KASTNER: We know  
18 how many people are currently in the three  
19 different categories of requests for  
20 residential services. As I said earlier,  
21 we're able to meet the needs of all families  
22 who are in the emergency category due to  
23 turnover within our residential system.

24 The question as to the number of



1           vacant beds is somewhat in flux because we  
2           have had agencies that are taking beds  
3           offline because they have been vacant and  
4           they're currently not occupied, so they may  
5           be changing their certificates of need to  
6           reflect that.

7                     SENATOR MANNION: Do we know how many  
8           people -- and can I have what that number is  
9           if you do know it -- that are in that  
10          emergency category where they are awaiting,  
11          you know, a residential setting?

12                    OPWDD COMMISSIONER KASTNER: It's  
13          generally in the range of 800 or so families  
14          per year. We can get you specific  
15          information on that.

16                    SENATOR MANNION: I appreciate that.

17                    And I know the time is running a  
18          little bit short for me here. I'm going to  
19          jump to another issue, which is in regards to  
20          the Federal Medical Assistance Percentages  
21          that the state received and how much money  
22          was allocated to OPWDD.

23                    Do we have that number about how much  
24          money was allocated from that program?

1                   OPWDD COMMISSIONER KASTNER: As I  
2                   said, in the context of this year, DOB  
3                   provided support to OPWDD, for example, when  
4                   we asked to fund retainer payments, which  
5                   effectively doubled the costs of our day  
6                   program when we expanded our capacity to  
7                   provide COM HAB R and COM HAB via tele.

8                   I can't put a specific dollar figure  
9                   on funds that moved from DOB to OPWDD. All I  
10                  can tell you is that we did receive support  
11                  from DOB to make modifications to our system  
12                  on the fly, which actually increased our  
13                  costs. And we feel that that was a  
14                  reflection of DOB's commitment to our  
15                  individuals and the programs that we support.

16                 SENATOR MANNION: Thank you.

17                 In the interests of time, a quick  
18                 question. Does OPWDD have a current Section  
19                 5.07 Plan?

20                 OPWDD COMMISSIONER KASTNER: As I  
21                 described earlier in response to a question,  
22                 we will have one completed by the end of this  
23                 year.

24                 SENATOR MANNION: End of the year,

1           correct, yes. Thank you.

2                   OPWDD COMMISSIONER KASTNER: Thank  
3           you.

4                   CHAIRWOMAN KRUEGER: Thank you.  
5           Assembly, to close.

6                   CHAIRWOMAN WEINSTEIN: We go to  
7           Assemblyman Abinanti for five minutes.

8                   ASSEMBLYMAN ABINANTI: Thank you,  
9           Commissioner. You know what, I'm hearing you  
10          say over and over again you want to be  
11          person-centered, yet it appears that you're  
12          cost-cutting-centered. And I think you're  
13          reflecting some misplaced priorities here and  
14          failing to fully recognize the humanity of  
15          your clients.

16                   Like, for example, you talk of --  
17          group homes are not a combination of beds to  
18          be dispensed out, you know, randomly. Group  
19          homes are homes for a group of people. And  
20          when you say that they can't go out on a  
21          therapeutic leave, they can't go home without  
22          being penalized, you're basically saying it's  
23          not your home, it's an institution, because  
24          we're going to pay only when you're in that

1           bed.

2                   Now you're saying that for the first  
3           96 days that somebody is not in the bed -- so  
4           that means if they go home every weekend to  
5           visit their parents or their loved ones or go  
6           on a vacation, the agency or whoever is  
7           running the group home is only going to get  
8           50 percent of the daily rate. And if they go  
9           over 96 days, even if they're in the  
10          hospital, they're going to lose the entire  
11          daily rate.

12                   Now tell me, what assisted living  
13          facility penalizes a senior citizen for going  
14          to visit family? What college dorm penalizes  
15          a college student for going home to visit the  
16          family?

17                   Is this a human way to run an agency  
18          that's supposed to be person-centered?

19                   OPWDD COMMISSIONER KASTNER: As I said  
20          earlier, we do not restrict the ability of  
21          individuals to visit their families on the  
22          weekend.

23                   ASSEMBLYMAN ABINANTI: But you're  
24          going to take 50 percent of the payment, of

1           the rate, every time they go home. So that's  
2           taking money out of running the home. So  
3           that may mean they can't paint the room again  
4           for another two years, or they can't fix the  
5           steps or they can't do something else,  
6           correct?

7                     Commissioner, I am told there are  
8           3,000 vacant beds, if we talk about beds, in  
9           the voluntary sector, and that your agency  
10          has told them you don't have the money to pay  
11          for people in those beds. Is that true?

12                    OPWDD COMMISSIONER KASTNER: I don't  
13          believe that that's --

14                    ASSEMBLYMAN ABINANTI: All right.  
15          Well, how much money is in this budget for  
16          new placements in group homes, in other beds?  
17          Let's use your term, beds. How much new  
18          money is this budget?

19                    OPWDD COMMISSIONER KASTNER: There is,  
20          as I said earlier, a sufficient amount of  
21          capacity to support all individuals who have  
22          an emergency request.

23                    ASSEMBLYMAN ABINANTI: Emergency only,  
24          Commissioner. Now, you've got three

1 categories, emergency, substantial and  
2 current, correct? And right now I'm  
3 understanding it takes five months to place  
4 an emergency placement in a bed and not  
5 necessarily an appropriate group home.  
6 That's just placing them in a bed. So it  
7 could be an older man going into a group home  
8 with four women, isn't that true?

9 And then substantial takes nine  
10 months. And if you have a current need, like  
11 you're talking about somebody living with  
12 their parents, that could take at least six  
13 months to just determine that they have a  
14 need, isn't that true?

15 OPWDD COMMISSIONER KASTNER: I can't  
16 speak to any specific individual --

17 ASSEMBLYMAN ABINANTI: Commissioner,  
18 you are in charge of the agency, not me. If  
19 I have this information, why don't you?

20 OPWDD COMMISSIONER KASTNER: Because  
21 our commitment is to provide a  
22 person-centered focus in planning for the  
23 residential needs --

24 ASSEMBLYMAN ABINANTI: Commissioner,

1           you were talking about -- you're talking  
2           about going acuity-based. Didn't you have a  
3           program like that where you had a high-needs  
4           special allotment so that you could set up a  
5           facility for people with higher needs, and  
6           you've changed that, you've cut out that  
7           special acuity-based increased allotment on a  
8           rate?

9                     OPWDD COMMISSIONER KASTNER: Actually,  
10           we have an agreement with the federal  
11           government for a high-needs payment  
12           methodology. That payment methodology will  
13           expire July 1st. We need to come up with a  
14           new one. We think that's just another  
15           opportunity for us to improve the quality of  
16           our --

17                    ASSEMBLYMAN ABINANTI: I understand  
18           the rhetoric about wanting to improve, but  
19           it's not improving on the ground. That's the  
20           problem.

21                    Now, you were talking about going to  
22           telemodalities. How many of the people who  
23           need day hab have the capability of accessing  
24           a computer by themselves? Have you done a

1 survey of that?

2 OPWDD COMMISSIONER KASTNER: We've  
3 provided this as an option for individuals to  
4 choose --

5 ASSEMBLYMAN ABINANTI: Commissioner,  
6 it's being used in place of active day hab.  
7 It's not being used in addition to.

8 So how many people who want day hab  
9 have to go to telemodalities because there's  
10 no other option?

11 OPWDD COMMISSIONER KASTNER: Again, we  
12 have tried to expand the range of  
13 opportunities --

14 ASSEMBLYMAN ABINANTI: You have no  
15 numbers, you're not fact-based, you're just  
16 trying it on theory.

17 Let me ask you a question. If  
18 somebody has the capability of accessing a  
19 computer by themselves, why would they need a  
20 day hab program to go on the computer?

21 OPWDD COMMISSIONER KASTNER: We --  
22 again, we provide opportunities for people to  
23 make decisions based on their personal  
24 preferences.



1                   ASSEMBLYMAN ABINANTI: Years ago day  
2                   hab used to provide training. It used to  
3                   provide job training, an entree into the job  
4                   market. Why does it not do that anymore?  
5                   Why has it become a babysitting service?  
6                   What are you going to do about that?

7                   OPWDD COMMISSIONER KASTNER: We -- as  
8                   I said earlier, we've asked our day program  
9                   providers to look at alternatives to  
10                  center-based programming, to in particular  
11                  look at community-based alternatives, which  
12                  include supported employment --

13                 ASSEMBLYMAN ABINANTI: All right, let  
14                 me just end with one final point,  
15                 Commissioner. You said that there was no  
16                 monies being cut from housing. Yet it's a  
17                 fact, isn't it, that there's a special \$3,000  
18                 allotment of state monies for each person,  
19                 and it's called "other than personal  
20                 services," and it's used to pay for telephone  
21                 and computers and access to the internet,  
22                 et cetera. And yet you've cut 20 percent,  
23                 you've withheld \$600 from \$3,000. How much  
24                 money are you saving to cut somebody off from

1 the internet at a time when you're saying  
2 they should be using telemodalities?

3 OPWDD COMMISSIONER KASTNER: Again,  
4 are you referring to the local assistance  
5 payments, the non-Medicaid local assistance  
6 payments?

7 ASSEMBLYMAN ABINANTI: I'm talking  
8 about the non-Medicaid to the individual  
9 people who are in self-determination who use  
10 this \$3,000 to pay for the internet, to pay  
11 for their cellphone. That's what it's there  
12 for. But it's all state monies, and you have  
13 been withholding 20 percent. So people who  
14 are living on Medicaid, on Medicaid wages,  
15 \$2,000 a month, \$12,000 a year, are expected  
16 to pick up the additional charge of the \$600.  
17 To us, we're saving a few -- maybe a half a  
18 -- \$500,000 a year. But to these people,  
19 \$600 is a lot of money. Why are we doing  
20 that?

21 CHAIRWOMAN WEINSTEIN: Thank you --

22 OPWDD COMMISSIONER KASTNER: In those  
23 -- those --

24 CHAIRWOMAN WEINSTEIN: Thank you.

1                   Commissioner, I think it would be  
2                   helpful to get some answers in writing that  
3                   we could circulate to all of the members.

4                   OPWDD COMMISSIONER KASTNER:  
5                   (Inaudible.)

6                   CHAIRWOMAN WEINSTEIN: And before we  
7                   end this portion of the hearing, I see  
8                   Assemblyman Byrne has raised his hand for a  
9                   question for three minutes, before we go back  
10                  to the Senate.

11                  CHAIRWOMAN KRUEGER: Okay.

12                  ASSEMBLYMAN BYRNE: Yes, thank you,  
13                  Madam Chair.

14                  And Commissioner, I'm just going to  
15                  read off a question on behalf of one of my  
16                  colleagues, who's unable to ask the question.  
17                  And hopefully you can provide some context  
18                  and answer.

19                  Here's the question. The, quote, IM  
20                  assessment and the CAS assessment, currently  
21                  the care coordinators are being asked to help  
22                  input info about a consumer into the  
23                  assessment. This assessment will eventually  
24                  help construct an individual's self-direction

1 budget.

2 The concern of many is that their care  
3 coordinators don't know their loved ones well  
4 enough to be given this very important  
5 information about their needs, and it can  
6 have a detrimental influence on their future  
7 self-direction budget.

8 The family should have the final  
9 input, as they know the needs best. Why is  
10 this being done?

11 OPWDD COMMISSIONER KASTNER: Well,  
12 you're referring to two instruments that are  
13 used to conduct assessments of individuals.  
14 The CAS is an assessment that we eventually  
15 plan to use with all of our individuals. I  
16 believe at the present time we've used it to  
17 assess all individuals within our residential  
18 settings.

19 The IM is a proprietary instrument  
20 that was developed by Partners Health Plan.  
21 There's no requirement -- I believe we waived  
22 a requirement for care coordinators to use  
23 that tool as a response to COVID. Now it is  
24 an optional tool that can be used by care

1 coordinators if they feel a need is there to  
2 perform that assessment. But it's not a  
3 mandatory part of our assessment portfolio.

4 ASSEMBLYMAN BYRNE: Okay, thank you.

5 CHAIRWOMAN WEINSTEIN: Now to the  
6 Senate.

7 CHAIRWOMAN KRUEGER: Thank you very  
8 much.

9 Commissioner, I want to thank you for  
10 being with us today. Clearly you have many  
11 things to put in writing and get back to the  
12 committees with.

13 And I'm going to call up next the  
14 New York State Office of Alcoholism and  
15 Substance Abuse Services, Commissioner Arlene  
16 González-Sánchez.

17 Are you with us, Arlene?

18 COMMISSIONER GONZÁLEZ-SÁNCHEZ: Yes, I  
19 am.

20 CHAIRWOMAN KRUEGER: Oh, there you  
21 are. Hello. Good morning --

22 COMMISSIONER GONZÁLEZ-SÁNCHEZ: Hi,  
23 how are you?

24 CHAIRWOMAN KRUEGER: Good morning.

1 We're on No. 3 for the day, and we're already  
2 at 2:30, for those of you keeping score.

3 Thank you. Ten minutes on the clocks,  
4 please.

5 COMMISSIONER GONZÁLEZ-SÁNCHEZ: Great.  
6 So good afternoon, Senator Krueger,  
7 Assemblymember Weinstein, Senator Harckham,  
8 Assemblymember Steck, and distinguished  
9 members of the Senate and Assembly. My name  
10 is Arlene González-Sánchez, and I am the  
11 commissioner of the New York State Office of  
12 Addiction Services and Supports, better known  
13 as OASAS.

14 Thank you for providing me with the  
15 opportunity to present Governor Cuomo's  
16 fiscal year 2022 Executive Budget as it  
17 pertains to OASAS.

18 Under Governor Cuomo's leadership,  
19 OASAS has taken significant steps to improve  
20 access to addiction treatment, develop new  
21 and innovative models, and expand services in  
22 communities throughout New York State.

23 The Executive Budget proposal allows  
24 OASAS to maintain these services and our

1       entire comprehensive system of prevention,  
2       treatment, and recovery programming. The  
3       budget appropriates \$919 million for OASAS  
4       programs, which includes \$147 million for  
5       state operations, \$90 million for capital  
6       projects, and \$682 million for Aid to  
7       Localities. This reflects an increase of \$94  
8       million from fiscal year 2021, which  
9       primarily reflects additional Substance Abuse  
10      Prevention and Treatment block grant funds  
11      that we expect to receive from the federal  
12      government as part of the COVID-19 Relief  
13      Act.

14             The Executive Budget includes an  
15      increase in minimum wage funding for OASAS  
16      providers. In addition, it supports OASAS'  
17      commitment to expanding access to residential  
18      addiction treatment services through capital  
19      investments for community organizations. As  
20      a result of these efforts, more than 160 new  
21      residential treatment beds are expected to  
22      open by the end of fiscal year 2022.

23             Although the times pose numerous  
24      challenges for all of us, the Executive

1           Budget continues Governor Cuomo's commitment  
2           to OASAS' many essential programs and  
3           services. These include critical treatment  
4           and recovery initiatives such as mobile  
5           treatment, recovery centers, and youth  
6           clubhouses; expanding access to  
7           medication-assisted treatment; increasing the  
8           number of Certified Peer Recovery Advocates;  
9           and providing training in the use of Naloxone  
10          in our ongoing effort to combat the opioid  
11          crisis.

12                 The pandemic required swift action  
13          across the OASAS continuum of care, and our  
14          providers responded immediately. They  
15          rapidly expanded telepractice and mobile  
16          treatment services, modified inpatient and  
17          residential treatment to ensure social  
18          distancing and proper infection controls, and  
19          expanded take-home dosing of  
20          medication-assisted treatment to protect our  
21          most vulnerable population. Throughout the  
22          emergency and continuing today, access to all  
23          levels of treatment remain safe and  
24          available.



1           Our recovery centers had over 41,000  
2           contacts with individuals, and made 4,011  
3           referrals, of which 95 percent resulted in  
4           engagement in treatment.

5           The OASAS prevention providers will  
6           continue services, despite the closure of  
7           many school buildings and the inability to  
8           have any community-based social gatherings.  
9           These providers, like treatment and recovery  
10          providers, are providing virtual services  
11          wherever possible.

12          In 2022, OASAS will continue its  
13          public education and social media campaigns  
14          to make sure that people who need help know  
15          where to access it. Our campaigns address  
16          stigma, they raise community awareness about  
17          addiction, they highlight particular concerns  
18          related to the dangers of social isolation  
19          for individuals with addiction, and they  
20          ensure New Yorkers know treatment is  
21          available.

22          The Executive Budget also includes  
23          several legislative proposals to enhance  
24          prevention, treatment, and recovery services.

1           The Governor is proposing a comprehensive  
2           strategy to expand telehealth. This plan  
3           will authorize additional staff in OASAS  
4           programs, including peers to deliver  
5           telehealth services and allow services to be  
6           delivered in non-clinical settings.

7                     In addition, the Governor is proposing  
8           the integration of OASAS and the OMH into a  
9           new Office of Addiction and Mental Health  
10          Services. This new agency will better serve  
11          those in need, by allowing for the delivery  
12          of SUD and mental health services in a more  
13          coordinated and unified system of care.

14                    The budget also authorizes the  
15          creation of Comprehensive Outpatient Services  
16          Centers, which will be implemented by a  
17          single joint regulation issued by OASAS, OMH  
18          and DOH. This comprehensive license will  
19          allow providers to deliver a full continuum  
20          of primary care, SUD and mental health  
21          services.

22                    And to protect New Yorkers from  
23          predatory practices, the Governor proposes a  
24          bill that builds on the existing authority of

1 OASAS to credential individuals who provide  
2 services to those suffering or at risk for an  
3 addiction. The proposal also would allow  
4 OASAS to create a publicly available list of  
5 authorized addiction professionals, to help  
6 individuals and families make informed  
7 decisions when choosing a practitioner.

8 So as we continue to manage the system  
9 of addiction treatment, recovery, and  
10 prevention, our number-one priority is to  
11 remain vigilant about the health and safety  
12 of the vulnerable populations we serve. The  
13 budget will support funding for all of the  
14 critical initiatives I discussed and allow  
15 OASAS to meet the needs of those we serve.

16 I look forward to working with you as  
17 we continue striving to help all those who  
18 have been impacted by addiction throughout  
19 New York State.

20 Thank you so much.

21 CHAIRWOMAN KRUEGER: Thank you very  
22 much, Commissioner.

23 To start us off, chair of the  
24 Substance Abuse and Treatment Committee,

1           Pete Harckham.

2                   SENATOR HARCKHAM: Thank you,  
3           Madam Chair.

4                   Commissioner, terrific to see you.

5                   First off, I want to thank you and  
6           your entire team for the heroic work that you  
7           do. Many of us believe you've been  
8           underfunded for years, and you and your  
9           colleagues do a tremendous job.

10                   I also want to thank you personally  
11           for being so accessible to me and my staff as  
12           we work collaboratively together. So thank  
13           you.

14                   I have a bunch of questions, so we'll  
15           hop right into them. This budget has some  
16           good things, it has some bad things. So  
17           we'll start with the bad things and then  
18           we'll go to the good things.

19                   This was a very challenging year for  
20           our providers. As we know, we had a  
21           substance use disorder and opioid use  
22           disorder crisis before the pandemic. We  
23           asked them to make big investments in  
24           technology as they shifted their model.

1           Their revenues declined; there was a  
2           20 percent withholding. So they've had a  
3           really tough year. In fact, a study that the  
4           industry did said 80 percent of them are  
5           considering layoffs or curtailing programs  
6           next year.

7                     And yet in the State Executive Budget  
8           we're looking at a \$13 million cut to the  
9           bottom line, 5 percent shaved to local  
10          programming -- you know important things like  
11          elimination of the AIDS/HIV Early  
12          Intervention program, jail-based treatment,  
13          COLA.

14                    What is the rationale for this, and  
15          what's your plan to remediate some of the  
16          pain that this is going to cause?

17                    COMMISSIONER GONZÁLEZ-SÁNCHEZ: So  
18          first and foremost, the 5 percent across the  
19          board does not impact OASAS. It does impact  
20          OMH and OPWDD, but not OASAS. So that's good  
21          news.

22                    With respect to the 13.3 million in  
23          cuts, that includes 3.5 million from member  
24          items -- I would call them member items --

1           that the Legislature puts in every year. And  
2           going into the year, we know that these are  
3           only one-year items, so it's to be expected  
4           that it's only for one year. And the rest is  
5           the 11.5 in, you know, savings that we have  
6           to come up with, just like any other state  
7           agency, given the fiscal climate that we're  
8           facing in the state.

9                     What I do want to say is that those  
10          targets, or those 11.5, none of those things  
11          will impact to the extent that services will  
12          be cut down. Some of those would be 50  
13          percent cuts, and those cuts will be able to  
14          be either absorbed by the provider through  
15          billing of Medicaid or will have already been  
16          implemented.

17                    For example, one of the items that we  
18          cut 50 percent is the day rehab. We have 36  
19          day rehab providers throughout the state.  
20          Only five of them get state aid. But that's  
21          a Medicaid billable service, and we are only  
22          cutting them by 50 percent, so the thinking  
23          is that they will be able to use billing and  
24          not have to use our state aid.

1                   Similarly --

2                   SENATOR HARCKHAM: Can I cut you off,  
3 just in the sake of time, because I have a  
4 lot more questions.

5                   COMMISSIONER GONZÁLEZ-SÁNCHEZ: I'm  
6 sorry.

7                   SENATOR HARCKHAM: Let's talk about  
8 something positive. Thanks to the advocacy  
9 of a lot of folks on this Zoom, patient  
10 advocates, treatment providers, we're looking  
11 at, through Senator Schumer, the possibility  
12 of a substantial block grant increase, which  
13 you mentioned.

14                   What is your specific plan to use that  
15 money? Are there federal restrictions? And  
16 how soon can you get that money out the door?

17                   COMMISSIONER GONZÁLEZ-SÁNCHEZ: So we  
18 haven't gotten the official notification on  
19 the grant. We do assume we will be getting  
20 it anytime soon. I don't have the actual  
21 criteria or parameters of the grant. I just  
22 know they will be similar to the grants we've  
23 gotten before.

24                   But one thing I do want to make clear

1 is that the monies have to be used for  
2 treatment, prevention or recovery and it  
3 cannot be used to supplant any fundings that  
4 we have currently. And so we plan --

5 SENATOR HARCKHAM: That's the key  
6 phrase: Not supplant, supplement.

7 COMMISSIONER GONZÁLEZ-SÁNCHEZ: Right.  
8 Right. You can't supplant, you know,  
9 existing funding with grant dollars. And so  
10 I assume that that will be the same criteria  
11 moving forward, and we will use this money,  
12 moving forward, to address the treatment,  
13 prevention and recovery needs that we have in  
14 our system.

15 SENATOR HARCKHAM: All right. That's  
16 good news to hear. Supplement, not supplant.

17 Let's move on to the merger, if we  
18 can. I personally think the merger of OASAS  
19 and OMH is a step forward -- better  
20 coordination, better to deal with  
21 co-occurring disorders, better to deal with  
22 the dual licensing, better to deal with the  
23 dual funding streams, and certainly it  
24 creates a larger entity to better advocate



1           for funding and programs across the  
2           behavioral health spectrum on both sides of  
3           the ledger.

4                     Patient advocates and providers,  
5           though, are nervous about really having a  
6           seat at the table and that treatment-specific  
7           modalities such as CASACs, peers, things like  
8           that, will not be lost in creating kind of a  
9           "one size fits all" agency. Could you  
10          comment on your approach to the merger?

11                    COMMISSIONER GONZÁLEZ-SÁNCHEZ: Sure.  
12          So to begin with, I agree that this is a  
13          great opportunity to streamline our processes  
14          to better address the needs of the population  
15          that we serve, the dual population. And I  
16          think this is a great opportunity to do that.

17                    There's a bill that's being proposed  
18          that speaks specifically to the licensure  
19          piece. And in it -- it's really supporting  
20          and ensuring that the CASACs and other  
21          professionals licensed through the OASAS  
22          system will stay in place as we move forward  
23          into the merged entity. And if it's not the  
24          merged entity, we're still going to move

1 forward with that to ensure that these  
2 licensures and these individuals are still  
3 part of our continuum.

4 SENATOR HARCKHAM: And will you have  
5 some sort of an advisory group with patient  
6 advocates and treatment providers at the  
7 table every step of the way?

8 COMMISSIONER GONZÁLEZ-SÁNCHEZ:  
9 Absolutely. Sure.

10 SENATOR HARCKHAM: Okay. Let's shift  
11 over now to the ombudsman program, something  
12 that we've worked collaboratively to build  
13 out. We know that there's been a gap in  
14 certain geographic areas for the  
15 community-based providers of that program.  
16 So last year we established the Parity  
17 Compliance Fund dealing with insurance  
18 penalties for folks not complying with  
19 parity.

20 How much is in that fund, and are we  
21 expanding the scope of those community-based  
22 organizations this year?

23 COMMISSIONER GONZÁLEZ-SÁNCHEZ: Yes,  
24 we are expanding the scope.

1                   And with respect to fines, nothing has  
2                   been levied to date. But I just want to  
3                   remind you that DOH and DFS recently released  
4                   the criterias. And we're currently right now  
5                   evaluating the responses from the various  
6                   managed-care entities to evaluate whether  
7                   they're in compliance or not. If they're  
8                   not, then those fines will be levied and it  
9                   will go into the fund.

10                  SENATOR HARCKHAM: Okay. We have  
11                  about a minute and a half. Would you address  
12                  in more detail the plan on the Part DD  
13                  single-rate methodology? We know that  
14                  billing, billing, billing has always been a  
15                  challenge, especially when trying to deal  
16                  with someone holistically from separate  
17                  funding streams. So please address that.

18                  COMMISSIONER GONZÁLEZ-SÁNCHEZ: I  
19                  don't know how much of that I could address  
20                  at this point other than to say that we are  
21                  actively looking at that, and especially now  
22                  as we look at this possible merger, to better  
23                  -- better make responses. I really couldn't  
24                  tell you in more details about that.

1                   SENATOR HARCKHAM: All right. If we  
2                   can stay in touch on that, that would be  
3                   helpful.

4                   I'm going to ask you a question now --  
5                   if you don't get to the answer because we run  
6                   out of time, I'll come back for five minutes  
7                   in the second round. But this is a big deal  
8                   in that we're midst of a surge in opioid  
9                   overdoses, many of them fentanyl-based. And  
10                  the way we know it is through national data  
11                  and the data of a few specific counties and  
12                  the anecdotal evidence of providers and first  
13                  responders.

14                  We don't know it from state data  
15                  because the most recently available data on  
16                  the State Department of Health website -- and  
17                  I know that's not you -- is from 2018. Have  
18                  you spoken with them on the need for current  
19                  data -- we know we can do it with COVID -- so  
20                  that you can better respond to this crisis?

21                  I think my time is out, but maybe in  
22                  my next round, in my five minutes, if you  
23                  could address that. Thank you.

24                  COMMISSIONER GONZÁLEZ-SÁNCHEZ: Sure.

1                   CHAIRWOMAN KRUEGER: Great. Thank  
2                   you. Assembly.

3                   CHAIRWOMAN WEINSTEIN: So we go to  
4                   Assemblyman Steck, chair of our Alcoholism  
5                   and Drug Abuse Committee.

6                   ASSEMBLYMAN STECK: Thank you very  
7                   much, Chairwoman Weinstein.

8                   I also want to thank Senator Harckham  
9                   for his excellent job identifying some of  
10                  these --

11                  CHAIRWOMAN WEINSTEIN: Excuse me one  
12                  minute, Phil.

13                  This is the chair of the committee.  
14                  He gets 10 minutes.

15                  ASSEMBLYMAN STECK: I'm not used to  
16                  that much time in my entire life, so thank  
17                  you.

18                  (Laughter.)

19                  ASSEMBLYMAN STECK: So I wanted to  
20                  talk first about one of the cuts that I just  
21                  am having a difficult time understanding, and  
22                  that is the executive proposes a 50 percent  
23                  reduction in funding for jail-based substance  
24                  use disorder treatment programs, resulting in

1           a decrease of 1.9 million.

2                   We've made tremendous headway in terms  
3           of trying to take advantage of the  
4           opportunity to give drug treatment to people  
5           who are in jail, many of whom have mental  
6           health and drug-related issues.

7                   What is the rationale for a 50 percent  
8           cut in this program?

9                   COMMISSIONER GONZÁLEZ-SÁNCHEZ: So,  
10          Assemblymember, thank you so much for that  
11          comment, question.

12                   You know all of the things we have put  
13          forth are very difficult. You know, this is  
14          a very difficult year. And for some of us,  
15          given the populations we serve, it becomes  
16          even more difficult. Right?

17                   So with respect to the jail-based,  
18          you're absolutely correct, it was a  
19          50 percent reduction. Bear in mind that  
20          through the different, you know, bail reforms  
21          and other, you know, regulations that went  
22          into place, or changes that came into place,  
23          the numbers in the jails are not what it was  
24          when we first initiated these dollars to go

1           into the jails.

2                       We -- we didn't just decide overnight.  
3           We've really evaluated the numbers that are  
4           now reporting to the jails, how many people  
5           are there. And we felt that once we did the  
6           analysis, the dollars really have somewhat  
7           rightsized, for now, the people that they are  
8           serving. And we're very confident that the  
9           services will still continue to be delivered  
10          to these individuals.

11                     I have to agree, I'm the first one  
12          that supports this initiative. I mean, this  
13          is what we want. And I do not anticipate  
14          this is going to, you know, diminish our  
15          ongoing services to the folks in the jails.

16                     ASSEMBLYMAN STECK: Well, I certainly  
17          appreciate your theory behind that cut, but  
18          it's very difficult to imagine that it would  
19          justify a 50 percent reduction.

20                     In the money that is supposed to be  
21          coming from the federal block grant -- first  
22          of all, my understanding is that is money  
23          that has not been delivered, that that is  
24          money that is just in theory going to be

1 delivered, and that the actual amount of that  
2 SAPT block grant that OASAS would receive has  
3 not yet been determined. Is that correct?

4 COMMISSIONER GONZÁLEZ-SÁNCHEZ:

5 Correct. You're correct.

6 ASSEMBLYMAN STECK: So do you know  
7 what OASAS treatment programs that money  
8 would be headed to if in fact we receive it?

9 COMMISSIONER GONZÁLEZ-SÁNCHEZ: Okay.  
10 So it's -- we haven't -- I couldn't sit here  
11 and say to you we're going to allocate this  
12 one, that one, because we still have to wait  
13 to see what the criteria of the grant is. I  
14 don't know if there are going to be  
15 additional set-asides that's going to require  
16 us to put monies aside for certain services,  
17 like prevention versus treatment versus  
18 recovery.

19 But all I could tell you that we are  
20 going to -- we have already been looking at  
21 where there may be some gaps in our system or  
22 where there are areas that we need to, you  
23 know, implement additional services. And  
24 that's how we're going to do it, of course



1           always involving our constituents to get, you  
2           know, advice from them and bringing them into  
3           the process.

4                   ASSEMBLYMAN STECK:   So, for example,  
5           you would not be able to tell me right now as  
6           you sit here whether in fact some of that  
7           money could be used to eliminate that 50  
8           percent reduction in the jail-based program.

9                   COMMISSIONER GONZÁLEZ-SÁNCHEZ:   I  
10          couldn't.   It could, but I couldn't tell you  
11          for sure.   And --

12                   ASSEMBLYMAN STECK:   There's a couple  
13          other cuts that I think might be appropriate  
14          to reverse if that were -- money were  
15          available.   One is the decrease in the HIV  
16          Early Intervention services.

17                   Again, the funding for public health  
18          has gone down tremendously in the last  
19          40 years.   And simply because this may not be  
20          as hot a topic as COVID, if we don't put  
21          money into it, it will come back.   I just  
22          finished reading the 620-page book on The  
23          Coming Plague, and one of the things that's  
24          identified and discussed is how HIV has

1 spread due to lack of public investment.

2 So do you think it might be possible  
3 for some of the federal dollars to go into  
4 reversing that cut?

5 COMMISSIONER GONZÁLEZ-SÁNCHEZ: And so  
6 I'm going to check to be absolutely sure, but  
7 I do want to let you know that my -- my  
8 thinking is that the Department of Health has  
9 taken oversight over the HIV Early  
10 Intervention. So it's not that -- we took it  
11 out of our side because DOH is embracing this  
12 new program now.

13 So it's not that we're really cutting  
14 it from -- it's no longer going to be under  
15 our jurisdiction.

16 ASSEMBLYMAN STECK: So I'm running out  
17 of time already, shockingly.

18 So there are two funds that I want to  
19 talk about for the last few minutes that I  
20 have. One is the opioid surcharge or tax  
21 that the Governor announced to much fanfare.  
22 Is that money going to treatment programs, or  
23 was it -- first of all, is it going to OASAS  
24 at all? That's the question.

1                   COMMISSIONER GONZÁLEZ-SÁNCHEZ: You  
2                   know, there are so many different surcharges  
3                   and opioid surcharges and settlements going  
4                   on. I can't really speak to that right now.  
5                   I am not sure where the opiate surcharge is  
6                   going.

7                   ASSEMBLYMAN STECK: So I understand  
8                   your answer. And in the interests of time,  
9                   let me interrupt. We really need to get an  
10                  accounting of where that's going. One of the  
11                  problems is that if the money -- again, the  
12                  Governor announced this to much fanfare. It  
13                  was supposed to be to treat people because  
14                  the opioid manufacturers have engaged in  
15                  skullduggery, it was supposed to be given  
16                  back for drug treatment. And if that's not  
17                  being -- happened, or it's going to opioid  
18                  treatment but the General Fund monies that  
19                  were going to opioid treatment were being  
20                  taken back, it's really not consistent with  
21                  what was represented.

22                  And something in the same category  
23                  that I want to ask you about is, is the  
24                  opioid settlement money -- which is similar

1           in nature -- going to OASAS? Is it being  
2           used for programs, or is it being used as a  
3           device to make sure less money from the  
4           General Fund goes to treatment programs?

5                   COMMISSIONER GONZÁLEZ-SÁNCHEZ: Yeah.  
6           So with the surcharge, I know that there is  
7           language that the anticipation is that some  
8           of the dollars will be used for OASAS  
9           prevention, treatment and recovery. I can't  
10          speak to definitively how much that is or  
11          where is it. I really can't.

12                  With the settlement money, it's the  
13          same thing. I think that's still in  
14          discussion. I think that some things are  
15          still in litigation. So I really can't speak  
16          with any certainty about where it's going,  
17          where it is. You know, I'm not trying to be  
18          evasive, I just --

19                  ASSEMBLYMAN STECK: Well, I mean, I do  
20          think, though -- I appreciate your good  
21          faith. You know, we've met and we've talked,  
22          so I get that aspect of it.

23                  But unfortunately, we do need an  
24          answer to these questions regarding these two

1           important sources of funding. So if you  
2           could subsequently supplement your testimony  
3           with an accounting as to what is happening,  
4           where those monies are, are they being used  
5           simply to, you know, reduce the amount of  
6           General Funds that go to OASAS.

7           Because our goal here, and I thought  
8           the goal of those two programs, was to  
9           increase the amount of money that was going  
10          to deal with the opioid crisis, which is in  
11          fact a crisis. So we hope you'll follow  
12          through on that. And if not, our committees  
13          certainly will.

14          Thank you very much, Commissioner.

15          COMMISSIONER GONZÁLEZ-SÁNCHEZ: Thank  
16          you. I -- okay.

17          CHAIRWOMAN WEINSTEIN: Thank you.

18          We go to the Senate now.

19          CHAIRWOMAN KRUEGER: You know, we just  
20          have our chair for a second round, so let's  
21          let the Assemblypeople complete theirs and  
22          then we'll go to our chair again.

23          CHAIRWOMAN WEINSTEIN: Okay. So we  
24          have our ranker, Assemblyman Brown, five

1 minutes.

2 ASSEMBLYMAN BROWN: Can everybody hear  
3 me?

4 COMMISSIONER GONZÁLEZ-SÁNCHEZ: Yes.

5 ASSEMBLYMAN BROWN: Okay, great.

6 Thank you, Commissioner  
7 González-Sánchez. I really appreciate the  
8 opportunity to speak with you. I was  
9 appointed to the Committee on Alcoholism and  
10 Substance Abuse. It's something that I have  
11 a personal interest in, very much so, and I  
12 look forward to working with you in the  
13 future. But I just wanted to introduce  
14 myself, number one, and get right into the  
15 questions.

16 With regard to the integration of  
17 OASAS with the new Office of Mental Health,  
18 is there a cost savings that's involved with  
19 that? And if so, do you know what it is?

20 COMMISSIONER GONZÁLEZ-SÁNCHEZ: No,  
21 there is no cost savings. The intent of this  
22 integration was for better care and delivery  
23 of services. It was never meant to have a  
24 cost savings at all.

1                   You know, if there's savings in the  
2                   near future, I guess that that will be  
3                   addressed at that point in time. But that's  
4                   not what has driven this integration piece.

5                   ASSEMBLYMAN BROWN: Okay. And are  
6                   there going to be any layoffs or terminations  
7                   as a result of the merger?

8                   COMMISSIONER GONZÁLEZ-SÁNCHEZ: Not  
9                   that I am familiar with, and not that I could  
10                  see from the way, you know, the legislation  
11                  is being drafted.

12                  ASSEMBLYMAN BROWN: Okay. And how  
13                  about will it impact at all any federal funds  
14                  that OASAS receives?

15                  COMMISSIONER GONZÁLEZ-SÁNCHEZ: It  
16                  should not, because the federal funds are  
17                  just that, and they have specific criteria.  
18                  And as we develop regulations under this new  
19                  entity, those are some of the things that  
20                  will need to be addressed within the  
21                  regulations that we develop for the new  
22                  entity.

23                  So I don't anticipate that will be a  
24                  problem. But it is something that needs to

1           be worked out once we get there.

2                   ASSEMBLYMAN BROWN: And specifically,  
3           how do you envision, as commissioner, that  
4           this merger will help deliver services to  
5           people struggling with alcoholism and  
6           substance abuse?

7                   COMMISSIONER GONZÁLEZ-SÁNCHEZ: Well,  
8           you know, too long we see that people are  
9           going back and forth. There's a percentage  
10          of individuals that suffer from both  
11          illnesses, regardless of which one came  
12          first, and they usually go in and out,  
13          recidivism, you know, a vicious circle. They  
14          go in for mental health, they get depressed,  
15          then come back out, they start -- so the idea  
16          here is to have no wrong door. You know,  
17          where an individual who comes in who has both  
18          of these disabilities or illnesses could be  
19          addressed in one whole person, rather than to  
20          be asking the individual, who's usually at  
21          their most vulnerable time, to go first into  
22          one system, get your mental health in place,  
23          if that's possible, and then go to the  
24          addiction side and get your -- you know.



1           The idea is to really be  
2           patient-centered, be comprehensive, and  
3           deliver both cares at the same time for the  
4           individual.

5           ASSEMBLYMAN BROWN: Are there any  
6           downsides that have been identified? And  
7           what I'm speaking about specifically is in  
8           the SAGE Commission report in 2011, did they  
9           identify any downside to a potential  
10          integration?

11          COMMISSIONER GONZÁLEZ-SÁNCHEZ: I  
12          think back then there were other concerns in  
13          place. You know, funding. You know, what  
14          does that mean, is one side going to lose  
15          funding, is the other one going to absorb the  
16          funding. I think there were concerns along  
17          those lines.

18          And is one entity, since it's bigger,  
19          going to, you know, take over the other  
20          entity. That is why this is not a merger,  
21          this is the creation of a brand-new  
22          department. It's not one department taking  
23          other another, it's adapting the best of both  
24          parts to create this comprehensive,

1 integrated department to better address the  
2 needs of the dual population.

3 So I couldn't speak to -- I'm sure  
4 some folks may find that there are, you know,  
5 negatives to this. But I think people were  
6 more concerned about budgets. And like I  
7 said, all of those things will be addressed  
8 as we move forward.

9 ASSEMBLYMAN BROWN: I'm sure you're  
10 aware, though, that the budget contains the  
11 prospect of legalizing cannabis in New York  
12 State. Have you been consulted at all with  
13 the potential impacts on mental health of the  
14 residents of the state in connection with the  
15 prospect of legalizing it?

16 COMMISSIONER GONZÁLEZ-SÁNCHEZ: Yeah.  
17 We've been in conversation with the  
18 Department of Health and others, as well as  
19 OMH. And we've been in discussion, active  
20 discussions of impacts.

21 From my stance -- I don't want to  
22 speak for Ann, but from my stance, you know,  
23 the fact that the creation of this department  
24 to monitoring, to have oversight of this

1           cannabis program, speaks to, you know, us  
2           having a much more stringent approach on it.  
3           And, you know, it's going -- it's better to,  
4           you know, monitor it.

5                     Right now we have people in our system  
6           that, you know, are actively using, and no  
7           one has any oversight or monitoring. So I  
8           feel comfortable that with this sense of  
9           oversight, that things will work out.

10                    CHAIRWOMAN WEINSTEIN: Thank you --

11                    ASSEMBLYMAN BROWN: specifically --

12                    CHAIRWOMAN WEINSTEIN: Excuse me.  
13           Excuse me. Assemblyman, your -- the time has  
14           expired.

15                    ASSEMBLYMAN BROWN: May I put a  
16           question in writing to the commissioner?

17                    CHAIRWOMAN WEINSTEIN: I was just  
18           about to suggest that, that you should send a  
19           question to Assemblyman Ra and we will make  
20           sure that it gets to the commissioner.

21                    ASSEMBLYMAN BROWN: Very well.

22                    CHAIRWOMAN WEINSTEIN: So we are now  
23           going to go to the Senate. I think you have  
24           a -- I saw that Senator Hinchey --

1                   CHAIRWOMAN KRUEGER: Thank you very  
2 much.

3                   Senator Michelle Hinchey.

4                   SENATOR HINCHEY: Hi. Thank you very  
5 much.

6                   And Commissioner, thank you for being  
7 here.

8                   I represent Ulster and Greene  
9 Counties, both of which flip-flop between  
10 being the highest in opioid overdose deaths  
11 each year in New York State. These are both  
12 largely rural counties with limited hospitals  
13 -- in fact, Greene County doesn't even have a  
14 hospital -- also with limited access to  
15 broadband services.

16                   This has only gotten worse as the  
17 COVID-19 pandemic has led to increased  
18 isolation.

19                   How can we work to better fight  
20 substance use disorder in these more rural  
21 counties? And what steps does the budget  
22 take to prioritize services in our  
23 hard-to-reach areas?

24                   COMMISSIONER GONZÁLEZ-SÁNCHEZ: So

1           that's a great question as well. I mean,  
2           broadband is an issue. But I think in  
3           general in the budget, you know, there's a  
4           process to try to address that.

5                     But during the pandemic we realized  
6           that we have to use very innovative,  
7           nontraditional means to be able to work with  
8           people not only in rural areas, but, you  
9           know, all over the state.

10                    And so, you know, telehealth has been  
11           very much a big issue for us to address needs  
12           in some of the rural areas. And you may say,  
13           Well, but if you don't have the broadband --  
14           but that's where telephonics comes in. And  
15           we've been very proactive and vocal about --  
16           it's not only telehealth, we need to  
17           envision, you know, telephonics.

18                    You know, we also have these Centers  
19           of Treatment Innovation -- we call them  
20           COTIs -- where we have mobile capacity. And  
21           the idea is to go and reach out to these more  
22           rural areas to ensure that we're having --  
23           we're providing access to individuals that  
24           need it.

1                   And so we're going to continue to look  
2                   at how we could do that into the future --  
3                   you know, continue to mobilize and be more  
4                   receptive to that.

5                   SENATOR HINCHEY:   Thank you.   I  
6                   appreciate it.   It's a really big deal for  
7                   our communities, and any way we can work  
8                   together to expand those services, I would  
9                   love to do so.

10                  My final question is while our  
11                  experience with COVID over the last year has  
12                  shown to have the unfortunate impact of  
13                  exacerbating alcohol and substance abuse, it  
14                  has also pulled back the cover of new ways to  
15                  reach people seeking treatment, especially in  
16                  terms of the use of virtual platforms and the  
17                  anonymity it provides.

18                  Does OASAS plan on using these virtual  
19                  platforms to encourage and cultivate safe,  
20                  non-judgmental spaces for people to seek  
21                  treatment going forward, even as the pandemic  
22                  hopefully subsides?

23                  COMMISSIONER GONZÁLEZ-SÁNCHEZ:   Yes,  
24                  absolutely.   You know, the pandemic has shown

1           us that there are nontraditional and more  
2           progressive means of addressing addiction  
3           than we've ever thought of.

4                   And absolutely, we don't want to go  
5           backwards. As a matter of fact, we're trying  
6           to advocate for more flexibility on the  
7           federal level to implement some of these  
8           practices that we have seen have been more,  
9           you know, productive -- telephonics,  
10          telehealth, doing induction of buprenorphine,  
11          you know, virtually. These are all things  
12          that we want to continue.

13                   I know we have waivers from the  
14          federal government, but we're going to  
15          continue to push for the feds to really give  
16          us more flexibility, because I think that's  
17          what we need.

18                   SENATOR HINCHEY:   Great. Thank you  
19          very much.

20                   CHAIRWOMAN KRUEGER: Thank you.  
21          Assembly.

22                   CHAIRWOMAN WEINSTEIN: So we go --  
23          yes, we go to Assemblyman Byrne, then  
24          Epstein, then Griffin before we go back to

1 the Senate.

2 ASSEMBLYMAN BYRNE: Can you hear me?

3 COMMISSIONER GONZÁLEZ-SÁNCHEZ: Yes.

4 ASSEMBLYMAN BYRNE: Thank you,  
5 Commissioner. This was asked by one of my  
6 colleagues earlier, but I want to just  
7 elaborate on it a little bit more. The  
8 Jail-Based Substance Use Disorder Treatment  
9 and Transition Services, which was previously  
10 funded at \$3.75 million, had a 50 percent  
11 reduction, lowering it in the Executive's  
12 budget proposal by 1.9 -- or to \$1.9 million.  
13 Is that correct?

14 COMMISSIONER GONZÁLEZ-SÁNCHEZ: Yes.  
15 Hold on one second. My -- my computer is  
16 going off.

17 (Discussion off the record.)

18 ASSEMBLYMAN BYRNE: Chair, do you mind  
19 just upping the clock?

20 COMMISSIONER GONZÁLEZ-SÁNCHEZ: Oh,  
21 I'm sorry. Okay, sorry. I'm sorry.

22 So you asked me if --

23 ASSEMBLYMAN BYRNE: The Jail-Based  
24 Substance Use Disorder Treatment and



1 Transition Services Program, cut in half from  
2 \$3.75 million to \$1.9 million. I want to  
3 confirm that was correct.

4 COMMISSIONER GONZÁLEZ-SÁNCHEZ: Yes.

5 ASSEMBLYMAN BYRNE: And I know you  
6 mentioned earlier, you referenced some of the  
7 changes in the law -- namely, bail reform --  
8 for a reduced prison population in our county  
9 jails as part of the cause for that.

10 COMMISSIONER GONZÁLEZ-SÁNCHEZ: Yes,  
11 absolutely.

12 ASSEMBLYMAN BYRNE: Is it not also  
13 correct that county governments apply for  
14 this funding, it's not automatic to county  
15 governments, correct?

16 COMMISSIONER GONZÁLEZ-SÁNCHEZ: I'm  
17 not sure what that is. I know that county  
18 government advocated for this money.

19 We, together with the county and the  
20 local jails, determined how the money was  
21 going to be allocated, based on their needs  
22 and their ability and willingness to do this  
23 program --

24 ASSEMBLYMAN BYRNE: Thank you,

1 Commissioner. I apologize for interrupting,  
2 but I have a limited amount of time. I just  
3 want to make sure I get my point across to  
4 advocate for this.

5 I do believe there's definitely still  
6 need. And when we look at the prison  
7 population -- and I know you're passionate  
8 about this too, and I don't doubt that for a  
9 second. But we can't look at these people  
10 just as simply numbers, because the need for  
11 the people suffering from addiction is very,  
12 very real.

13 And I wanted to bring this up because  
14 there is a constituent in Putnam County,  
15 Nancy Bruno, who lost her son, Chris Bruno,  
16 back in 2019. And when your back is against  
17 the wall -- and it's a shame in our state and  
18 society that this is -- in some ways, it's  
19 the last opportunity to try to get someone  
20 help: It was getting her son into jail to  
21 get services.

22 And when he was in Putnam County Jail,  
23 he actually got tremendous services, he  
24 attended Bible study, AA, got services. He

1           was released from the county jail on July 8th  
2           and died on July 10th.

3                     And it's tragic, but we need to  
4           know -- like at least acknowledge that the  
5           services in that county jail were extremely  
6           important and we shouldn't be cutting it  
7           back, we should actually be expanding it.

8                     And I wanted to make sure that I got  
9           that point across that we could actually try  
10          to bring that back up, bring it back to at  
11          least where it was. In our body, in the  
12          Assembly and the Senate, we should seriously  
13          be talking about expanding it so when these  
14          people leave the correctional facility,  
15          they're not just put back in the same  
16          situation and we give them other alternative  
17          pathways to recovery and help.

18                    Thank you.

19                    CHAIRWOMAN WEINSTEIN: Thank you.

20                    We go to Assemblyman Epstein, three  
21          minutes.

22                    THE MODERATOR: I don't know if he's  
23          with us. I'm asking him to unmute, but --

24                    (Pause.)

1                   CHAIRWOMAN WEINSTEIN: So then let's  
2 go to Assemblywoman Griffin for three  
3 minutes.

4                   ASSEMBLYWOMAN GRIFFIN: Okay, thank  
5 you.

6                   Good afternoon, Commissioner  
7 González-Sánchez. I am -- I have two  
8 questions, so I'll ask them and then I'll ask  
9 if you can respond, time permitting.

10                  I am deeply, deeply concerned about  
11 the many proposed cuts to many essential  
12 programs that OASAS sponsors. I represent  
13 Southwestern Nassau County, where the opioid  
14 epidemic is significant and on the rise. And  
15 this is a time we should be providing more  
16 services and not less services.

17                  So my first question is, how will  
18 OASAS compensate if these proposed cuts  
19 become permanent? And then my other question  
20 is if marijuana is legalized, what plan does  
21 OASAS have in place to provide awareness  
22 about driving under the influence, health  
23 concerns, especially due to COVID -- smoking  
24 marijuana can exacerbate COVID symptoms --

1           and addiction?

2                       So I just wondered if you can answer  
3       those two questions.

4                       COMMISSIONER GONZÁLEZ-SÁNCHEZ: I'll  
5       try to do them quickly.

6                       So the cuts that have been -- or the  
7       savings that have been put forth, they're  
8       not -- they're not terminating altogether any  
9       services. And so it's been very tough, I  
10      can't sit here and say it was easy to do  
11      this. It wasn't. But we've tried to  
12      minimize it to the best of our ability.

13                      And so as always, we will continue to  
14      work with our providers. None of the  
15      providers will go out of business per se, and  
16      we will continue to support them to the best  
17      of our ability given, you know, whatever  
18      funding we get.

19                      With respect to the marijuana, we are  
20      already looking at, you know, best practices  
21      from other states that have already legalized  
22      it, and we plan to do a very aggressive  
23      campaign, similar to what we did years ago  
24      with underage drinking, to ensure that people

1 are aware and know more about cannabis and so  
2 on and so forth.

3 ASSEMBLYWOMAN GRIFFIN: Okay, thank  
4 you very much.

5 COMMISSIONER GONZÁLEZ-SÁNCHEZ: Sorry.

6 ASSEMBLYWOMAN GRIFFIN: That's okay.

7 CHAIRWOMAN WEINSTEIN: So I think we  
8 go back now to the Senate for the second  
9 round.

10 CHAIRWOMAN KRUEGER: Thank you.

11 ASSEMBLYMAN EPSTEIN: Hi, sorry about  
12 that. I -- sure.

13 CHAIRWOMAN KRUEGER: Hello, am I on?

14 ASSEMBLYMAN EPSTEIN: Can you hear me?

15 CHAIRWOMAN WEINSTEIN: Yes, we can  
16 hear you.

17 CHAIRWOMAN KRUEGER: Okay, thank you.  
18 Back to me, or do we want to go to Harvey?  
19 What do you prefer, Helene?

20 CHAIRWOMAN WEINSTEIN: Harvey, you're  
21 here now?

22 ASSEMBLYMAN EPSTEIN: Yeah, I'm here.

23 CHAIRWOMAN WEINSTEIN: Okay.

24 ASSEMBLYMAN EPSTEIN: Can I go? Can I

1 go, Helene?

2 CHAIRWOMAN KRUEGER: Sure.

3 CHAIRWOMAN WEINSTEIN: Yes. Next time  
4 please let me know if you're going to be  
5 missing, because according to our protocol,  
6 if you're not here when your name is called,  
7 we don't go back. But go ahead.

8 ASSEMBLYMAN EPSTEIN: Okay, sorry.  
9 Yeah, I'm sorry, I just got up for a second.  
10 Yeah, I'm here.

11 So, Commissioner, I just have a  
12 question about the opioid in prisons. In  
13 2019, what was the prison population.

14 COMMISSIONER GONZÁLEZ-SÁNCHEZ: I  
15 don't have that number off --

16 ASSEMBLYMAN EPSTEIN: Do you know in  
17 2020 what the prison population was?

18 COMMISSIONER GONZÁLEZ-SÁNCHEZ: I  
19 don't have those numbers off the top, I'm  
20 sorry.

21 ASSEMBLYMAN EPSTEIN: Because you said  
22 you reduced a program by 50 percent because  
23 you said there was a substantial reduction in  
24 the prison population. What was that?

1                   COMMISSIONER GONZÁLEZ-SÁNCHEZ: In --  
2                   not prison, in the jails, New York State  
3                   jails.

4                   ASSEMBLYMAN EPSTEIN: The jail  
5                   population, yeah.

6                   COMMISSIONER GONZÁLEZ-SÁNCHEZ: Okay.  
7                   And DCJS did some -- they're the ones that  
8                   actually covered this. And my understanding  
9                   is that recently it went down by 35 percent,  
10                  the jail population went down by 35 percent.

11                  ASSEMBLYMAN EPSTEIN: And you know the  
12                  jail population's gone back up this year,  
13                  right?

14                  COMMISSIONER GONZÁLEZ-SÁNCHEZ: I  
15                  couldn't speak to that. I don't have that  
16                  data right here.

17                  ASSEMBLYMAN EPSTEIN: I'm just  
18                  wondering, you're proposing a 50 percent cut  
19                  in your program that affects people who are  
20                  in jails when we've seen a huge -- you know,  
21                  we see a huge problem in those and we see a  
22                  program that's really productive and  
23                  effective.

24                  I'm just wondering, if we don't see a



1           real decline in the population and we don't  
2           see a decline in people who have addiction  
3           issues -- we've probably seen an increase  
4           during COVID -- I'm wondering -- I just still  
5           don't understand the rationale you gave to  
6           Assemblyman Abinanti about cutting the  
7           program. I don't understand it.

8                   COMMISSIONER GONZÁLEZ-SÁNCHEZ: Well,  
9           like I said, we took into account the  
10          decrease in population in the jails and we  
11          figured that cutting the funding by that  
12          amount, 1.9, was still going to allow the  
13          jails, the local jails, to continue doing the  
14          counseling, the assessments and the referrals  
15          that they're currently doing.

16                 Remember, this money is going to  
17          community-based organizations that are coming  
18          into the jails to do the assessments and the  
19          referrals for this jail population.

20                 You know, I --

21                 ASSEMBLYMAN EPSTEIN: Commissioner,  
22          let's say your -- I only have a minute left,  
23          but let's say your assumptions are wrong,  
24          that we don't see a decrease, we see an

1           increase in opioid usage and we see a huge,  
2           growing problem which we've seen across the  
3           country during COVID. Is this then making a  
4           problem worse, Commissioner?

5                   COMMISSIONER GONZÁLEZ-SÁNCHEZ: We  
6           haven't seen that right now. All I can tell  
7           you is that we will continue to be vigilant.  
8           And if what you're indicating is accurate, we  
9           will try to address it as we move forward.

10                   ASSEMBLYMAN EPSTEIN: I'm going to  
11           encourage you to do that. Senator Harckham  
12           already raised this issue earlier, that we  
13           don't have good numbers for 2021 or 2020.  
14           But we've seen anecdotally the increases  
15           across the country, an increase in opioid  
16           deaths across the country. I would hope  
17           you'd reconsider this, knowing that this  
18           could be lifesaving for many New Yorkers who  
19           are behind bars and who really need the help  
20           that they should get from New York State.

21                   Thank you. My time has expired.  
22           Thank you, Madam Chair, sorry I was not here  
23           earlier.

24                   COMMISSIONER GONZÁLEZ-SÁNCHEZ: Thank

1           you.

2                   CHAIRWOMAN WEINSTEIN:   Sure.

3                   Let's go to the Senate.

4                   CHAIRWOMAN KRUEGER:   So Pete Harckham  
5           for his five minutes as ranker, second round.

6                   SENATOR HARCKHAM:   Thank you very  
7           much, Madam Chair.

8                   Commissioner, Assemblyman Epstein was  
9           a great segue to where we left about the  
10          Department of Health numbers being two years  
11          old.

12                   Have you spoken with Commissioner  
13          Zucker about this?   And what are they doing  
14          to improve this situation?

15                   COMMISSIONER GONZÁLEZ-SÁNCHEZ:   I  
16          really can't speak for DOH.

17                   What I can tell you is that what we  
18          are doing is we're looking at CDC data, which  
19          is, you know, between six months to maybe a  
20          year old.   And that's the data that we're  
21          currently using with respect to the  
22          overdoses.

23                   You know, I also want to interject  
24          that, you know, this -- you know, overdose

1 data is very complicated to gather. It has  
2 to go through various entities. Right? And  
3 it takes a while to actually collect and then  
4 extrapolate and then put into an actual  
5 report.

6 So we're trying the best that we can,  
7 you know, to work with the localities, the  
8 local, you know, OMEs, the MEs, and to try to  
9 get the data so that we are not looking at  
10 things in a vacuum.

11 SENATOR HARCKHAM: Yeah. And again, I  
12 would add that this is not your direct  
13 oversight area, but other states do it on a  
14 monthly basis, and we do COVID numbers on a  
15 daily basis. I think the Department of  
16 Health can do a lot better than two years.

17 Another issue that impacts your  
18 services but again is not under your direct  
19 control -- but I'd like you to comment, if  
20 you're comfortable -- is the Office of  
21 Medicaid Inspector General.

22 I think we would agree that we want  
23 him to do audits to ferret out abuse and  
24 fraud and outright waste. But we've seen

1 examples where extremely punitive fines have  
2 been levied for clerical errors. And there  
3 is a facility in New York City that had \$400  
4 worth of clerical errors; they were levied a  
5 withholding of \$7.5 million. They decided to  
6 close their doors. We lost 1500 treatment  
7 slots. The same thing is happening to a  
8 provider in upstate New York.

9 So you're jumping through hoops in  
10 your agency trying to create new beds and new  
11 treatment slots, and we have the Office of  
12 the Medicaid Inspector General with these  
13 draconian audits that are causing large  
14 numbers of beds to be lost.

15 Is there any coordination going on  
16 there?

17 COMMISSIONER GONZÁLEZ-SÁNCHEZ: Yes.  
18 You know, I have to start off by  
19 acknowledging we're very much aware and we  
20 are in ongoing conversation with OMIG and our  
21 providers around this issue, trying to see  
22 how -- you know, explore ways that we could  
23 adjust this audit, these audits, to make it  
24 more in line with what OMIG has to do --

1           that's their responsibility -- but also  
2           ensuring that our OTPs are not destabilized  
3           and will still remain in operation. We're in  
4           active discussion along those lines.

5                     But to the one provider who did close  
6           shop, I just want to make sure that they  
7           didn't close all their services. And  
8           everyone who was left without that particular  
9           clinic that they closed down, we found a new  
10          provider. So nobody was dropped, and nobody  
11          was left without services.

12                    But I do understand --

13                    SENATOR HARCKHAM: That does upset the  
14          demand for other people, though.

15                    COMMISSIONER GONZÁLEZ-SÁNCHEZ: We  
16          currently have enough capacity, but I do  
17          understand it's not an issue of capacity,  
18          it's the time, the period and how these  
19          audits are going. But we are actively  
20          talking with OMIG to see how we could come to  
21          some middle grounds.

22                    SENATOR HARCKHAM: All right, thank  
23          you.

24                    In the last 30 seconds could you just

1 speak to how successful, or not, the  
2 scholarship program was that we established  
3 two years ago, and the demand for that?

4 COMMISSIONER GONZÁLEZ-SÁNCHEZ: Oh,  
5 great, thank you so much. I first have to  
6 start off by thanking you for that. It's  
7 been very successful. I think it was  
8 \$350,000. We've used like 275,000. Which  
9 shows you that it has been very successful,  
10 not only for individuals but for getting  
11 people into the field to work with our  
12 population. So it's been very successful.

13 SENATOR HARCKHAM: Terrific. Thank  
14 you very much, Commissioner.

15 CHAIRWOMAN KRUEGER: Thank you.

16 CHAIRWOMAN WEINSTEIN: Thank you. We  
17 have an Assemblymember who wants to ask a  
18 question. So Assemblyman Braunstein.

19 ASSEMBLYMAN BRAUNSTEIN: Thank you,  
20 Chair Weinstein. Can you hear me?

21 COMMISSIONER GONZÁLEZ-SÁNCHEZ: Yes.

22 ASSEMBLYMAN BRAUNSTEIN: Thank you,  
23 Commissioner.

24 My question is -- it's unfortunate

1           that we don't have data on overdose deaths  
2           for the most recent two years. By all  
3           indications -- go ahead, you were about to  
4           say something?

5                   COMMISSIONER GONZÁLEZ-SÁNCHEZ: Yeah,  
6           I was going to say with respect to the latest  
7           CDC, which is up to June of 2020, we do have  
8           data. And the data indicates that there was  
9           like 3,500 deaths in that period of time.

10                  ASSEMBLYMAN BRAUNSTEIN: Is that an  
11           increase over previous years?

12                  COMMISSIONER GONZÁLEZ-SÁNCHEZ: It's a  
13           slight increase, yes.

14                  ASSEMBLYMAN BRAUNSTEIN: So because of  
15           the increase, it's becoming more and more  
16           common for states -- nine states, most  
17           recently New Jersey, have started requiring  
18           doctors to coprescribe an opioid antagonist  
19           when -- well, like Naloxone, Naloxone, when  
20           prescribing a certain level of opioids. Have  
21           you considered this as part of your policy  
22           moving forward.

23                  COMMISSIONER GONZÁLEZ-SÁNCHEZ: This  
24           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,

1           we encourage doctors to coprescribe, and we  
2           think that's enough -- based on this data  
3           that only 1.5 percent of those at high risk  
4           are getting coprescribed, I think it's time  
5           to reassess that argument and consider  
6           mandating that they coprescribe.

7                     Okay, thank you for the time. And I  
8           hope we could talk moving forward -- you  
9           know, get an idea of the financial impact.  
10          Obviously that's something to consider as  
11          well. Thank you.

12                    COMMISSIONER GONZÁLEZ-SÁNCHEZ: Okay,  
13          thank you.

14                    CHAIRWOMAN WEINSTEIN: Thank you.

15                    We go back to the Senate, to close.

16                    CHAIRWOMAN KRUEGER: Thank you.

17                    A couple of the other questions now  
18          drag me into asking you a couple of  
19          questions. So marijuana, while we're  
20          discussing legalizing it, even within this  
21          budget, possibly, it's the most used drug in  
22          the State of New York in the illegal  
23          category.

24                    So how many of your slots are filled

1 with people who have a marijuana addiction?

2 COMMISSIONER GONZÁLEZ-SÁNCHEZ: Well,  
3 we've been looking at that. I don't have the  
4 exact number. But it's very clear that folks  
5 that are on marijuana should not be filling  
6 those critical inpatient programs. This is  
7 something that could be treated in the  
8 community, and those beds should really be  
9 held for those that are more on opioids,  
10 synthetics, much stronger drugs per se.

11 CHAIRWOMAN KRUEGER: Thank you. How  
12 many marijuana deaths do you see each year?

13 COMMISSIONER GONZÁLEZ-SÁNCHEZ: I  
14 don't -- I don't have that information. I  
15 will try to look for it. I don't have it.

16 CHAIRWOMAN KRUEGER: So the CDC and  
17 the National Institute on Drug Abuse say  
18 none, because you don't actually die or cause  
19 any long-term physical illnesses from  
20 marijuana use above the age of 21.

21 So happily, I think you would find  
22 none, because we probably are consistent with  
23 the rest of the world that way.

24 And then I also heard -- but I don't

1 know if it was a fair question of you, since  
2 I don't think you're a medical doctor --  
3 someone asked you about the dangers of  
4 marijuana and COVID. But when I looked, I  
5 could find no research showing cannabis has  
6 anything to do with putting you at higher  
7 risk of COVID or illness with COVID -- in  
8 fact, just the opposite.

9 Have you heard anything about that?

10 COMMISSIONER GONZÁLEZ-SÁNCHEZ: No, I  
11 haven't.

12 CHAIRWOMAN KRUEGER: But again, that's  
13 not really your field anyway, fair enough?

14 COMMISSIONER GONZÁLEZ-SÁNCHEZ:  
15 That's fair enough.

16 CHAIRWOMAN KRUEGER: Thank you very  
17 much. Thank you.

18 I think -- well, if there's no more  
19 Assembly, then I'm going to actually excuse  
20 you and thank you for your time with us  
21 today.

22 And now we're going to move to the  
23 New York State Justice Center for the  
24 Protection of People With Special Needs,

1 Denise Miranda, executive director.

2 And because of the dual  
3 responsibilities of this agency, both  
4 Senator Brouk and Senator Mannion and  
5 Assemblymember Gunther and Assemblymember  
6 Abinanti are all considered as chairs of the  
7 relevant committees, and each of them will  
8 get 10 minutes if they need it. They don't  
9 have to use it.

10 So I'll first turn it over to Denise  
11 for her 10 minutes of testimony.

12 Good afternoon.

13 EXECUTIVE DIRECTOR MIRANDA: Good  
14 afternoon. Good afternoon, Chairs Krueger,  
15 Weinstein, Mannion and Gunther, as well as  
16 other distinguished members of the Senate and  
17 Assembly. My name is Denise Miranda, and I'm  
18 the executive director of the New York State  
19 Justice Center for the Protection of People  
20 With Special Needs.

21 I would like to thank you for the  
22 opportunity to testify regarding Governor  
23 Cuomo's Executive Budget proposal.

24 Today I come before you on behalf of

1           the more than 1 million New Yorkers in care  
2           with special needs. The Justice Center's  
3           work is directed by our steadfast commitment  
4           to protecting vulnerable people.

5                       While it's no surprise that our agency  
6           has been impacted by the COVID-19 health  
7           crisis, I want to assure you that our  
8           commitment has not wavered. When I appeared  
9           before the Legislature last year, I spoke  
10          about how I see the relatively young age of  
11          the Justice Center as an advantage. It  
12          allows us to pivot quickly when circumstances  
13          necessitate change. This has only been more  
14          evident during this global health crisis.  
15          We're continually evaluating our processes  
16          and exploring ways to operate more  
17          efficiently, while also collaborating with  
18          stakeholders at all levels.

19                      The role we play in keeping vulnerable  
20          populations safe from abuse and neglect  
21          cannot change, even in the face of COVID-19.  
22          Throughout the pandemic, our call center has  
23          continued taking reports around the clock.  
24          Our team of highly trained investigators has

1           worked tirelessly to hold the quality of  
2           investigations to the highest standard while  
3           ensuring the safety of everyone involved.  
4           Our investigators have used telephone and  
5           video interviewing techniques, when  
6           appropriate, and followed all health  
7           guidelines when visiting provider facilities  
8           to do in-person work.

9                     Our advocates have continued victim  
10           advocacy and family support work with  
11           necessary modifications. Some family members  
12           and individuals receiving services no longer  
13           felt comfortable appearing in person for  
14           interviews. Our advocates adjusted quickly,  
15           using technology to support these individuals  
16           remotely.

17                    The Justice Center understands that  
18           protecting people from abuse and neglect goes  
19           beyond investigations. We work towards the  
20           goal of preventing these incidents from  
21           happening. It is imperative that the global  
22           health crisis not slow this work down.

23                    In 2020 the agency created two new  
24           abuse prevention toolkits for use by

1 providers, staff and individuals receiving  
2 services. These toolkits are created through  
3 the analysis of trends in Justice Center  
4 cases. One recently released toolkit focuses  
5 on proper wheelchair securement during  
6 transport. The other highlights the benefits  
7 of global positioning systems in agency  
8 vehicles.

9 GPS allows providers to monitor  
10 vehicles transporting individuals receiving  
11 services and address issues like speeding or  
12 unauthorized stops.

13 We have also modified processes, where  
14 appropriate, to support providers and the  
15 dedicated workforce. We all recognize that  
16 the COVID-19 pandemic has brought  
17 unprecedented challenges such as staffing  
18 shortages. To respond to this challenge, and  
19 under authority granted by an executive  
20 order, we created an expedited background  
21 check process for workers that are not new to  
22 the system of care that is overseen by the  
23 Justice Center. This allowed providers to  
24 hire staff quickly to fill the gaps without



1           compromising the integrity of the service  
2           delivery system or the quality of our  
3           background checks.

4           The Justice Center also evaluated and  
5           improved several internal processes during  
6           2020. Staff from several units were combined  
7           to create a more efficient approach to our  
8           litigation work. This promotes continuity  
9           from the launch of an investigation through  
10          appeal, ensuring due process for all parties.

11          Additionally, we continue to expand  
12          our three-business-day intake model. The  
13          goal is to more accurately clarify  
14          allegations when they are made, which can  
15          have the added benefit of reducing cycle time  
16          and enhancing the quality of investigations.

17          While we all recognize the  
18          difficulties experienced this past year, we  
19          have also found that some of our new  
20          processes will be useful when this health  
21          crisis is over. For example, we implemented  
22          virtual appeal hearings and have found this  
23          to be an efficient way to carry on this work  
24          when in-person appearances are not feasible.

1           Further, the remote environment allows  
2           us to do several different types of  
3           interviews without the burden of travel.  
4           These efficiencies will be carried forward as  
5           mutually beneficial to investigators and  
6           interviewees alike.

7           Finally, we all know the impact of the  
8           COVID-19 pandemic extended far beyond the  
9           Justice Center's work. New Yorkers needed  
10          help from state government in ways never seen  
11          before. Justice Center staff recognized the  
12          depth of the crisis and stepped up, assisting  
13          with things like unemployment claims, COVID  
14          testing scheduling, and paid family leave  
15          calls.

16          Last year I closed my remarks by  
17          saying the safety and well-being of the  
18          individuals under our jurisdiction remains  
19          the foundation of everything we do. That has  
20          certainly taken on new meaning. The COVID-19  
21          health crisis has challenged the work of  
22          government at all levels, and the  
23          Justice Center is no exception. But I can  
24          attest that the agency has risen to meet this

1 challenge.

2 The Justice Center's ability to adapt  
3 quickly and adjust business practices has  
4 allowed us to carry on our critical mission.  
5 We will take the lessons we have learned and  
6 continue to improve our work so we can serve  
7 New Yorkers with special needs to the very  
8 best of our ability.

9 Again, thank you for this opportunity  
10 to report on important work, and I welcome  
11 any questions you may have.

12 CHAIRWOMAN KRUEGER: Thank you very  
13 much.

14 I think our first questioner will be  
15 Senator John Mannion.

16 SENATOR MANNION: Thank you,  
17 Commissioner --

18 CHAIRWOMAN KRUEGER: If you're ready.  
19 If not, it's okay. I could also call on  
20 Samra Brouk if you'd prefer.

21 SENATOR MANNION: No, I'm here. I'm  
22 here. I was just unmuting, so I apologize  
23 and appreciate the patience. So thank you.

24 Thank you, Commissioner -- or Director

1           Miranda, I'm sorry -- for being here today.  
2           And I think we all agree that the state must  
3           take all allegations of abuse very seriously  
4           and investigate each one. And I appreciate  
5           all the work that the Justice Center does.

6                     Two quick questions. Number one, in  
7           Part EE of the Executive Budget it proposes  
8           getting rid of the adult home advocacy and  
9           adult home resident council programs. And as  
10          you know, these programs provide residents  
11          with education and awareness of their rights.

12                    Who is going to educate these  
13          residents once the program is eliminated?

14                   EXECUTIVE DIRECTOR MIRANDA: Sure. So  
15          thank you for that question.

16                    Difficult times call for difficult  
17          choices. And I don't think it is lost on any  
18          of us that we are in the midst of not only a  
19          health crisis but an economic and fiscal  
20          crisis.

21                    So the Justice Center was tasked with  
22          evaluating all of our functions. And in  
23          looking at our core functions, preventing  
24          abuse and neglect remains a core function.

1           This program is a legacy program that we  
2           absorbed from C2C. And originally, when it  
3           was enacted, it came with appropriations.  
4           When it arrived at the Justice Center upon  
5           that transfer, it did not bring those funds.

6                       So unfortunately, despite the  
7           incredible work that I know is done by the  
8           individuals in the nonprofit world, and the  
9           advocates, we had to make a choice. And I  
10          will say the work that they are doing is  
11          extremely important. I myself come from the  
12          advocacy world, spent countless years in the  
13          nonprofit world, and I certainly appreciate  
14          the importance of knowing-your-rights  
15          trainings.

16                      But we had to make a decision with  
17          respect to our core functions for abuse and  
18          neglect and ensure that we were not shaving  
19          off staff through layoffs or any other areas  
20          that would compromise our core mandate and  
21          mission.

22                      SENATOR MANNION: Got it. But  
23          obviously this is important information, so  
24          how are they actually going to receive this

1 information without that part of the program  
2 being in place?

3 EXECUTIVE DIRECTOR MIRANDA: Well,  
4 certainly I expect that the nonprofits will  
5 have to evaluate their priorities and  
6 determine whether this is something they can  
7 absorb within their budgets. I can only  
8 speak to the fact that the Justice Center is  
9 not in a position to move forward with a  
10 contract at this point.

11 SENATOR MANNION: I understand. Okay,  
12 thank you.

13 The Justice Center also has a lawsuit  
14 coming before the Court of Appeals  
15 challenging the legal authority of the  
16 Justice Center. So should that lawsuit be  
17 decided against the Justice Center, how do  
18 you see that decision affecting operations  
19 and the ability for them to investigate --  
20 for you to investigate, excuse me. Thank  
21 you.

22 EXECUTIVE DIRECTOR MIRANDA: Sure. So  
23 I think you're referring to the  
24 constitutional challenge which will be argued

1 before the Court of Appeals, as you correctly  
2 noted, next week.

3 We're very confident that we will  
4 prevail. The issue there is the  
5 constitutional authority, and the Legislature  
6 has granted this power to the Justice Center.  
7 There is nothing in the legislation -- I'm  
8 sorry, there is nothing in the Constitution  
9 that prevents the Legislature from actually  
10 granting prosecutorial authority to an  
11 executive agency. In fact, county DAs derive  
12 their power from the legislation as well.

13 That said, the work that we do as it  
14 relates to the criminal work is very  
15 important work. But thankfully there's a low  
16 number of criminal incidents that actually  
17 occur. The majority of the work undertaken  
18 by this agency really flows throughout our  
19 administrative work, where we're able to  
20 substantiate individuals who may be  
21 committing egregious acts of abuse and  
22 neglect, depending on the category level.

23 So I do not foresee, even in the  
24 worst-case scenario, that we do not prevail

1           in this argument, it having the great impact  
2           perhaps that people are concerned about.

3           I also want to add that we have an  
4           incredibly cooperative and collaborative  
5           relationship with all 62 county DAs, and we  
6           work very well. And it's our expectation  
7           that irrespective of the outcome next week,  
8           that we will continue to work with them.

9           Our priority is ensuring that bad  
10          actors are removed from -- the ability from  
11          having the opportunity, quite frankly, to  
12          abuse individuals who are receiving services.  
13          And so we take that obligation very  
14          seriously, and we will work with them hand in  
15          hand irrespective of the outcome.

16          SENATOR MANNION: Thank you for that.  
17          I appreciate it.

18          If I can go back to the original  
19          question, you know, as I was a little  
20          thoughtful about it. You spoke about how the  
21          nonprofit providers would hopefully pick up  
22          that part of the information transmitting to  
23          individuals or their families.

24          Are they aware that this is a service



1           that's being pulled back?

2           EXECUTIVE DIRECTOR MIRANDA: Our  
3           agency has had those discussions.

4           SENATOR MANNION: Okay. Thank you  
5           very much. I appreciate it.

6           EXECUTIVE DIRECTOR MIRANDA: Thank  
7           you.

8           CHAIRWOMAN KRUEGER: Thank you.  
9           Assembly.

10          CHAIRWOMAN WEINSTEIN: So we'll go to  
11          our chair, then, of People with Disabilities,  
12          Assemblyman Abinanti.

13          ASSEMBLYMAN ABINANTI: Thank you. I'm  
14          not sure what's the proper title. Director,  
15          is that what I call you, or -- I'm not sure.

16          EXECUTIVE DIRECTOR MIRANDA: Director.

17          ASSEMBLYMAN ABINANTI: Director.  
18          Hello, Director, nice to see you again. It's  
19          been a long time since we've had a chance to  
20          --

21          EXECUTIVE DIRECTOR MIRANDA: It has  
22          been. Good to see you as well.

23          ASSEMBLYMAN ABINANTI: Same here.

24          Okay, I'm a little puzzled about your

1 workload. I don't see anywhere a chart  
2 indicating the number of cases that you  
3 handled last year and the year before and the  
4 year before that. Can you provide us with  
5 that information?

6 EXECUTIVE DIRECTOR MIRANDA: Sure.  
7 I'll be more than happy to provide you with  
8 that information.

9 I think it's also worth pointing out  
10 that our website posts and lists information,  
11 data that we collect on a monthly basis. I'm  
12 also happy to send to you a copy of our  
13 annual report from last year.

14 ASSEMBLYMAN ABINANTI: I would like to  
15 see that if I could. I'm looking at the  
16 website, I'm not finding that information.  
17 That's why I asked.

18 But at any rate I would like to see  
19 whatever -- you know, how many cases you had,  
20 how many you brought to completion. Do you  
21 have any information on how long it takes  
22 to -- turnaround on -- let's say there's a  
23 complaint against an employee in a private --  
24 in a voluntary agency. They have to suspend

1           that person, they have to set them aside,  
2           they continue to pay them. It used to take a  
3           really long time to get a decision back from  
4           your agency.

5                     Can you give me any indication as to  
6           how long it now takes to do that?

7                     EXECUTIVE DIRECTOR MIRANDA: Sure.

8                     So you're correct, the decision with  
9           respect to discipline and leave falls within  
10          the purview of the provider, the employer.  
11          The Justice Center does not play any role in  
12          that decision.

13                    And cycle time has significantly  
14          improved over the course of years. As you're  
15          aware, this is a relatively new agency.  
16          We're going into our eighth year.

17                    ASSEMBLYMAN ABINANTI: Right.

18                    EXECUTIVE DIRECTOR MIRANDA: That  
19          said, our cycle time right now is at 79 days.  
20          And that represents an increase of  
21          approximately nine days, which is directly  
22          attributable to the impact of COVID this  
23          year.

24                    It remains my expectation as we move

1           into 2021 that we are going to be able to  
2           move forward with a lot of the technology  
3           that we implemented, and we will see a  
4           decrease in that cycle time.

5                     We appreciate the importance of cycle  
6           time in concluding with an efficient and  
7           thorough investigation, with the impact that  
8           it has on providers.

9                     ASSEMBLYMAN ABINANTI: All right.  
10          Now, I'm interested -- I'm noticing that you  
11          say you don't have the resources to continue  
12          with that program for adults, and yet it  
13          seems that your agency was pretty much  
14          co-opted by the Health Department. I mean,  
15          you referred to it yourself, you set up COVID  
16          testing appointments, you answered COVID  
17          questions, triaging calls for OPWDD and  
18          COVID-specific hotline, helping the Labor  
19          Department with unemployment-related calls.  
20          It seems like you were doing everything  
21          except your core mission, as you referred to  
22          it.

23                     And I'm trying to figure out why you  
24          don't have the ability to continue that other

1 function or why we're maintaining your agency  
2 at the same level. I notice there's a slight  
3 cut, but not much.

4 EXECUTIVE DIRECTOR MIRANDA: So, happy  
5 to answer that question.

6 The Justice Center remained fully  
7 operational throughout the entire pandemic.  
8 In fact, we received 90,000 calls. We  
9 categorized approximately 11,000 cases last  
10 year as abuse and neglect. We also closed  
11 9,000 cases.

12 So I just want to make sure that we're  
13 abundantly clear that the assertion that the  
14 Justice Center is not doing work during the  
15 pandemic is certainly far from true.

16 With respect to some of the other  
17 initiatives that I did speak about in my  
18 testimony, I am extremely proud of the folks  
19 at my agency who stepped up and volunteered  
20 their time after completing their work  
21 assignments -- on weekends and on evenings  
22 and holidays, to do a lot of this work.  
23 Because essentially --

24 ASSEMBLYMAN ABINANTI: You mean they

1           were not paid for this? There was no  
2           employees on state time were moved over to  
3           other departments to pick up the slack in  
4           these other areas?

5                     EXECUTIVE DIRECTOR MIRANDA: What I  
6           can tell you is that the overwhelming number  
7           of individuals who contributed to those  
8           initiatives did so on their own accord and  
9           volunteered their time. And I'm extremely --  
10          I'm sorry, I'm extremely proud of our  
11          workforce, their ability to maintain the core  
12          functions at the agency as well as step up on  
13          behalf of New York.

14                    ASSEMBLYMAN ABINANTI: I would like to  
15          see some -- a chart as to how much -- how  
16          many hours, FTEs, whatever you want to say,  
17          that they devoted to these other departments.

18                    EXECUTIVE DIRECTOR MIRANDA: More than  
19          happy to provide that to you, yes.

20                    ASSEMBLYMAN ABINANTI: All right, very  
21          good. Thank you.

22                    Now, on the issue of the Legislature  
23          granting prosecution powers to the  
24          Justice Center, I would tend to agree with

1           the challengers in that lawsuit. I do not  
2           believe we gave you the power to prosecute.  
3           I thought the agency was intended to be a  
4           backup for local district attorneys and that  
5           you were going to be providing expertise to  
6           the district attorneys, who were going to  
7           prosecute those matters.

8                       And if you wouldn't mind highlighting  
9           in the statute and sending to me -- unless  
10          you have it right handy -- where the statute  
11          gives you that power. Unless you're talking  
12          about implied power, and I don't think that  
13          that was a statute that had any implied  
14          powers in it. I'd love to see that  
15          information.

16                      EXECUTIVE DIRECTOR MIRANDA: So more  
17          than happy to send you a relevant copy and  
18          section of the statute that specifically  
19          delineates that we will have concurrent  
20          authority.

21                      I also think it's worth pointing out  
22          that this legislation passed unanimously  
23          through the Legislature. And so I don't  
24          think there's any ambiguity in the statute

1 with respect to the authority that was  
2 granted or the fact that it was concurrent.

3 ASSEMBLYMAN ABINANTI: The fact that  
4 it passed unanimously has nothing to do with  
5 the meaning of the statute, because people  
6 had different interpretations of it.

7 In fact, as you probably are aware, I  
8 wrote a several-page critique of the  
9 legislation --

10 EXECUTIVE DIRECTOR MIRANDA: Yes.

11 ASSEMBLYMAN ABINANTI: -- at the time  
12 but had no choice but to vote for it because  
13 of the way it was presented. I don't  
14 remember if it was part of the budget or if  
15 it was a separate legislation, but I had  
16 serious critiques about the way it was  
17 drafted and the way it was sold to us.

18 And I think your agency has wisely  
19 chosen to do certain activities and not  
20 others that we were told you were going to  
21 do. Because the way it was presented, I saw  
22 a conflict of interest of doing some of the  
23 things. But I think your agency has gone off  
24 in the proper direction --



1 EXECUTIVE DIRECTOR MIRANDA: Thank  
2 you.

3 ASSEMBLYMAN ABINANTI: -- with respect  
4 to those conflicts.

5 I wanted to understand, during COVID,  
6 have you had on-site visits? How do you  
7 interview victims who have disabilities,  
8 et cetera? I mean, parents are not allowed  
9 into a facility, or were not allowed in. And  
10 so how was it you were going into a facility  
11 and interviewing someone without a parent or  
12 a guardian present?

13 EXECUTIVE DIRECTOR MIRANDA: Sure. So  
14 with respect to visitation schedules and  
15 access, the Justice Center does not play any  
16 role, as I'm sure you're aware. Those  
17 protocols are set forth by the provider and  
18 the state oversight agency.

19 With respect to our functions during  
20 the COVID pandemic, as soon as New York PAUSE  
21 was instituted, we took the opportunity to do  
22 a full assessment of all of our in-person  
23 interactions. We recognize that going into a  
24 facility in person bears a certain degree of

1 risk, and we wanted to be extremely mindful  
2 that our investigators were not going in and  
3 possibly increasing the opportunity for COVID  
4 to be brought into a facility.

5 That said, we were able to implement  
6 video as well as phone technology and do some  
7 of the interviews over the phone and as well  
8 as video. We were assessing every single  
9 case based on the circumstances to decide  
10 whether an in-person interaction was truly  
11 necessary. And those decisions were  
12 conferenced with supervisors, again, because  
13 the priority was ensuring the welfare and  
14 well-being of the individuals who were in the  
15 facilities receiving care.

16 We did have boots on the ground, and  
17 we went out to facilities when the  
18 circumstances were warranted.

19 ASSEMBLYMAN ABINANTI: Okay. I'm just  
20 a little concerned about that. You know,  
21 I've been critical of you for being a little  
22 bit overly aggressive. But on the other  
23 hand, I do want to make sure that you get the  
24 right information. And a lot of the people

1           in particularly OPWDD facilities are not  
2           capable of communicating or have difficulty  
3           communicating in the first place and clearly  
4           are not capable of communicating over Zoom or  
5           something like that.

6                     Let me ask you about possible  
7           additional technology. There have been  
8           suggestions that technology could be helpful.  
9           For example, putting cameras into group homes  
10          in various locations -- clearly not in  
11          somebody's bedroom, but perhaps in a common  
12          area or by the doorways to see who goes in  
13          and out and whatever. And perhaps other  
14          types of information like that.

15                    Do you have any opinion on those types  
16          of technologies?

17                   EXECUTIVE DIRECTOR MIRANDA: So  
18          certainly we have cases that we've  
19          investigated where video has proven to be  
20          extremely helpful in trying to ascertain  
21          exactly what happened and what transpired.  
22          And so certainly video can be useful. But I  
23          think there also needs to be a balance with  
24          respect to the interests of privacy, as you

1 | mentioned. Right?

2                   So that falls within the authority and  
3                   the purview of the state oversight agency. I  
4                   can attest to the value of having video, but  
5                   I also recognize that there are other  
6                   considerations that really need to be  
7                   contemplated as well.

8 ASSEMBLYMAN ABINANTI: All right, I'm  
9 going to stop at this point. Thank you very  
10 much.

11 EXECUTIVE DIRECTOR MIRANDA: Thank  
12 you.

13 CHAIRWOMAN KRUEGER: Thank you very  
14 much.

15                   The next questioner, just three  
16           minutes, Senator Pete Harckham.

17 SENATOR HARCKHAM: Hello there, Madam  
18 Director. Good to see you again.

19 EXECUTIVE DIRECTOR MIRANDA: Good to  
20 see you.

21 SENATOR HARCKHAM: We've had this  
22 conversation before, but I think it's worth  
23 revisiting on an annual basis.

24 First, I want to say the work you do

1 is vitally important. We want to get folks  
2 who are either predators or don't have the  
3 temperament to be in the business out of the  
4 business.

5 But I have a number of facilities in  
6 my district, both small and large, and  
7 especially the ones that deal with  
8 adolescents, a more volatile population, I  
9 can say uniformly the employees of those  
10 facilities are terrified of you. And it  
11 makes it harder to retain qualified staff.

12 Senator O'Mara referred earlier to one  
13 of the other organizations. You know, when  
14 folks are barely making minimum wage, they  
15 can work at McDonald's and not have the  
16 liability risk, the risk of prosecution.

17 So, so much of your mission is also  
18 about education and prevention. And how are  
19 you continuing to transition with that work  
20 so the people can feel less afraid of you and  
21 more secure in the knowledge that you've  
22 given them?

23 EXECUTIVE DIRECTOR MIRANDA: Thank you  
24 for the question.

1                   So certainly the priority for the  
2                   Justice Center is to investigate abuse and  
3                   neglect, but also to prevent it, as you  
4                   pointed out. Right? And so we take very  
5                   seriously the obligation we have to be  
6                   accessible to answer questions, to dispel  
7                   myths, and to be transparent about the work  
8                   we do.

9                   You know, you may be familiar, there  
10                  are a lot of misconceptions about the work we  
11                  do and about the purview of our authority.  
12                  For example, we do not make discipline  
13                  decisions, we do not set standards for care  
14                  within facilities.

15                 How do we deal with that as an agency?  
16                 We deal with that through outreach. Right?  
17                 And so last year, despite the fact that COVID  
18                 was here and certainly placed limitations  
19                 with respect to our ability to go and do  
20                 these in-person trainings, we still conducted  
21                 44 outreach events. And I certainly have  
22                 spoken to various unions and employees and  
23                 provider associations, making sure that we  
24                 are always readily available to answer

1           questions.

2                   I believe education and outreach is  
3           key to ensuring that people are aware that we  
4           are here to make sure that people are safe.  
5           And what we've found is that I have never met  
6           a provider who's ever said that they want to  
7           have abuse and neglect within their  
8           environment. And we meet countless workers  
9           who are glad that there is someone to call if  
10          a colleague is perhaps committing abuse and  
11          neglect.

12                   That said, I recognize that the  
13          overwhelming majority of individuals,  
14          especially in the settings that you mentioned  
15          earlier, are hardworking individuals who are  
16          committed to this work. And certainly we do  
17          not want to be an impediment, nor an  
18          additional stressor.

19                   I'm more than happy to set up a time  
20          where perhaps we could speak with some of  
21          these associations and share our insight and  
22          answer questions.

23                   SENATOR HARCKHAM: Terrific. Thank  
24          you very much.

1 EXECUTIVE DIRECTOR MIRANDA: Thank  
2 you.

3 CHAIRWOMAN KRUEGER: Thank you.

4 And now I believe we're going to  
5 Assemblymember Gunther.

6 CHAIRWOMAN WEINSTEIN: Yes, for -- I'm  
7 back.

8 CHAIRWOMAN KRUEGER: Great.

9 CHAIRWOMAN WEINSTEIN: Yes, for  
10 10 minutes to Assemblywoman Gunther.

11 ASSEMBLYWOMAN GUNTHER: Okay, thank  
12 you very much. I won't be 10 minutes. But I  
13 do want -- my comment is I want to thank you  
14 because you have come to our communities, you  
15 have really explained the Justice Center,  
16 you've improved the quality of care. And I  
17 just actually wanted to thank you because it  
18 used to be like the boogeyman, but now they  
19 really welcome your visits to the facilities  
20 because you do do teaching and it's very  
21 important and you're protecting a vulnerable  
22 population.

23 So I just wanted to say thank you,  
24 Denise.



1 EXECUTIVE DIRECTOR MIRANDA: Thank  
2 you.

3 CHAIRWOMAN WEINSTEIN: Okay, back to  
4 the Senate if you have --

5 CHAIRWOMAN KRUEGER: Thank you. That  
6 was fast. Thank you.

7 Well, also, Denise I also want to say  
8 thank you, because I know that the whole  
9 history of this center, the Justice Center,  
10 has, you know, been a back and forth between  
11 people not understanding what you were set up  
12 to do, and perhaps not having the best  
13 protocols in previous years, but in really  
14 working with very large numbers of people  
15 throughout multiple communities to get it  
16 right.

17 So, first question. We're removing  
18 your authority over adult homes in this  
19 budget?

20 EXECUTIVE DIRECTOR MIRANDA: No. Our  
21 authority, as delineated within the statute,  
22 to have jurisdiction over abuse and neglect  
23 and adult homes, remains intact.

24 CHAIRWOMAN KRUEGER: It does.

1 EXECUTIVE DIRECTOR MIRANDA: The  
2 reference to adult homes is a contract of  
3 approximately, I believe, \$230,000 where we  
4 fund services, advocacy services for adult  
5 homes.

6 But we will still have the same  
7 jurisdiction that's delineated in the  
8 statute. That will not be impacted in any  
9 shape or form.

10 CHAIRWOMAN KRUEGER: Good. I'm very  
11 happy about that.

12 And second -- and yes, obviously there  
13 are people who whistle-blow on their own  
14 agencies, and that's important so that you  
15 can get information.

16 During this time of COVID-19 have  
17 there been experiences where you learn people  
18 who probably really should have been sent to  
19 a hospital were not sent to a hospital, even  
20 when workers were saying, you know, This  
21 person's sick, I think we need to do  
22 something about this?

23 EXECUTIVE DIRECTOR MIRANDA: So our  
24 jurisdiction is very narrowly defined.

1 Right? And our jurisdiction allows for us to  
2 investigate abuse and neglect. And the  
3 threshold issue there is that there be an  
4 allegation that a custodian committed abuse  
5 and neglect to an actual individual who's  
6 receiving services.

7 So no, those circumstances were not  
8 something that we encountered on a regular  
9 basis here at the Justice Center.

10 But if a call were to come into the  
11 agency with some sort of allegation, even if  
12 it falls with -- outside of our jurisdiction,  
13 we take our obligation very seriously. And  
14 we will take that information and we will  
15 make sure that it is relayed to the  
16 appropriate state oversight agency.

17 We also have a mechanism internally  
18 whereby, you know, allegations that perhaps  
19 are very egregious but, again, fall outside  
20 of our jurisdiction, executive staff within  
21 the agency is immediately notified and we  
22 will reach out to the state oversight agency  
23 to make sure that there is complete awareness  
24 of the situation.

1                   CHAIRWOMAN KRUEGER: Okay, so I am a  
2                   little confused. So we know that immediate  
3                   family members are not being allowed to go  
4                   visit, for legitimate reasons. But then they  
5                   might have reached out to say, I think my  
6                   family member is sick and needs a doctor or  
7                   hospital care. Or it could have been another  
8                   worker inside the agency.

9                   You wouldn't define refusing medical  
10                  care as an abuse or neglect situation?

11                 EXECUTIVE DIRECTOR MIRANDA: No, and I  
12                 apologize if that was your understanding. I  
13                 wouldn't say that it's not abuse or neglect.

14                 What I would say is that we would have  
15                 to take the report, we would do a complete  
16                 assessment of the circumstances surrounding  
17                 the allegation. More than likely, it would  
18                 move over to our three-business-day review,  
19                 which would give us an opportunity to get  
20                 medical records, to get the policies and  
21                 protocols from the provider for us to have an  
22                 opportunity to make an appropriate  
23                 evaluation, because it's critical to make  
24                 sure that (a) we're within the statutory

1 framework, but also that we are evaluating  
2 these cases on the totality of the  
3 circumstances.

4 So certainly within the history of the  
5 Justice Center we have had instances of abuse  
6 and neglect where there has been a failure to  
7 seek medical care for an individual. We  
8 would make an assessment, we would look into  
9 all the circumstances and then make a  
10 determination as to whether it falls within  
11 our jurisdiction.

12 CHAIRWOMAN KRUEGER: And does your  
13 agency have the ability to track the rate of  
14 death by agency that you oversee?

15 EXECUTIVE DIRECTOR MIRANDA: Sure. So  
16 there's a statutory obligation. All  
17 residential facilities licensed, operated or  
18 certified by OMH, OCFS, OPWDD and OASAS, are  
19 mandated by law to make a report of any death  
20 that occurs within those facilities.

21 In fact, that requirement also extends  
22 to 30 days post-discharge. We receive those  
23 reports and then we review them to see if  
24 there are any quality-of-care issues or to

1           see if there's any indicia or evidence of  
2           abuse or neglect.

3                     Medically complicated cases, we also  
4           have a wonderful resource here at the Justice  
5           Center, and that's our medical review board,  
6           where we will actually consult with them on  
7           the more medically complicated cases.

8                     But I will point out that the  
9           majority, the overwhelming number of reports  
10          that we get are deaths related to natural  
11          causes. Right? There are aged populations  
12          within these settings, and there are also  
13          individuals with multiple vulnerabilities and  
14          compromised health situations.

15                    So we will do the report, a report  
16          will be issued. If there are any findings,  
17          we will make sure that those go to the state  
18          oversight agency as well as the provider.

19                   CHAIRWOMAN KRUEGER: So we can request  
20          that data from you?

21                   EXECUTIVE DIRECTOR MIRANDA:  
22          Absolutely.

23                   CHAIRWOMAN KRUEGER: For, say, the  
24          last 12 months, or the last time you did an

1           annualized report, and then for the year or  
2           two previous as well?

3                   EXECUTIVE DIRECTOR MIRANDA:

4           Absolutely.

5                   CHAIRWOMAN KRUEGER: I mean, you know,  
6           we're learning more and more about what's  
7           happening for people who are in group  
8           settings with COVID. So I think it would be  
9           worth us taking a look and seeing, you know,  
10          how we're doing in the context of the  
11          agencies you oversee.

12                   EXECUTIVE DIRECTOR MIRANDA:

13          Absolutely. We'd be more than happy to  
14          provide that to your office.

15                   CHAIRWOMAN KRUEGER: Great. Thank you  
16          very much.

17          Assembly.

18                   CHAIRWOMAN WEINSTEIN: We go to the  
19          ranker on People with Disabilities,  
20          Assemblywoman Miller.

21                   ASSEMBLYWOMAN MILLER: Hi. Good  
22          afternoon. How are you?

23                   EXECUTIVE DIRECTOR MIRANDA: Good, how  
24          are you?

1 ASSEMBLYWOMAN MILLER: Good, thank  
2 you.

3 So on the same idea as Senator Krueger  
4 was just talking about, I want to ask  
5 specifically about our senior population,  
6 many of whom have special needs. Just, you  
7 know, they're in skilled facilities or --  
8 because of their special needs.

9 Do you routinely look into that  
10 population? And if so, of the -- you said,  
11 about 90,000 calls that you received during  
12 the pandemic, were any or many of those calls  
13 from families of these seniors with special  
14 needs that were stuck in nursing homes, cut  
15 off from visitation, neglected, suffering  
16 from neglect or even abuse, and fearing for  
17 their well-being?

18 I know my office, we were getting tons  
19 and tons of calls and emails from worried  
20 family members. Many times we directed them  
21 to an ombudsman or tried to help them connect  
22 with the ombudsman to look into it. But is  
23 that something that your agency was doing?

24 EXECUTIVE DIRECTOR MIRANDA: So we do



1           receive a significant number of calls that  
2           fall outside of the jurisdiction that I  
3           mentioned before, right, which is abuse and  
4           neglect committed by custodians against  
5           individuals receiving services. So we do get  
6           calls at times that don't fall within our  
7           purview, and we will make the appropriate  
8           referral to the state oversight agency.

9                       With respect to the aged population, I  
10           can certainly provide information to your  
11           office as it relates to the state oversight  
12           agency, a breakdown -- OASAS versus OPWDD,  
13           OMH. I'm not sure that we are able to  
14           provide data with respect to age groups or  
15           that demographic information, but I'm more  
16           than happy to check with our folks, our data  
17           folks.

18                      ASSEMBLYWOMAN MILLER: I guess the  
19           definition would be what's in question here.  
20           So if you are here to advocate or look after  
21           the best interests of all people with special  
22           needs, wouldn't somebody, just because  
23           they're a senior citizen also in a home if  
24           they have special needs -- if somebody has

1 Alzheimer's, if somebody has, you know, a  
2 stroke and then they have special needs as a  
3 result of that, they don't fall into that  
4 jurisdiction.

5 EXECUTIVE DIRECTOR MIRANDA: Our  
6 jurisdiction is limited, and it's individuals  
7 who are within residential -- I'm sorry,  
8 individuals who are within licensed, operated  
9 and certified settings under the state  
10 oversight agencies.

11 So according to that jurisdiction,  
12 unless they are in one of those settings, we  
13 would not have jurisdiction. It's very  
14 narrowly defined within the statute, and  
15 we're constrained by the parameters set forth  
16 in the statute.

17 ASSEMBLYWOMAN MILLER: Okay. I will  
18 welcome that information, though, if you can  
19 email that to my office.

20 EXECUTIVE DIRECTOR MIRANDA: Sure.

21 ASSEMBLYWOMAN MILLER: Thank you.

22 CHAIRWOMAN WEINSTEIN: Back to the  
23 Senate.

24 CHAIRWOMAN KRUEGER: All right, I see

1           John Mannion. But I'm curious, do you -- oh,  
2           your hand just went down. You had your  
3           questions, right? Or do you need another  
4           question?

5                    SENATOR MANNION: No, I was just going  
6           to compliment the executive director on her  
7           clear, concise, detailed and informed  
8           answers.

9                    EXECUTIVE DIRECTOR MIRANDA: Thank  
10          you.

11                   CHAIRWOMAN KRUEGER: Beautiful. A  
12          beautiful thing. Thank you.

13                   Assembly. Helene, you're on mute.

14                   Who would you like? Assembly --

15                   CHAIRWOMAN WEINSTEIN: Somehow the --  
16          somehow they were muting -- they weren't  
17          letting me unmute.

18                   CHAIRWOMAN KRUEGER: They're tired of  
19          us. They're telling us something.

20                   (Laughter.)

21                   CHAIRWOMAN WEINSTEIN: So Assemblyman  
22          Anderson for three minutes.

23                   ASSEMBLYMAN ANDERSON: Okay. Can I be  
24          heard?

1 EXECUTIVE DIRECTOR MIRANDA: Yes.

2 ASSEMBLYMAN ANDERSON: Thank you,  
3 Chairwoman.

4 And thank you, Executive Director --  
5 or Director -- for being here this afternoon  
6 to answer questions. Really commend the  
7 work. As I'm learning about the different  
8 agencies, as a new Assemblymember, you know,  
9 I commend the work that you all do at the  
10 Justice Center.

11 But I do have just one or two quick  
12 questions.

13 EXECUTIVE DIRECTOR MIRANDA: Sure.

14 ASSEMBLYMAN ANDERSON: In terms of the  
15 -- there's an Article VII to move your  
16 agency's ability to administer the Adult  
17 Advocacy Home Care Program. Can you just  
18 explain what that does for the agency and  
19 where does that actual programmatic -- very  
20 important programmatic piece of agency go?

21 EXECUTIVE DIRECTOR MIRANDA: So we  
22 don't perform that programmatic piece. We  
23 actually will fund that piece for outside  
24 providers, non-for-profits. So we do not

1           have any programmatic resources or staff that  
2           are tied to that particular funding.

3           ASSEMBLYMAN ANDERSON: But you  
4           contract out for it. So now that it's  
5           leaving the agency, what happens to that  
6           program?

7           EXECUTIVE DIRECTOR MIRANDA: So that  
8           program, a determination will have to be made  
9           by the various nonprofits as to whether they  
10          continue to prioritize that program and offer  
11          those services.

12          I understand -- the program is an  
13          important program, and it does good work.  
14          And certainly our decision to advance this as  
15          a cut does not reflect the importance of the  
16          work. But we are dealing with an extremely  
17          difficult and challenging fiscal crisis, and  
18          so we have to make --

19          ASSEMBLYMAN ANDERSON: But Madam  
20          Director -- Madam Director, sorry to cut you  
21          off, but my time is limited.

22          EXECUTIVE DIRECTOR MIRANDA: Sure.

23          ASSEMBLYMAN ANDERSON: But Madam  
24          Director, so I'm sure you've read the

1 Attorney General's report regarding nursing  
2 homes and adult homes. Isn't this a  
3 critically important program to protect that  
4 very same population of individuals who may  
5 be put in harm's way? Albeit via government  
6 policy, albeit via the leadership of the  
7 adult home or agency. Don't you think this  
8 is a very vitally important program that  
9 would prevent much of what we saw?

10 EXECUTIVE DIRECTOR MIRANDA: So I  
11 think there's an important distinction here  
12 that I want to make clear. We will retain  
13 our jurisdiction over the adult homes that  
14 are delineated specifically within the  
15 statute. That is not changing.

16 With respect to this contract, this  
17 contract does not fund investigations of  
18 abuse and neglect. This contract funds  
19 know-your-rights trainings. Which are  
20 important and certainly play a role with  
21 respect to people knowing their rights, which  
22 one could argue long term, right, prevents  
23 abuse and neglect.

24 But the function of the contract is

1 not to investigate abuse and neglect. And so  
2 I just want to make sure that that is clear.

3 ASSEMBLYMAN ANDERSON: Got it.

4 Madam Director, let me ask you, if I  
5 have a constituent who comes in and wants to  
6 say, hey, I'm being -- or wants to share  
7 that, hey, this is happening to me at this  
8 date and treatment facility in my district or  
9 at this adult home in my district or this  
10 adult day care in my district, your agency is  
11 where I would direct them, correct?

12 EXECUTIVE DIRECTOR MIRANDA: We would  
13 take that call and we would make a  
14 determination as to whether it falls within  
15 the statutorily delineated jurisdiction of  
16 the agency. And if it does, we will classify  
17 it appropriately. And if it doesn't and it  
18 falls outside, we would refer that matter  
19 over to the appropriate entity. Whether it's  
20 DOH or SED, we would make that referral.

21 We do not ignore those calls. I just  
22 want to make sure that we're clear. We don't  
23 ignore those calls. We take our commitment  
24 to individuals who are receiving --

1 ASSEMBLYMAN ANDERSON: No, no, and I  
2 wouldn't expect that you would. But I just  
3 want to understand that now we're losing this  
4 funding, what happens to that population of  
5 older folk who need that advocacy, who need  
6 that bridge, who need that --

7 (Zoom interruption.)

8 CHAIRWOMAN KRUEGER: Roxanne, go on  
9 mute. Sorry.

10 CHAIRWOMAN WEINSTEIN: If you could  
11 just quickly respond, since the Assemblyman's  
12 time has expired.

13 EXECUTIVE DIRECTOR MIRANDA: I  
14 certainly appreciate the importance of the  
15 work and the work that was being fulfilled by  
16 this contract.

17 CHAIRWOMAN WEINSTEIN: Thank you.

18 So now we'll go to the Senate.

19 ASSEMBLYMAN ANDERSON: Thank you,  
20 Director.

21 CHAIRWOMAN KRUEGER: We don't have any  
22 more in the Senate, so I think it goes back  
23 to the Assembly.

24 CHAIRWOMAN WEINSTEIN: Okay. So we



1           have Harvey Epstein for three minutes and  
2           then I believe Assemblyman Abinanti would  
3           like a second round.

4                       So first to Assemblyman Epstein.

5                       ASSEMBLYMAN EPSTEIN: Hi, Executive  
6           Director Miranda. How are you doing?

7                       EXECUTIVE DIRECTOR MIRANDA: I'm doing  
8           well, Assemblymember. How are you?

9                       ASSEMBLYMAN EPSTEIN: I'm well, thank  
10          you. It's good seeing you again.

11                      EXECUTIVE DIRECTOR MIRANDA: Likewise.

12                      ASSEMBLYMAN EPSTEIN: So you and I, we  
13          worked at a nonprofit together, and so we  
14          know how important those contracts are for  
15          staffing and for continuity. If you had  
16          additional funds, if there was additional  
17          revenue, state revenue, would you make a  
18          decision to be able to allocate some of the  
19          funding to these nonprofits if there was  
20          funding available?

21                      EXECUTIVE DIRECTOR MIRANDA: The only  
22          reason why this program was cut was because  
23          of the lack of funding. Right? And so  
24          certainly, as you pointed out, yes, this is

1           important work and advocacy work is critical  
2           for vulnerable populations.

3           So certainly, if we were not in a  
4           fiscal crisis, this would not even be a topic  
5           today.

6           ASSEMBLYMAN EPSTEIN: Great. Well,  
7           thank you. And I encourage you, along with  
8           us -- we're trying to get additional revenue.  
9           You're in a different position than we are,  
10          of course. But we want more revenue because  
11          we don't want our vulnerable populations to  
12          not get the services they need.

13          I do appreciate all the work you do  
14          and have done. But I would encourage you to,  
15          you know, from your side, help as much as we  
16          can as we get more revenue to assist this  
17          population that really needs it.

18          Thank you very much.

19          EXECUTIVE DIRECTOR MIRANDA: Take  
20          care.

21          ASSEMBLYMAN EPSTEIN: You too.

22          Bye, Madam Chair. Thank you.

23          CHAIRWOMAN WEINSTEIN: Thank you.

24          So now we go to Assemblyman Abinanti

1           for five minutes.

2                     ASSEMBLYMAN ABINANTI: Thank you,  
3           Madam Chair.

4                     Madam Director, I'm interested in this  
5           issue of possible abuse or neglect with  
6           respect to COVID. The numbers that I got  
7           from OPWDD indicate that as of December 16th  
8           in 2020, they had 4,175 individuals who  
9           resided in certified residential programs who  
10          tested positive. And a total of 497 --  
11          that's 10.5 percent, if these numbers are  
12          right -- passed away.

13                    Now, they're telling me this reflects  
14          all of those who had been or were in a  
15          residence. I've been pressing to see if this  
16          includes those who went to the hospital or  
17          died in the facility or whatever. But that's  
18          a high number even there, 10 percent.

19                    And at the same time a total of  
20          7100 -- 7,156 staff were reported as  
21          confirmed COVID-positive. That's a very high  
22          number.

23                    And yet, you know, the DOH gave a  
24          guidance that if you needed to have your

1 employees come in even after they were  
2 exposed to COVID, they could return to work.  
3 That's totally contrary to every other  
4 industry, business, the rest of the world,  
5 where if you've been exposed you should go  
6 quarantine for two weeks. Now they've  
7 reduced it to 10 days.

8 So as a result, my son has been out of  
9 school for three or four different sessions  
10 because different teachers keep getting  
11 COVID, and now the entire class is exposed so  
12 the entire class goes home.

13 On the other hand, if my son were in a  
14 facility, it wouldn't matter that his person  
15 was exposed to COVID, he would continue to be  
16 exposed to the -- so if a person's partner is  
17 home with COVID and the person working at the  
18 group home, let's say, is needed, then you  
19 would continue to get exposed time after time  
20 after time.

21 It seems to me there's something wrong  
22 with that, that there's an obligation on the  
23 person, entity running the facility or the  
24 group home to find other staff. And I was

1           just wondering if any complaints were made  
2           along this line and whether your agency  
3           actually did some investigations to see  
4           whether the agencies improperly exposed their  
5           residents to COVID-19.

6                     You know, in this case -- I mean, if  
7           they had other employees they could have  
8           brought in, or just go out and hire different  
9           -- do whatever you can to protect them.  
10          Because when I'm looking at these numbers,  
11          these are very high numbers.

12                    And so, you know, I would like -- I'm  
13          waiting to -- I really want to see the  
14          numbers that Senator Krueger asked for. I'd  
15          like to see how many complaints were made and  
16          what investigations you made. Particularly  
17          in light of the fact that your employees were  
18          doing all of these other things with respect  
19          to COVID, you know, that you said you were  
20          proud of.

21                    Okay, well, did you do any  
22          investigations to see whether all of these  
23          agencies and all these residences were in  
24          fact following the proper protocols with

1           respect to COVID? That's something that I  
2           would have liked to have seen you do.

3                     EXECUTIVE DIRECTOR MIRANDA: Sure. So  
4           as I mentioned before when we spoke last, we  
5           opened up over 11,000 abuse and neglect cases  
6           last year during COVID. So certainly we are  
7           taking our obligation to ensure that people  
8           are safe very seriously. And we look at all  
9           of those calls, and they're fully  
10          investigated.

11                    A couple of things I think that I'd  
12          like to respond to with your question. First  
13          and foremost, the DOH guidance you  
14          referenced, that is guidance set forth by  
15          DOH. The Justice Center does not have any  
16          role in determining guidance for staffing.  
17          That is outside of our purview.

18                    OPWDD, I believe you made some  
19          reference to some statistics. I would not be  
20          in a position to comment on the statistics  
21          provided by OPWDD. I will, however, make  
22          sure that our office provides the information  
23          with respect to the number of deaths and  
24          reports that were made to the agency last

1           year, as discussed with Senator Krueger.

2           And last but not least, I think it's  
3           also important to clarify that we do not set  
4           forth the definition of a COVID death or  
5           COVID-related incidents. That's not our  
6           jurisdiction, that is not our purview. That  
7           is done certainly within the state oversight  
8           agencies.

9           So I certainly appreciate the  
10          importance of your question, but  
11          unfortunately our limitations are clearly --

12          (Overtalk.)

13          EXECUTIVE DIRECTOR MIRANDA: -- are  
14          clearly defined. I'm sorry?

15          ASSEMBLYMAN ABINANTI: I'd like to  
16          know if you got any complaints from family  
17          members on this very issue, that they were  
18          concerned that perhaps their family members  
19          were being exposed unnecessarily.

20          EXECUTIVE DIRECTOR MIRANDA: So  
21          certainly --

22          ASSEMBLYMAN ABINANTI: Or not given  
23          healthcare properly, or were not sent to the  
24          hospital properly. I'd like to see the

1 COVID-related complaints.

2 EXECUTIVE DIRECTOR MIRANDA: So as I  
3 mentioned, we take in -- we classified 11,000  
4 abuse and neglect cases. So certainly any  
5 call that comes into us, we evaluate on the  
6 totality of the circumstances, we would get  
7 information to make sure that we're making an  
8 appropriate classification. And if it falls  
9 within our statutorily defined jurisdiction,  
10 we would take that case and we would  
11 certainly investigate it.

12 Eleven thousand cases were opened last  
13 year. I can't speak to the specifics, but  
14 certainly we can follow up with your office  
15 at another time if you'd like.

16 ASSEMBLYMAN ABINANTI: Yes. Thank  
17 you.

18 EXECUTIVE DIRECTOR MIRANDA: Sure.

19 CHAIRWOMAN WEINSTEIN: Thank you.

20 So, Senator Krueger, the Assembly is  
21 done. So I think we're --

22 CHAIRWOMAN KRUEGER: Thank you very  
23 much, Assemblywoman.

24 So you also are done, Madam Executive



1 Director.

2 EXECUTIVE DIRECTOR MIRANDA: Thank  
3 you.

4 CHAIRWOMAN KRUEGER: So thank you very  
5 much for being here with us today. And we're  
6 looking forward to the materials that you  
7 have promised us.

8 EXECUTIVE DIRECTOR MIRANDA:  
9 Absolutely. Thank you and good afternoon,  
10 everyone.

11 CHAIRWOMAN KRUEGER: Good afternoon.

12 So now we start the portion of the  
13 hearing where people are not representatives  
14 of the government but have asked to testify.

15 And we call them up in panels. And  
16 the rules of the road are once the full panel  
17 has testified, then you can raise your hand  
18 for a three-minute question that's in for  
19 totality for any of the people on the panel,  
20 including their answers. So we move into the  
21 speed-dating round of budget hearings.

22 And our first panel is the Children's  
23 Defense Fund, Melissa Genadri; the New York  
24 State Coalition for Children's Behavioral

1 Health, Andrea Smyth; and the Family and  
2 Children's Association, Jeffrey Reynolds.

3 Are you here with us, Melissa?

4 MS. GENADRI: Yes, hi. Can you hear  
5 me?

6 CHAIRWOMAN KRUEGER: Yes, we can. I'm  
7 sorry, they also have three minutes each.

8 Yes, go right ahead, Melissa.

9 MS. GENADRI: Thank you so much,  
10 Senator. And good afternoon. On behalf of  
11 the Children's Defense Fund of New York, I  
12 would just like to thank the Legislature for  
13 this opportunity to center the needs and the  
14 voices of vulnerable children and youth at  
15 today's hearing, particularly children of  
16 color and low-income children whose mental  
17 health has suffered so greatly at the hands  
18 of this pandemic.

19 These children have suffered  
20 unprecedented and disproportionate parental  
21 and caregiver death, have been forced into  
22 poverty and food insecurity, and have also  
23 been spending increased amounts of time in  
24 isolation and in home environments that may

1           be unsafe or even abusive.

2                   And on top of all of this, they have  
3           been weathering the toxic stress of systemic  
4           racism and police violence, most recently  
5           manifested in the horrific events which took  
6           place last week in Rochester.

7                   These children have very real and very  
8           urgent mental health needs. And as New York  
9           looks to expand its telehealth program, it is  
10          incumbent upon our state to ensure access,  
11          equity and quality of behavioral health  
12          services that are being delivered via  
13          telehealth.

14                   At CDF we work directly with  
15          vulnerable and impacted adolescents who  
16          either do not have the technology and access  
17          in their homes to access teletherapy services  
18          or whose home environments are unsafe,  
19          unstable, lack privacy, or are even abusive,  
20          and connecting with a therapist at home is  
21          just not an option. So we need more  
22          investment in community-based supports for  
23          these at-risk youth, and also community safe  
24          spaces, where they can access telehealth

1 services outside of their homes.

2 There is also a great need for an  
3 independent evaluation of the quality of  
4 telehealth services that are being provided,  
5 particularly with regards to teletherapy for  
6 adolescents and children.

7 And I will also say we have great  
8 concern with the steep rise in youth suicide  
9 and in psychiatric emergencies among young  
10 people in our state over the past year. We  
11 applaud the state for the suicide prevention  
12 work it's been doing, and we feel that as we  
13 progress in our pandemic response efforts,  
14 youth suicide prevention needs to be  
15 ingrained into that pandemic response,  
16 particularly the very high risk populations  
17 of Latina adolescents, Black youth and LGBTQ  
18 youth, who may not be receiving the mental  
19 health services they need right now and are  
20 even at an elevated risk of suicide.

21 So I thank you very much for your time  
22 today, and we at CDF look forward to  
23 continuing these conversations with you in  
24 the future.

1 CHAIRWOMAN KRUEGER: Thank you.

2 And I should have also said we have  
3 your full testimony, every member of the  
4 committees, and it's up online for all the  
5 Legislature. So we urge you to do exactly  
6 what our first panelist did: Summarize your  
7 key points in three minutes.

8 So next, Andrea Smyth.

9 Good afternoon, Andrea.

10 MS. SMYTH: Hello. Thank you for the  
11 opportunity to comment on the Office of  
12 Mental Health budget.

13 There are a number of important issues  
14 -- the 5 percent cut to local assistance,  
15 state-operated bed closures without community  
16 reinvestment, minimum wage funds without  
17 addressing the rest of the workforce through  
18 the human services COLA, maintaining a  
19 moratorium on cuts to children's Medicaid  
20 mental health services, the lack of  
21 investment in children's services and the  
22 supply versus demand crisis, the June  
23 prohibition of any newly graduated licensed  
24 mental health practitioner from fully

1 practicing in New York State, the inclusion  
2 of OMH-certified family peers and telehealth  
3 reform, and the need for tools to  
4 successfully restructure the Office of Mental  
5 Health with the Office of Alcoholism and  
6 Substance Abuse Services.

7 At 5:30 this morning the  
8 Vice President of the United States cast the  
9 deciding vote on the Rescue Plan, which adds  
10 \$4 billion for the Community Mental Health  
11 Services Block Grant and the Substance Use  
12 Prevention and Treatment Block Grant. This  
13 funding is on top of 1.6 billion for each  
14 block grant that was added to the December  
15 COVID project.

16 Fifty percent of these funds must go  
17 directly to providers to respond to COVID.  
18 Please work with us to get the necessary  
19 services to children and families.  
20 Previously, the share to children and  
21 families from these block grants has been  
22 less than equal.

23 There are not enough children's mental  
24 health services. RTF beds have closed and

1           dropped from 517 to just 390. There are 887  
2           school-based mental health clinics, but 4400  
3           buildings, school buildings. There are 6,000  
4           children enrolled in Home and Community Based  
5           Waiver, and only a thousand are receiving  
6           services. And the 400,000 children enrolled  
7           in the Child Health Plus program can only  
8           access whichever behavioral health services  
9           the Commissioner of Health identifies. The  
10          system is under capacity, underresourced, and  
11          risks our future.

12                 Since 2002 when the Education Law  
13          licensed mental health practitioners, they  
14          have been safely practicing up to their full  
15          scope of training and education. If we  
16          sought a single word that captures the  
17          meaning of "the use of assessment instruments  
18          and mental health counseling and  
19          psychotherapy to identify, environmental and  
20          treat dysfunctions and disorders," the word  
21          would be "diagnose." We need to keep the  
22          pipeline of newly mastered, prepared,  
23          clinically trained, licensed mental health  
24          counselors, family therapists, and

1           psychoanalysts fully able to do what they're  
2           trained to do.

3                     And lastly, when we merge, if we merge  
4           the Office of Mental Health with OASAS, they  
5           need all the tools to make it a successful  
6           reconstruction. And one of the things that's  
7           been missing is that the authority over  
8           medical assistance or Medicaid has been moved  
9           from the "O" agencies to the Department of  
10          Health. It is a barrier to successful  
11          program development for the disabled, when  
12          the funding decisions and the rate-making  
13          decisions are in a separate agency. And to  
14          fully support this transformation, we urge  
15          that that be changed.

16                    CHAIRWOMAN KRUEGER: Thank you.

17                    Jeffrey Reynolds.

18                    DR. REYNOLDS: Good afternoon. Thanks  
19          for having me. Just wave if you can hear me  
20          so that I know I'm not talking into an abyss.  
21          Okay, I see my friend Assemblyman Ra waving.  
22          Good to see you, Ed.

23                    My name's Dr. Jeffrey Reynolds. I  
24          have the privilege of running Family and



1 Children's Association. We're based on Long  
2 Island and, in any given year, serve about  
3 30,000 Long Islanders.

4 Most germane to this conversation is  
5 the fact that we run a pretty large  
6 children's mental health program as well as a  
7 mental health program for seniors. We run  
8 two OASAS-licensed chemical dependency  
9 treatment centers, and then we run Long  
10 Island's only two recovery centers, one in  
11 Nassau and one in Suffolk County.

12 I heard a number of you throughout the  
13 course of the day use the term "mental health  
14 crisis," and that's exactly spot-on. I've  
15 been in the field for a long time and have  
16 never seen anything as bad as this. And I  
17 can tell you that the implications for our  
18 young people, particularly those from Black  
19 and Brown communities, are going to span  
20 generations. Long after everyone's been  
21 vaccinated, long after COVID is but a  
22 footnote in our history, the mental health  
23 implications are going to continue on.

24 I will say, first and foremost, the

1 cuts to local assistance termed as  
2 "withholds" have been devastating for my  
3 organization. It's meant immediate staff  
4 freezes, it's meant staff layoffs, and it's  
5 meant much longer waiting lists for kids who  
6 are looking to access services. It's had a  
7 huge impact on us.

8 And although we're thankful that this  
9 state has modified regulations to allow for  
10 telehealth, none of us had the equipment to  
11 do it. Our staff turned on a dime to make it  
12 happen. We're working really hard to serve  
13 kids that have a very, very high level of  
14 acuity.

15 At the same time we're trying to  
16 battle off budget cuts. There's no elected  
17 official in this state who would not stand up  
18 and fight for PPE. These services are our  
19 PPE and our families' PPE against suicides,  
20 against fatal overdoses and against ED visits  
21 that are unnecessary and expensive.

22 In the last minute I have, I do want  
23 to talk a little bit about revenues. And I  
24 think it's very important that as we talk

1           about the opioid settlement dollars, that  
2           those be segregated and tagged directly to  
3           prevention, harm reduction, treatment and  
4           recovery services, not dumped into the  
5           General Fund.

6                     I feel similarly about the expansion  
7           of gambling opportunities here in New York  
8           State, and I know that there's a lot of  
9           traction behind sports betting. There hasn't  
10          been a significant increase in the number of  
11          problem gambling programs in many, many  
12          years. And in fact the Comptroller's done  
13          two reports about the fact that we don't have  
14          a good handle as to how many problem gamblers  
15          there are.

16                    We ought to make sure that we're  
17          setting aside a portion of that money now to  
18          do a problem gambling campaign aimed at young  
19          men who are likely to be the targets for  
20          sports betting advertising.

21                    And then, finally, I'm aware that the  
22          issue of adult-use marijuana is once again a  
23          subject of discussion. I would argue  
24          strenuously that that not be a part of the

1 budget bill and that a significant portion --  
2 more than is allocated now -- is set up to  
3 deal with prevention, treatment and recovery  
4 implications associated with legalization and  
5 that a public health campaign be rolled out  
6 right now to get ahead of this issue.

7 So thank you very much for your  
8 attention here all day. Thank you for your  
9 hard work. And I look forward to  
10 participating in the rest of the budget  
11 process.

12 CHAIRWOMAN KRUEGER: Okay. I don't  
13 see the hand of any Senator -- oh, wait.  
14 Yes, Senator Samra Brouk, our Mental Health  
15 chair.

16 SENATOR BROUK: Thank you so much.

17 Hello, everyone. Thank you for this  
18 speed round of testimony.

19 I just -- I wanted to dig in just  
20 quickly, Andrea, with some of what you talked  
21 about around the school-based mental health.  
22 Can you speak if you have any other  
23 information on where those inequities lie,  
24 and on the fact that we don't have adequate

1 investment today and now we're looking at  
2 cuts?

3 MS. SMYTH: School-based mental health  
4 clinics are run by Article 31 mental health  
5 clinics, so it's their option of whether or  
6 not, after working with the school, whether  
7 they can open a clinic in the school.

8 There are a number of limitations to  
9 Article 31 school-based clinics. One is  
10 space limitations at the school. Two is the  
11 fact that the programs don't have any base  
12 funding, so they have to bill insurance.

13 So my providers bill as many as  
14 10 different insurance providers to make sure  
15 that any child in any particular building can  
16 come to the school-based mental health  
17 clinic. It's a very heavy burden on the  
18 provider to operate the school-based mental  
19 health clinics. And so there's no kind of  
20 grant funding, seed funding to start up or do  
21 anything like that. And I believe that  
22 that's one of the reasons why the number's so  
23 low.

24 I'm involved with a campaign, we'd

1           like to see a 10 percent growth in the number  
2           of school-based mental health clinics every  
3           year, until there's access in every school  
4           building.

5                     SENATOR BROUK: Thank you.

6                     And very quickly, I think it was  
7           Melissa, you had talked about suicide rates  
8           and prevention. Can you just fill in some of  
9           the details on that, of what you've seen and  
10          what you think you need to see to better  
11          assess where these trends might be going? I  
12          think that was you who talked about that.

13                    MS. GENADRI: Yes, absolutely. Thank  
14          you so much for the question.

15                    We have definitely seen increases in  
16          psychiatric emergencies among young people  
17          statewide. The Suicide Prevention Task Force  
18          of New York State that put out a great report  
19          last year particularly highlighted elevated  
20          rates among Latina adolescents as a  
21          population of high risk and concern. And  
22          we've seen nationally, in the past year, a  
23          lot of data around elevated risks for Black  
24          youth.

1           These are two populations that we are  
2           very concerned about, particularly given the  
3           sort of digital divide right now, and that  
4           these are precisely the populations of kids  
5           who aren't able to access therapy services  
6           right now because so many of them have  
7           transitioned to teletherapy. And the  
8           students that we work with from these  
9           backgrounds just aren't accessing those  
10          services right now.

11           So we fear that this problem, you  
12          know, it's sort of the tip of the iceberg and  
13          maybe it's not going to be until later down  
14          the road that we see, you know, the true  
15          spikes in youth suicide in these populations.  
16          But it's of a lot of concern to us. And it's  
17          something we desperately want to see more --  
18          more work done around.

19           SENATOR BROUK: Thank you so much.

20           CHAIRWOMAN KRUEGER: Thank you.

21           Assembly.

22           CHAIRWOMAN WEINSTEIN: Yes, we go  
23          to -- actually, we go to Assemblyman  
24          Abinanti, the chair of People with

1           Disabilities.

2                   ASSEMBLYMAN ABINANTI: Thank you.

3                   I have two questions. One -- Andrea,  
4           hello again. Nice to see you. It's been a  
5           long time since I've seen you.

6                   I am intrigued by your concern that  
7           Department of Health is making decisions for  
8           all of the other departments in the guise of  
9           regulating the amount of Medicaid spending  
10          that's being done by the state. Could you  
11          elaborate on that? And any suggestions on  
12          how we can resolve that issue? I have a  
13          similar concern, just not sure how to deal  
14          with it.

15                   MS. SMYTH: Thank you, Assemblyman.

16                   I can just speak to the experience  
17          that I've had with some of my programs. So  
18          I'll speak to the residential treatment  
19          facilities. This is a high-cost service  
20          delivery, and the Department of Health has  
21          taken over the rate-setting from the Office  
22          of Mental Health.

23                   That would be fine, but the Office of  
24          Mental Health is still submitting policy



1 changes. So the policy changes are  
2 happening, but the rate-making isn't  
3 changing, or we're not being informed in a  
4 timely way of the reimbursement  
5 methodologies. So in this way, it is  
6 contributing to the closing of residential  
7 treatment beds. Which at this time is such a  
8 valuable resource, and especially at a time  
9 when the state is also proposing to close  
10 children's beds.

11 So we just feel that the programmatic  
12 ties to the reimbursement are being -- the  
13 gap is too wide for there to be good  
14 coordination, and we really think that the  
15 rate-making and the oversight of the spending  
16 should revert back to the "O" agencies.

17 ASSEMBLYMAN ABINANTI: Okay.

18 Secondly, I guess to everyone, there's this  
19 proposal for a crisis center, and I'd just  
20 like a quick comment from each of you, what  
21 do you think -- if you're familiar with the  
22 proposal, what do you think of it? And how  
23 do we make sure it actually works? Is there  
24 anything we as a legislature can do, in the

1 language of the legislation or something?  
2 Because it's a good idea. But how do we make  
3 sure it works? At least I think it's a good  
4 idea. I'd like to hear what you guys think.  
5 Thank you.

6 DR. REYNOLDS: Assemblyman, I think  
7 it's -- if I'm correct, it's basically the  
8 DASH program that's been created out here on  
9 Long Island.

10 And if that's the model, I will tell  
11 you it's been hugely successful. It's been a  
12 great resource for families that would  
13 otherwise wind up in emergency rooms and kind  
14 of do that dance where the kid goes in, gets  
15 discharged, and they do it again and again.

16 I don't know their latest numbers, but  
17 it's been a phenomenal resource for Nassau  
18 and Suffolk County, particularly during this  
19 time, and it has served its purpose very  
20 well.

21 ASSEMBLYMAN ABINANTI: Who did it out  
22 there?

23 DR. REYNOLDS: Family Service League,  
24 in conjunction with the local field Office of

1           Mental Health.

2                     But I will say they've been very good.  
3           And unlike some other projects, very good  
4           about bringing in community partners. And so  
5           it's something that all the agencies have  
6           access to and use on a regular basis.

7                     CHAIRWOMAN KRUEGER: Thank you.

8                     I don't see another Senator, so  
9           Assembly, go ahead.

10                    CHAIRWOMAN WEINSTEIN: I'll go to  
11           Assemblyman Ed Ra, then. Three minutes.

12                    ASSEMBLYMAN RA: Thank you,  
13           Chairwoman. Thank you all for being here  
14           today and the work of your organizations  
15           during a very difficult time.

16                    Jeff, you talked a lot about -- in  
17           your written testimony about the withholding.  
18           And I'm just wondering if you could further  
19           elaborate on it. Because one of the things  
20           -- number one, we see obviously there was the  
21           uncertainty that was created by the  
22           withholding throughout the last fiscal year.  
23           And now there's a partial restoration. But  
24           (A) have you gotten any indication of when

1           you would get that back? I know it's  
2           supposed to be reconciled in this last  
3           quarter of this fiscal year.

4                     And then (B) what the long-term  
5           implications of that 5 percent reduction  
6           nevertheless becoming, you know, a new  
7           baseline and becoming a permanent funding  
8           cut.

9                     DR. REYNOLDS: Yeah, I'll be really  
10          direct. The withholds have had a huge impact  
11          on us. We have not got any notification that  
12          that's been changed. In fact, I got our  
13          letter from Nassau County pulling another  
14          \$150,000 out of the system just yesterday.  
15          And this is a system that was already  
16          threadbare to begin with. We were barely  
17          holding on, like every other provider, with  
18          rates that are insufficient and a demand for  
19          services, and complicated cases that far  
20          exceed our ability to do that.

21                     And so whereas 5 percent doesn't sound  
22          like a lot, when you look at how we were  
23          barely holding on, it's almost like the death  
24          blow for us.

1                   And so our hope would be that  
2                   providers get back all the money they were  
3                   supposed to have in 2020, there be no cuts  
4                   going forward -- and I hesitate to say this,  
5                   but when I go back and look at my staff and  
6                   our clients, I'm no longer that hesitant.  
7                   The reality is that there should have been a  
8                   whole bunch of money in this proposal to deal  
9                   with the mental health crisis that we have on  
10                  our hands.

11                  There shouldn't have been: Go talk to  
12                  the feds and maybe at the end of the day  
13                  you'll only have a 5 percent cut. It should  
14                  have been exactly the opposite of that. It  
15                  should have been: We recognize this is  
16                  important, as COVID, and we're going to take  
17                  it seriously, and there should have been a  
18                  chunk of money in the budget to support these  
19                  services. There wasn't.

20                  Instead, it was -- honestly, I can't  
21                  throw a party that we're only going to have a  
22                  5 percent cut. It still decimates services.

23                  CHAIRWOMAN WEINSTEIN: Thank you.

24                  ASSEMBLYMAN RA: Well, thank you.

1 Thank you again to all of you for your  
2 organizations' work. I don't know if anybody  
3 else had any thoughts or anything to add on  
4 that.

5 MS. SMYTH: Assemblyman Ra, I think  
6 that the most chilling part of the 5 percent  
7 withholds is that that is local assistance  
8 funding generated through community  
9 reinvestment of years past.

10 Not only are we taking the money that  
11 is the legacy of the community mental health  
12 system and cutting it with paper cuts at 5  
13 percent, 15 percent, 20 percent, but we're  
14 not reinvesting in more community mental  
15 health services. This is devastating to the  
16 providers. They have about three months of  
17 cash on hand for operating expenses for their  
18 non-Medicaid services. It's a crisis.

19 CHAIRWOMAN KRUEGER: Thank you.

20 CHAIRWOMAN WEINSTEIN: Thank you.

21 We go to Assemblywoman Miller, three  
22 minutes.

23 ASSEMBLYWOMAN MILLER: Hi. Can you  
24 hear me?

1                   CHAIRWOMAN WEINSTEIN: Yes.

2                   ASSEMBLYWOMAN MILLER: I just -- you  
3 know, I'm very moved by all of your  
4 testimonies. And I just want to (A) thank  
5 you all for what you're doing and (B) tell  
6 you how much I agree with you. I cannot  
7 understand how, in light of what we've all  
8 gone through, we've all experienced, but  
9 people with -- you know, at most risk:  
10 people with mental health issues, people --  
11 you know, these young children without the  
12 in-person nurturing and contact that they  
13 need. We're failing on so many levels not to  
14 have this be increased in the budget and more  
15 funded.

16                   And so I couldn't agree with you more.  
17 And whatever -- you know, certainly I -- I  
18 can't speak for anybody else, but whatever I  
19 can do to help, please, I'm there. It's just  
20 devastating to me that I agree with you, we  
21 are looking at a potential big, big crisis of  
22 mental health, and they're turning their  
23 heads the other way.

24                   So thank you for what you're doing.

1 CHAIRWOMAN WEINSTEIN: Thank you.

2 We go to Assemblyman Bronson.

3 ASSEMBLYMAN BRONSON: Good afternoon,  
4 everyone. Thank you for your testimony.

5 I'm going to direct my questions to  
6 Andrea. And it's going to be a three-part  
7 question. But in the context of what so many  
8 of my colleagues and what you all have just  
9 testified to, and that is the mental health  
10 crisis we're facing.

11 You know, we had a crisis before  
12 COVID-19, and it's only gotten worse. And  
13 our families deserve better than what the  
14 state's providing in this area.

15 But particularly, Andrea, I'm going to  
16 talk to you about the Article 163 mental and  
17 behavioral health professionals. As you know  
18 -- and you've worked with me on a number of  
19 bills in connection with reimbursement from  
20 Medicaid and direct reimbursement from  
21 commercial carriers -- this is really about  
22 access.

23 So my first question is if you could  
24 explain a little bit why it's so vitally



1           important that we have that reimbursement  
2           structure in place. The Governor vetoed the  
3           bills and said we should talk about them in  
4           the budget. So what better way than have you  
5           testify to that today.

6                       Second is the exemption that I've  
7           asked a couple of commissioners to talk about  
8           that expires at the end of June, and what  
9           that means in the field in the state  
10          facilities if that exemption is not extended  
11          and hopefully made permanent.

12                      And then lastly if you could talk  
13          about expanding the diagnosis, the scope of  
14          practice, for the Article 163 professionals.

15                      MS. SMYTH: Sure. Thank you,  
16          Assemblyman. I'll take the nexus between the  
17          exemption sunset and the diagnostic  
18          authority.

19                      We would prefer that the budget  
20          address the scope of practice of the 163s so  
21          that their full training and clinical  
22          capacity is acknowledged and they're allowed  
23          to diagnose. Then we don't need to do the  
24          exemption again. We did the exemption in

1           2002, in 2010, in 2013, in 2016 and 2018.

2           You have helped us write a bill that  
3 solves the problem permanently, that's the  
4 diagnosis authority. They've been doing it,  
5 they're trained, the bill standardizes their  
6 training and their clinical practice, and  
7 that's what we'd like to see have happen.

8           Regarding the medical assistants'  
9 eligibility, this is just an issue of people  
10 who are doing this work, if they work for an  
11 agency, but they're not allowed to enroll in  
12 Medicaid and take clients from the community.  
13 We think that's wrong. We need more people  
14 practicing, we need access to more mental  
15 health services, and this is the workforce  
16 that we have, the licensed practitioners.

17           We have the social workers, we do have  
18 the mental health counselors, we have the  
19 family therapists, we have the creative arts  
20 therapists, we have the psychoanalysts. We  
21 want to use every single one of them, up to  
22 as much as they're willing to do in the field  
23 to address the crisis.

24           ASSEMBLYMAN BRONSON: Well, and I'll

1           just say this. The situation as it exists  
2           today, if you're a wealthy person in  
3           Manhattan, you have access to mental health.  
4           If you're a person living in poverty in  
5           Rochester, New York, you don't have access to  
6           mental health.

7                     That's wrong. We need to correct it.  
8           Thank you.

9                     CHAIRWOMAN KRUEGER: Thank you.

10                    Are there any other members?

11                    CHAIRWOMAN WEINSTEIN: We are done in  
12           the Assembly.

13                    CHAIRWOMAN KRUEGER: Thank you.

14                    Only to edit Harry's last comment,  
15           Assemblymember Bronson. If you're poor  
16           anywhere, you're not really getting mental  
17           health. So I don't disagree with your point  
18           about people with money and private  
19           insurance, but I don't know that that's  
20           actually radically different in various  
21           cities of the state.

22                    Thank you.

23                    We're going to go on to our next  
24           panel, and we will have Leslie Feinberg,

1 director, Supporting Our Youth & Adults  
2 Network, followed by the CUNY Coalition for  
3 Students with Disabilities, Luis Alvarez.

4 Are we both here? Leslie?

5 MS. FEINBERG: Yes. Yes, I'm here.

6 CHAIRWOMAN KRUEGER: Okay.

7 MS. FEINBERG: Can you hear me?

8 CHAIRWOMAN KRUEGER: Yes, I can.

9 MR. ALVAREZ: I am also here.

10 CHAIRWOMAN KRUEGER: Hi. Great.

11 Go right ahead, Leslie.

12 MS. FEINBERG: Sure.

13 Greetings, Chairs Krueger, Weinstein,  
14 and members of the committees. SOYAN is an  
15 organization of family members and  
16 self-advocates dedicated to preserving  
17 dignity and self-determination for people  
18 with I/DD, safeguarding the progress gained  
19 for them, and protecting and enhancing their  
20 quality of life in a community.

21 Thank you, Senator Mannion -- I hope  
22 you're listening -- for providing questions  
23 in advance to Dr. Kastner.

24 And Assemblyman Ra, thanks. You have

1           given us comfort, knowing that OPWDD has  
2           affirmed that rental subsidies are carved out  
3           from the withholds.

4                       New York State has long prided itself  
5           on providing quality services for people with  
6           I/DD. We heard that OPWDD enrollment is  
7           growing. With fewer dollars, OPWDD will be  
8           forced into cutting critical services to  
9           people, eligibility changes or creating  
10          waiting lists. New York State's image will  
11          be tarnished.

12                      We heard New York State has already  
13          received additional enhanced Medicaid dollars  
14          from the federal government. Please ensure  
15          that OPWDD receives its share of these funds  
16          and applies it to service delivery.

17                      We applaud OPWDD's continued support  
18          of community integration. We are concerned  
19          that lessons learned during the '80s have  
20          been forgotten. The failure to provide  
21          sufficient community-based supports led to  
22          the well-documented high costs to safety and  
23          dignity. Please do not replicate these types  
24          of devastating insults now to our most

1 vulnerable citizens.

2 We applaud OPWDD for including  
3 initiatives for long-term housing. The  
4 process for determining an individual's  
5 rental subsidy for self-direction in a  
6 community, and the subsidy amount itself,  
7 have not been recalibrated and reviewed for  
8 years, causing many people in high-rent  
9 counties to choose between healthy food,  
10 necessary out-of-pocket expenses, or the rent  
11 payment that they must pay their landlords  
12 above the subsidy amount. This is not  
13 sustainable.

14 We heard Dr. Kastner mention  
15 wraparound services without providing  
16 details, and family care, which is similar to  
17 a foster care scenario, that relies upon host  
18 families. Integrated community living is  
19 best achieved by working with landlords who  
20 already have rental properties. SOYAN has a  
21 no cost to the state housing support  
22 initiative and would welcome the opportunity  
23 to discuss it in greater detail at another  
24 time.

1                   We applaud OPWDD's recall of the  
2                   20 percent withhold against reimbursements  
3                   for non-Medicaid local assistance. However,  
4                   that 5 percent cut that goes towards paying  
5                   for essential services such as utilities,  
6                   phones and internet for adults living on  
7                   their own, is going to be contrary to our  
8                   concerns about safety and isolation. Please  
9                   recall these proposed cuts.

10                  In our society, adults feel empowered  
11                  receiving a paycheck for a job well done, and  
12                  have a sense of community by having a job.  
13                  We look forward to increased solutions for  
14                  meaningful employment.

15                  Thank you for permitting SOYAN to  
16                  share the thoughts that run through our minds  
17                  and keep us awake at night. We need OPWDD's  
18                  mission to be actualized. Please do not cut  
19                  OPWDD funding; investments are needed. We  
20                  look forward to participating in the budget  
21                  process. Thank you.

22                  CHAIRWOMAN KRUEGER: Thank you.

23                  And next, Luis.

24                  MR. ALVAREZ: Good afternoon,

1 distinguished members of the state. My name  
2 is Luis "Junior" Alvarez, and I'm a proud  
3 student with a disability at Bronx Community  
4 College, majoring in education, where I serve  
5 as the president of the CUNY Coalition of  
6 Students with Disabilities -- CCSD-BCC  
7 Chapter. I'm also honored to be the chair of  
8 the university-wide CCSD that represents more  
9 than 11,000 students with disabilities.

10 According to CUNY, more than 1800  
11 students with disabilities are enrolled in  
12 our degree programs in my borough of the  
13 Bronx. Go Bronx, yeah! I and so many others  
14 rely on reasonable accommodations from our  
15 college to have an equal opportunity to  
16 succeed, especially in distance learning made  
17 necessary by COVID-19.

18 The enrollment of students with  
19 disabilities at CUNY is at an all-time high,  
20 with more than 11,000 of us enrolled at our  
21 university. At CUNY our disabled student  
22 enrollment has grown by more than 50 percent  
23 over the last few decades, and yet our state  
24 funding for personal accommodation and



1 support services has remained the same for  
2 the last 27 years.

3 CCSD supports the New York State  
4 Education Department's \$7 million budget  
5 request to enhance support services for  
6 students with disabilities all around the  
7 state, statewide. This new source of funding  
8 will supplement, not replace, existing  
9 college and university support for students  
10 with disabilities.

11 The CUNY Coalition for Students with  
12 Disabilities enthusiastically supports the  
13 State Education Department's budget request  
14 for students with disabilities that would be  
15 the first of its kind in the nation. Come  
16 on, New York, let's lead the way for the rest  
17 of the country.

18 I also want to say thank you to  
19 Abinitez {ph} and Elio {ph} for attending our  
20 CCSD virtual ceremony, and a big happy  
21 birthday to Epstein. Thank you.

22 CHAIRWOMAN KRUEGER: Thank you both  
23 very much.

24 Okay. I'm going to go on to the next

1 panel. We have Ruth Lowenkron, New York  
2 Lawyers for the Public Interest, and Harvey  
3 Rosenthal, New York Association of  
4 Psychiatric Rehabilitation Services.

5 Hello, Ruth and Harvey, assuming  
6 you're here somewhere.

7 THE MODERATOR: They're coming in.

8 CHAIRWOMAN KRUEGER: There we go. I  
9 see Ruth. Hi.

10 MS. LOWENKRON: Okay, hi. Shall I get  
11 started?

12 CHAIRWOMAN KRUEGER: Please.

13 MS. LOWENKRON: Thank you, Senator.  
14 And hello to all the other Senators. Ruth  
15 Lowenkron, I'm the director at -- Senators,  
16 is that not a horrible way to begin. Hello  
17 to all the elected officials, no slight  
18 intended. I'm just on a roll to get there  
19 quickly.

20 CHAIRWOMAN KRUEGER: Doing great.

21 MS. LOWENKRON: So I'm Ruth Lowenkron.  
22 I'm the director of the Disability Justice  
23 Program at New York Lawyers for the Public  
24 Interest.

1                   And I wanted to start with a searing  
2                   quote because I think to me this crystallized  
3                   everything when I came upon it. From C.S.  
4                   Lewis: "Of all tyrannies, a tyranny  
5                   sincerely exercised for the good of its  
6                   victims may be the most oppressive, and those  
7                   who torment us for our own good will torment  
8                   us without end, for they do so with the  
9                   approval of their own conscience."

10                  And I bring that up because clearly  
11                  this is not a suggestion by me or by any  
12                  advocates that anyone has any ill motives  
13                  here. We are all here to ensure that people  
14                  with disabilities are best taken care of.  
15                  But we disagree fundamentally on how to take  
16                  care of people with disabilities.

17                  And I'm going to limit my comments to  
18                  the area that I am most concerned about, and  
19                  that is about the amendments, potential  
20                  amendments to the hospital commitment section  
21                  and extending the Kendra's Law, the AOT,  
22                  assisted outpatient treatment.

23                  Those are forced treatment modalities.  
24                  And forced treatment is not treatment. My

1       colleague Harvey Rosenthal is going to talk  
2       much more about it. He's in the trenches,  
3       he'll tell you about the programs that work.  
4       But there are programs out there that work.  
5       Voluntary programs. And that's where -- the  
6       direction that we have to see ourselves in.  
7       And we've had other speakers talking about  
8       that as well.

9               So in particular, I just want to  
10       mention the self-directed care program I  
11       don't believe anyone has mentioned today.  
12       That has been on the chopping block  
13       altogether, notwithstanding the fact that it  
14       is a brilliant program that provides people  
15       with psychiatric disabilities the opportunity  
16       to make their own plans for their treatment,  
17       so you know there's a fighting chance for  
18       them to get involved.

19              So these options, they would not only  
20       help fulfill the Olmstead integration mandate  
21       but also they're humane, they're less costly,  
22       and they're legal.

23              So quickly, on the psychiatric  
24       hospital commitments. Unlike what the

1           commissioner said, it is not written  
2           narrowly. It is not a mere clarification.  
3           It would involve potentially thousands of  
4           people.

5                       And there is absolutely no need, as  
6           Senator Krueger said, to have this amended  
7           language because the current language would  
8           take care of it just by virtue of the fact  
9           that if somebody has any problem, whether  
10          it's problems with living or problems with  
11          clothing or anything of that sort, if that  
12          means that they are in imminent danger -- or  
13          danger, of course, but imminent danger, then  
14          they will be helped. But otherwise, they  
15          cannot be forced into treatment.

16                      And similarly -- I see my time is up,  
17          so I'm hurry-hurrying -- with Kendra's Law  
18          it's a similar situation. All of a sudden we  
19          are going to suggest somebody's Kendra's Law,  
20          which is a reduction in liberties -- we're  
21          going to say that it's appropriate to do that  
22          without a physician coming to testify? That  
23          is not due process. It just simply is not.

24                      And similarly, the ability to have

1           someone come after six months and have their  
2           period extended with much reduced procedural  
3           safeguards is just inappropriate.

4           So in closing, there are less costly,  
5           proven community-based peer-led alternatives.  
6           No more forced treatment. And to circle back  
7           to C.S. Lewis, what he might have said is "No  
8           more tyrannies."

9           CHAIRWOMAN KRUEGER: Thank you.

10          MS. LOWENKRON: Thank you.

11          CHAIRWOMAN KRUEGER: Harvey?

12          MR. ROSENTHAL: Hi, I'm Harvey  
13          Rosenthal. I'm CEO of the New York State  
14          Association of Psych Rehab Services. We're a  
15          coalition of people with mental illnesses and  
16          providers across the state. We fight for  
17          rehab, recovery rights, community inclusion,  
18          criminal justice reform. And I'm here today  
19          to talk about a number of issues, so I'm  
20          going to have to talk fast.

21          A number of the issues -- some of the  
22          issues I'm concerned about, my colleagues  
23          will talk about in terms of the pandemic and  
24          the cuts and reinvestment and housing. So

1 I'll be talking more about a variety of  
2 rights issues.

3 Number one, the adult home residents  
4 have a cut of \$170,000. It's a little bit of  
5 money for a lot of advocacy for people who  
6 really need it.

7 I too am very tied up with  
8 self-directed care. Strategic purchases that  
9 really move people's outcomes -- whether it's  
10 housing, employment, transportation,  
11 education, stable housing -- improve  
12 self-care. It's an extraordinary program  
13 with great success.

14 Criminal justice reform, I want to  
15 thank Senator Brouk for introducing Daniel's  
16 Law. It's really the way to go. It's about  
17 mental health alternatives to the police. We  
18 know the police shouldn't be first  
19 responders. We've seen the tragedies in  
20 Rochester and throughout.

21 Mental health responders. And I would  
22 say to the Senator, if we can include some  
23 peer counselors, that would be really  
24 critical.

1                   Halt the torture of solitary  
2                   confinement. It's abysmal. It's outmoded.  
3                   It's torture. The United Nations says it's  
4                   torture. We have people in jail and prisons,  
5                   a lot of people of color, a lot of people  
6                   with mental illnesses, a lot of people who  
7                   commit suicide. Because this is not about  
8                   rehabilitation, it's about punishment.

9                   The law would ban solitary confinement  
10                  for people with mental illnesses. It would  
11                  extend -- it would stop the extension of time  
12                  in solitary confinement. It would build some  
13                  rehab units. The Governor says it's too  
14                  expensive, the study says it's not.

15                 Back to what Ruth has said, I'm very  
16                 concerned about the expansion of outpatient  
17                 commitment. It will let the state go out and  
18                 take all kinds of people and cart them off to  
19                 hospitals, whether that's appropriate or not.

20                 We know how to serve people in that  
21                 level of need. We have crisis respite  
22                 programs, we have peer bridgers, we have  
23                 halfway home programs, peer crisis  
24                 stabilization. We know how. And there's a



1           program in Westchester we helped design,  
2           80 percent engagement rate with people who  
3           are not supposed to be engagable. We know  
4           how to do that. And we need to do that.  
5           It's not about the law, it's about mental  
6           health help. That's why we're here.

7                     And folks in need, need housing, not a  
8           hospital. They need compassion, not  
9           coercion, containment and control. The  
10          affected population is going to be much  
11          larger than the commissioner said. It'll be  
12          hundreds and eventually thousands of people  
13          using hospital beds along the way.

14                    It's racial inequity. We already know  
15          forced treatment on Kendra's Law is --  
16          two-thirds is people of color. There's no  
17          reason to think otherwise.

18                    Also, the commissioner has to monitor  
19          whether there's abuses in overcommitment.  
20          She can't possibly do that. They're not  
21          doing it with Kendra's Law, making sure it's  
22          a last resort. It's too much.

23                    The Legislature has rejected an  
24          extension of Kendra's Law for 20 years. They

1 know it's a controversial program, it  
2 violates people's rights, and it -- and you  
3 have understood that. And instead, you have  
4 focused on these alternative voluntary  
5 approaches. It cannot be increased. We've  
6 asked for your help, you've done it for  
7 20 years in a row.

8 Finally, in crisis stabilization  
9 centers, especially the peer ones, like we  
10 have in New York State, up in Poughkeepsie,  
11 for example -- we're in strong support of  
12 them, as long as no voluntary transport. And  
13 they should be run by nonprofits, not  
14 hospitals.

15 Thank you.

16 CHAIRWOMAN KRUEGER: Thank you both  
17 very much. Seeing no hands, moving along,  
18 thank you.

19 Christine Khaikan, Legal Action  
20 Center, and Briana Gilmore, community  
21 advocate.

22 MS. KHAIKAN: I think I am starting.  
23 Hi. Thank you, chairs, members of the  
24 committee.

1           My name is Christine Khaikan. I am a  
2 health policy attorney at the Legal Action  
3 Center. And we have a long history of  
4 working to remove barriers to health  
5 insurance coverage and care for people with  
6 substance use disorders and mental health  
7 needs. And we thank everyone for the  
8 opportunity to provide input today.

9           I don't have to tell all of you this  
10 is a horribly tough time, obviously the  
11 pandemic and of course these extra things  
12 caused by the pandemic -- increases in  
13 overdose, suicide, depression, isolation. So  
14 a really strong and functioning mental health  
15 and substance use disorder system right now  
16 has never been more critical.

17           And it's never been more critical to  
18 not waver from a focus of equitable access to  
19 quality care, ensuring the whole full scope  
20 of treatment, prevention, recovery, harm  
21 reduction services. So I want to address a  
22 few items in the budget.

23           The first is the merger of OASAS and  
24 OMH and creating a new agency. We just want

1           to ensure that there's a laser focus on the  
2           populations served by these agencies,  
3           ensuring that the expertise they possess is  
4           preserved. You know, there needs to continue  
5           to be equitable access -- in fact, expanded  
6           access to services. And the same goes for  
7           moving towards integrated licenses and the  
8           integrated centers.

9                       We -- this is a long time coming.  
10          Whole-person care is so important. And  
11          again, it just needs to be hyperfocused on  
12          serving the people in need, and equitable  
13          access.

14                 Also, telehealth. You know, we're  
15          really happy to see lifting certain  
16          regulatory barriers and expansion of those  
17          services. But they can't become a  
18          replacement for needed in-person services.  
19          And patient choice needs to be preserved, and  
20          there needs to be access, when people want  
21          them, to broadband and the appropriate  
22          technology.

23                 And also, we wanted to address crisis  
24          stabilization services. You know, this is a

1 great thing and we laud the goal of making  
2 sure people in crisis, mental health crisis,  
3 substance use crisis, are not entering the  
4 carceral system. But we just want to make  
5 sure, again, a strong focus on health and  
6 social service needs.

7 You know, there are funding  
8 opportunities coming through the federal  
9 block grants, but also the opioid litigation  
10 making its way through the courts. And we  
11 heard yesterday New York will be getting 32  
12 million from one settlement. More will be  
13 coming. But we just want to ensure this  
14 money needs to be dedicated exclusively to  
15 this population for treatment, prevention,  
16 recovery supports, harm reduction services.  
17 It cannot supplant existing funding.

18 And we're really concerned about the  
19 50 percent cut in funding for jail-based  
20 transition services for substance use  
21 disorder care. This is a really important  
22 touch point in reducing overdose services,  
23 and we really would like to see that  
24 restored.

1                   And in my remaining seconds, I just  
2                   want to say, you know, we continue to focus  
3                   on mental health and substance use parity  
4                   enforcement, removing prior authorization for  
5                   Medicaid. And we want to also really thank  
6                   members of the committee for their support of  
7                   CHAMP, the ombuds program in New York that  
8                   has served as a critical lifeline for people  
9                   struggling to access their mental health and  
10                  substance use disorder services and health  
11                  insurance coverage.

12                 So thank you so much.

13                 CHAIRWOMAN KRUEGER: Thank you. And I  
14                 think no questions either -- oh, excuse me.  
15                 Can we have the second person on this panel,  
16                 please.

17                 MS. GILMORE: Thank you. Good  
18                 afternoon, chairpersons and members of  
19                 committee. Thank you for hearing my  
20                 testimony today.

21                 I want to offer particular gratitude  
22                 to Senator Brouk for grounding us this  
23                 morning in honoring our collective grief at  
24                 watching a 9-year-old child being brutally

1           attacked by Rochester police last week, and  
2           for grounding us in the memory of the life  
3           and murder of Daniel Prude in Rochester last  
4           year.

5                   Every day in my advocacy work I also  
6           honor the legacy of Dontay Ivy, a black man  
7           in Albany, New York, who was murdered by  
8           Albany police in 2015. His crime was  
9           committing -- his crime was performing his  
10          mental health in public outside of his house.

11                   We know that Black and Brown young men  
12          across New York State are disproportionately  
13          likely to be murdered by police, victims of  
14          violence, incarcerated in jails and prisons.  
15          And if they escape that fate, they're  
16          disproportionately likely to be incarcerated  
17          by the Office of Mental Health.

18                   It is time to end our collective  
19          delusionment that AOT and involuntary  
20          commitment are mental health programs. These  
21          are extensions of mass incarceration,  
22          extensions of our police system. They're not  
23          mental health care. The research from across  
24          the country indicates that as soon as a

1 person is involved involuntarily in the  
2 mental health system, they immediately  
3 disregard any respect for that system and no  
4 longer trust involvement in that system.

5 We see, you know, decreased  
6 involvement in meaningful work and education,  
7 a decrease in community tenure, a decrease in  
8 stable housing, increase in rates of  
9 incarceration and future systems involvement.  
10 We need to roll back the extension of AOT and  
11 involuntary commitment in this year's  
12 Executive Budget.

13 I want to switch gears rapidly and  
14 offer you something to smile about. The  
15 easiest way for you to really hold on to a  
16 program that's offering recovery-based  
17 community services in New York this year is  
18 the self-directed care pilot, which was  
19 eliminated from the OMH budget. This is a  
20 tiny, tiny project; you're probably already  
21 wondering why so many advocates are talking  
22 about it. And that's because self-direction,  
23 more than any other program, holds the  
24 promise of recovery.



1                   When OMH implemented this pilot in  
2                   2015, they stated their intention to expand  
3                   it statewide and to research ways to really  
4                   offer it through Medicaid managed care or as  
5                   a value-based-payment initiative. And  
6                   despite overwhelming successes in this  
7                   program, funding has been cut for it.

8                   Early success in the program indicates  
9                   an increase in recovery goals, both for  
10                  mental health and physical health, an  
11                  increase in wellness supports, increase in  
12                  educational and employment attainment,  
13                  increase in housing stability, decreased use  
14                  of hospitalization, and even a savings -- a  
15                  systemwide savings -- because of  
16                  self-directed care.

17                  I assure you, each member of this  
18                  committee has constituents in their county  
19                  who have been advocating for a decade for  
20                  self-directed care. A decade. And I implore  
21                  you to work with me in the coming weeks and  
22                  months, and providers at Community Access in  
23                  New York City and Independent Living Center  
24                  in Newburgh, so we can demonstrate to you the

1 transformative impact of self-directed care  
2 in your communities.

3 Thank you for your time. I look  
4 forward to working with you this session.

5 CHAIRWOMAN KRUEGER: Thank you both  
6 very much.

7 Seeing no hands, we're going to keep  
8 moving. Panel E, the New York Association of  
9 Alcoholism and Substance Abuse, John Coppola;  
10 the Coalition of Medication- Assisted  
11 Treatment Providers and Advocates, Allegra  
12 Schorr; and Friends of Recovery, Dr. Angelia  
13 Smith-Wilson.

14 We'll start with John Coppola.

15 MR. COPPOLA: Senator Krueger and  
16 Assemblywoman Weinstein, I just want to thank  
17 you for your perseverance here and for the  
18 work that you do every year.

19 If you were to go back and look at the  
20 testimony that has been provided by our  
21 association over the course of the last  
22 decade, you'd see almost every year a plea  
23 for additional resources and a warning that  
24 there's a significant uptick in addiction --

1           and in more recent years, driven by a real  
2           concern about opioid overdose deaths and  
3           addiction.

4                     And every year we were talking about a  
5           little bit of disbelief that from one year to  
6           the next there was really no remedy, there  
7           was no additional resources that were being  
8           brought to bear on this, as we looked at the  
9           upward trajectory. And we have right now  
10          this juxtaposition with COVID, and we see  
11          what we're capable of doing and marshaling  
12          our resources for a serious, you know,  
13          pandemic.

14                    I want to really just talk a little  
15          bit first about how during COVID, with a lack  
16          of protective equipment, et cetera, and an  
17          escalating rate of addiction and overdose,  
18          addiction service providers did not receive  
19          the additional funds that they had requested  
20          last year. And not only that, but they were  
21          cut. And how do you apply a cut to a field  
22          that's dealing with the kind of crisis that  
23          we were dealing with?

24                    I want to suggest to you -- I was

1           thinking a lot about Senator Brouk's remarks,  
2           and I really appreciate the way that she  
3           started this hearing by calling our attention  
4           to the failures of our system, particularly  
5           when it's inadequately funded and  
6           inadequately financed, and the important role  
7           that we play. And I want to be also mindful  
8           and ask this question: Where is the  
9           structural racism in our budget? And is it  
10          possible that it's structural racism and  
11          sexism because we largely have a women's  
12          workforce, that's the reason why we're not  
13          getting the resources we need.

14                 You have at your disposal this year  
15          resources, resources from increased block  
16          grants and the federal grant. We have  
17          settlement funds that you could put toward  
18          this. There's the opioid surcharge. There's  
19          possible revenue from gambling, there's  
20          possible revenue from marijuana. So this is  
21          not about creating new resources. A simple  
22          question: We have an opportunity to correct  
23          what have been serious wrongs over the course  
24          of decades. The resources are on the table.

1           They can be allocated to help us or not. If  
2           we come back next year and say we did not  
3           receive the additional resources, it's going  
4           to be -- we'll be hard-pressed to explain why  
5           that is, because there are resources there.

6                     We need you, Assemblywoman and  
7           Senator, we need you to watch those resources  
8           and make sure that they don't disappear off  
9           our table. Thank you.

10                    CHAIRWOMAN KRUEGER: Thank you.

11                    Our next testifier, Allegra Schorr.

12                    MS. SCHORR: Thank you. Good  
13           afternoon, chairs, committee members. I'm  
14           Allegra Schorr, president of COMPA. COMPA  
15           represents New York State's opiate treatment  
16           programs and the medication- assisted  
17           treatment providers. And thank you for the  
18           opportunity to testify today.

19                    In 2016, the Surgeon General,  
20           Dr. Vivek Murthy, appeared on television to  
21           introduce the landmark 400-page report  
22           "Facing Addiction in America." And  
23           Dr. Murthy was asked to share just one point  
24           with the audience in 30 seconds. And

1 Dr. Murthy said "Methadone." The critical  
2 takeaway from the Surgeon General's report on  
3 addiction was methadone. Why? The Surgeon  
4 General wasn't saying that methadone was  
5 magic, and he certainly wasn't saying that  
6 it's the answer for everybody. But he was  
7 making a fundamental point. Scientific  
8 evidence clearly supports the effectiveness  
9 of methadone and medication-assisted  
10 treatment for opiate use disorder. But it is  
11 underutilized, and it is stigmatized. So the  
12 Surgeon general was highlighting that  
13 ignorance is beating science.

14 So we're in the midst of a worsening  
15 crisis, and the COVID-19 pandemic is  
16 colliding with an opioid epidemic, and we're  
17 seeing record overdoses. At this point all  
18 of our treatment resources and all of our  
19 funding should be prioritized and should  
20 incentivize science, and that means  
21 medication-assisted treatment.  
22 Unfortunately, COMPA's main and most urgent  
23 concern right now is to prevent closures of  
24 opiate treatment programs, and that's because

1 of OMIG audits.

2 This issue threatens to destabilize  
3 the entire opiate treatment system, and this  
4 could have a cascading impact on the public  
5 health of New Yorkers because of the whole  
6 pandemic.

7 And as you heard earlier today, an OPT  
8 recently had to close a program site, and  
9 that disrupted treatment for 1500 patients,  
10 after OMIG had an extrapolation of 12  
11 clerical errors, which had a total value of  
12 \$400, but it resulted in a \$7.7 million  
13 disallowance. And right now a similar  
14 situation is being played out in Western  
15 New York, and there's several more audits in  
16 the pipeline.

17 So compliance audits of OTPs, which  
18 are conducted by OMIG, are resulting in  
19 vastly disproportional disallowances, and  
20 those have and they will continue to result  
21 in the loss of treatment slots.

22 So what we're asking for is a  
23 reevaluation of this OMIG's process. And  
24 we're asking for some statutory protection

1           that's going to prevent the OMIG from their  
2           actions that are going to lead to a reduction  
3           in access to service. And this is when  
4           there's no fraud and no abuse whatsoever.

5           So I thank you for your concern and  
6           for hearing this, and I ask you to please  
7           prioritize science. We need that now. Thank  
8           you very much for your concern.

9           CHAIRWOMAN KRUEGER: Thank you.

10          So we do have a few questions for this  
11          panel. First, the chair of Alcoholism and  
12          Substance Abuse, Senator Pete Harckham.

13          SENATOR HARCKHAM: I think you have  
14          one more speaker, Madam Chair.

15          CHAIRWOMAN KRUEGER: Oh, I apologize.  
16          I was so excited about people wanting to ask  
17          questions. Excuse me.

18          Let's go back and let Dr. Angelia  
19          Smith-Wilson testify first.

20          DR. SMITH-WILSON: Thank you. Thank  
21          you. Good afternoon. I am Dr. Angelia  
22          Smith-Wilson, executive director, Friends of  
23          Recovery, and a family member and an ally to  
24          the recovery movement.



1 I'm grateful to be invited by the  
2 Senate Finance chair, Liz Krueger, and  
3 Assembly Ways and Means chair, Helene  
4 Weinstein, to examine the fiscal year  
5 2021-2022 budget. I'm equally honored to  
6 share with you the collective voice of the  
7 New York State recovery community, which  
8 represents over 260,000 individuals.

9 We are proud to bring the voice of the  
10 recovery community to discuss the potential  
11 impact of this year's budget. And I say  
12 potential impact because there's still time  
13 to mitigate some of the reductions which, if  
14 left unmitigated, would result in a reduction  
15 of community-based recovery services, further  
16 causing harm in this time of COVID ravages  
17 and the opioid epidemic, as well as racial  
18 unrest.

19 Recovery is not just an individual or  
20 family issue, it's a community issue. It is  
21 and should be addressed as such by the people  
22 who were diligently elected to represent the  
23 people. FOR-New York has worked since 2008  
24 to build an infrastructure around the state

1 through local recovery community  
2 organizations, a network that saw over 44,000  
3 visits to the recovery community  
4 organizations last year alone.

5 We know that recovery works. It wraps  
6 itself around treatment, and it should be  
7 treated on par as treatment. And so we know  
8 that the federal money has been strategically  
9 funneled through OASAS to the state-targeted  
10 response to the opiate crisis grants. But we  
11 know that that is not enough.

12 We hope that any and all funding  
13 streams, whether increased federal dollars --  
14 which you've heard about today -- the opiate  
15 litigation funds, which could potentially  
16 bring millions of dollars, or through other  
17 tax revenue streams related to addictive  
18 substances or behaviors, be allocated  
19 specifically to prevention, treatment,  
20 recovery, as well harm reduction services.

21 These funding streams could be exactly  
22 the ticket to filling the health gap for our  
23 vulnerable population, or they could become  
24 another Band-Aid for our state budget. It is

1           our hope that they help to fill the gap. We  
2           ask the Legislature and the executive branch  
3           to put this funding where it belongs, back  
4           into addiction services and supports where it  
5           is needed.

6                     Thank you.

7                     CHAIRWOMAN KRUEGER: Thank you.

8                     Now let's try Pete Harckham.

9                     SENATOR HARCKHAM: Thank you,  
10           Madam Chair.

11                    And thank you to all three of you for  
12           your testimony today and your partnership and  
13           your collaboration on these important issues.

14                    Since time is short, I'll ask my  
15           questions first to Allegra. We -- in  
16           legislation last year, we ended prior  
17           authorization of MAT for Medicaid. I  
18           understand that has not worked out as we had  
19           planned, and there's some issues, if you  
20           could address that.

21                    And then to both John and Angelia,  
22           what I'm hearing in the community is that  
23           it's hard to retain staff right now. Morale  
24           is low. We in the state have not kept up

1 with the reimbursements for staff. You  
2 alluded to the lack of COVID funding. So if  
3 the two of you could also address the state  
4 of the industry and where morale is at.

5 So we'll go to Allegra first. It  
6 looks like about a minute for each of you.

7 MS. SCHORR: Sure. Thank you so much.  
8 And thank you, Senator, because we did -- I  
9 think we had a really great piece of  
10 legislation, and certainly the intention was  
11 to get rid of that prior authorization, which  
12 is a real barrier to treatment.

13 And I would say it was very successful  
14 in the -- for commercial insurance, and that  
15 had been a real barrier. Unfortunately, on  
16 the Medicaid side, as you said, it didn't  
17 work out. And now what we have is I think  
18 even greater disparity between people with  
19 commercial insurance and people with  
20 Medicaid.

21 And the difference here is that the  
22 state is planning a single formulary for our  
23 Medicaid population, and they are -- instead  
24 of having real open access to any kind of

1 medication-assisted treatment, for  
2 buprenorphine product, depending on what you  
3 have, unfortunately they've limited it to  
4 certain -- ironically, to a brand. So  
5 normally you would think, well, a generic,  
6 that's pretty common. But in this case  
7 they're saying a brand.

8 And there are several patients that  
9 are with addiction medicine very used to and  
10 familiar with their particular formula, and  
11 they're now going to be moved to a different  
12 product if you're Medicaid. That will not  
13 happen if you're commercial -- if you have  
14 commercial insurance. So that's -- that's --  
15 we're definitely concerned about --

16 SENATOR HARCKHAM: All right, so let's  
17 keep in touch on that one and we can do some  
18 more work on that.

19 MS. SCHORR: Great. Thank you.

20 MR. COPPOLA: Senator, on your point  
21 about the state of the field, you know,  
22 morale is very, very low. I mean, during PPE  
23 people were considered to be first responders  
24 and essential staff, but they didn't get the

1 equipment.

2 And also, you know, in a world where  
3 our workers are paid \$5,000 to \$7,000 less  
4 than comparable workers in other fields, it's  
5 a significant uphill battle for folks. It's  
6 amazing that they stay in our programs.

7 SENATOR HARCKHAM: Thank you.

8 Angelia?

9 DR. SMITH-WILSON: Yes, to speak to  
10 John's point, I think that, you know, there's  
11 an incredible amount of resiliency within our  
12 field. But because of the work that folks do  
13 in helping people to transform their lives,  
14 that can be a lot and that can be heavy.

15 And it's not like work in light of  
16 reductions and hold-backs. Obviously that is  
17 going to bring a sense of, you know, folks  
18 not being able to have the resources that  
19 they need as they continue to work with  
20 people to transform their lives. I mean,  
21 it's just been -- it has taken away from the  
22 amount of energy that folks have to give.

23 But I will always say that recovery  
24 offers resiliency. We have seen it. Peers

1           in the workforce have stepped up and done --  
2           and in between. But I'm not sure how much  
3           longer that can continue with the cuts that  
4           they are seeing.

5                   CHAIRWOMAN KRUEGER: Thank you. I'm  
6           sorry, but you ran a minute over so I had to  
7           cut you off. I'm sorry.

8                   Assembly.

9                   CHAIRWOMAN WEINSTEIN: Yes, we go to  
10          Assemblyman Steck, chair of our Alcoholism  
11          and Drug Abuse Committee.

12                   ASSEMBLYMAN STECK: Thank you very  
13          much.

14                   I wanted to ask Ms. Schorr what  
15          statutory changes she felt were needed to  
16          OMIG's enabling legislation to make sure that  
17          it doesn't become an abusive process.

18                   MS. SCHORR: Well, one thing I want to  
19          be clear, we have an understanding that  
20          compliance is important. And we're not  
21          saying in any way, shape or form don't audit,  
22          because we're highly regulated. We're  
23          frankly audited all the time by any number of  
24          federal as well as state and frankly local

1           agencies. So there's no argument from us on  
2           the importance, frankly, and belief in  
3           audits. And in compliance.

4                     What we're saying here is frankly, I  
5           think, excessive and overreach and, in  
6           particular, a sense that this is  
7           disproportional and the -- what can you say,  
8           the punishment doesn't match the so-called  
9           crime. There's actually no crime, so it's  
10          probably not an adept analogy. But in this  
11          case what we're looking --

12                    ASSEMBLYMAN STECK: Can you get to  
13          examples of what you mean?

14                    MS. SCHORR: Yes. So we're looking at  
15          situations where there may be a misstated  
16          visit or a treatment plan that they didn't  
17          find, and so they're going back in time. As  
18          we pointed out, \$400 in total claims when  
19          you're look at this universe -- and it's  
20          essentially because OTPs are -- every single  
21          visit, including medication visits, are  
22          billed separately, claimed separately.  
23          You're seeing a really huge universe that you  
24          wouldn't see in another type of modality.



1                   MR. COPPOLA: Sometimes it's as simple  
2                   as a caseworker did not initial a case  
3                   record. Or did not put the date in the date  
4                   column. There's all kinds of other  
5                   documentation that the service was provided  
6                   on a certain time and date, but there's a  
7                   technical error in the case record, and you  
8                   get a disallowance.

9                   MS. SCHORR: No question that these  
10                  are services that were provided. There's no  
11                  question about the quality of service.  
12                  There's no -- these are simply documentation,  
13                  small documentation errors that are resulting  
14                  in -- in this case, that resulted in a  
15                  program closure.

16                  So that's where the difference that  
17                  we're -- the disputes that we're having.  
18                  It's clearly excessive.

19                  ASSEMBLYMAN STECK: One question.  
20                  Have you been impacted by these so-called  
21                  algorithmic audits, and how so? And what  
22                  might be done to address that problem?

23                  MS. SCHORR: Well, one thing we might  
24                  I think consider is, because there's no fraud

1           and no abuse, the use of this kind of  
2           extrapolation I think is not warranted,  
3           frankly. And so I would suggest that  
4           legislation that limits this kind of huge  
5           extrapolation to a penalty where there maybe  
6           is a real intent, where clearly someone was  
7           out to game the system in some way. That  
8           seems certainly reasonable, no question.

9                     But in this case that's -- none of  
10           this is -- goes to that. And frankly,  
11           there's -- I think providers at this moment  
12           in time are subject to a number of audits.  
13           This is -- this is -- our system is under one  
14           kind of siege at the moment. There's a  
15           number of OPRA audits that have come up, and  
16           that affects many, many more providers. And  
17           these are hundreds of thousands of dollars --

18                    ASSEMBLYMAN STECK: What kind of an  
19           audit is that?

20                    MS. SCHORR: This is an Ordering  
21           Provider Referral Audit. And so these are  
22           audits that --

23                    ASSEMBLYMAN STECK: Is that an OMIG  
24           audit?

1 MS. SCHORR: This is another OMIG  
2 audit. And this is another technical audit  
3 that's caused by -- frankly, really could  
4 have been stopped by a simple edit in the  
5 eMedNY system, claiming system, and did not  
6 have --

7 (Overtalk.)

8 CHAIRWOMAN WEINSTEIN: Thank you.  
9 We're going to go back to the Senate now.

10 CHAIRWOMAN KRUEGER: Thank you.

11 Senator Diane Savino.

12 SENATOR SAVINO: Thank you, Senator  
13 Krueger.

14 I actually have a question for John  
15 Coppola. Good to see you. And thank you to  
16 everyone on the panel.

17 John, I want to ask your opinion about  
18 the proposed merger of OASAS into OMH. I've  
19 spoken to some of the providers here on  
20 Staten Island, and they're a little skeptical  
21 and a little concerned that OASAS, which has  
22 kind of always been a little -- gotten a  
23 little short shrift from the government, even  
24 in the midst of probably the worst opioid

1 crisis in history and drug crisis since the  
2 crack epidemic -- might get lost in the  
3 bigger agency.

4 Do you share that concern or -- what  
5 do you think about this proposed merger?

6 MR. COPPOLA: Thank you for the  
7 question, Senator.

8 What I would say is the field is very  
9 divided. There are a lot of people in the  
10 field that think the new agency would be a  
11 good idea for some of the reasons that I  
12 think Senator Harckham mentioned when he  
13 offered remarks to the commissioner a little  
14 bit earlier.

15 But the more you talk about the  
16 concerns that people have -- so for instance,  
17 you know, will the peer professionals in the  
18 addiction field, the certified addiction  
19 counselors, will they retain their ability to  
20 continue to provide services or will there be  
21 sort of new additional academic standards put  
22 in, basically putting them out of jobs? To  
23 what extent will the treatment models be  
24 different, et cetera? To what extent will

1 people with criminal records, who are a vital  
2 part of our workforce and frequently are  
3 discriminated against in the mental health  
4 system -- to what extent will they be able to  
5 retain their jobs and to retain their  
6 important, you know, part in our workforce?  
7 The culture of the fields are a little bit  
8 different.

9 So when people start feeling, you  
10 know, like what's at risk, what -- how can we  
11 potentially lose our identity, then people  
12 start getting nervous, and then the numbers  
13 of people saying, Well, I'm not so sure it's  
14 a good idea.

15 So I think the process of how the  
16 agency gets designed is going to be vital.  
17 And there has to be some respect for  
18 differences. Just a simple thing like the  
19 use of the word "prevention." Just because  
20 it is applied differently in the two systems  
21 doesn't mean one definition is correct and  
22 the other one is incorrect.

23 So the process of creating new  
24 departments and new service programs, it's

1           going to have to be really important that the  
2           language and the culture of both systems is  
3           respected so that the people who are  
4           ultimately getting services are getting the  
5           best possible services.

6                        SENATOR SAVINO: Thank you. I guess  
7           that will help inform us as we move forward  
8           on this. Because I think Senator Harckham  
9           made some very good points. For too long we  
10          did not look at addiction as anything other  
11          than a character defect. We now know so much  
12          more about it.

13                      But I do think you're right, we've  
14          built out a system where we brought in people  
15          who have been affected by the criminal  
16          justice system because we have criminalized  
17          addiction for so many years, and we would not  
18          want to see those people who built careers  
19          post the criminal justice system shut out of  
20          an opportunity.

21                      So thank you for your answer.

22                      MR. COPPOLA: You're welcome.

23                      SENATOR SAVINO: Thank you for your  
24          work, everyone.

1 MR. COPPOLA: You're welcome.

2 CHAIRWOMAN KRUEGER: Thank you. Yes,  
3 thank you for your work, everyone.

4 On to the next panel, all right? The  
5 Mental Health Association of New York State,  
6 Glenn Liebman; the New York State Conference  
7 of Local Mental Hygiene Directors,  
8 Kelly Hansen; the National Alliance on  
9 Mental Illness, Wendy Burch; and the  
10 Coalition for Behavioral Health, Amy Dorin,  
11 in that order.

12 MR. LIEBMAN: Thank you. Thank you  
13 very much, Senator. I appreciate it very  
14 much. Thank you to both the chairs. And I  
15 just want to also acknowledge and thank our  
16 Mental Hygiene chairs, Assemblymember Gunther  
17 and we welcome Senator Brouk as well to our  
18 community.

19 So my name is Glenn Liebman. I've  
20 been the director of the Mental Health  
21 Association for the last 17 years. We're  
22 comprised of 26 affiliates in 52 counties.  
23 And most of our members provide  
24 community-based mental health services, the

1 kind of services that Commissioner Sullivan  
2 was talking a lot about this morning.

3 But we're also involved a lot in  
4 advocacy training and education. We've  
5 certainly been very involved in the recent  
6 initiative around the Trauma-Informed Care  
7 Advisory Council set up by and initially  
8 introduced into legislation by Assemblymember  
9 Gunther.

10 We're also very involved with mental  
11 health instruction in schools. That's a  
12 mandate that New York has -- we're very proud  
13 of that -- since 2018. We're the only state  
14 in the country that has that. We're very  
15 proud of that.

16 So we're here today to talk about --  
17 really, it's about two pandemics. We all  
18 know the one pandemic, we're all very  
19 familiar with the over 450,000 people who  
20 died, the racial injustice, the lost jobs,  
21 everything that that's about. But I'm here  
22 to talk about the second pandemic. And we  
23 talked about it a little bit this morning.  
24 I've heard several legislators talking about



1           it, and Governor Cuomo's referenced it many  
2           times as well.

3                   Kaiser Permanente did a study early on  
4           around COVID and said that 42 percent of  
5           adult Americans are suffering from a mental  
6           health issue. That's up from the usual  
7           20 percent. That's 90 million Americans.

8                   Those between the ages of 18 to 24, 25  
9           percent of them have seriously considered  
10          suicide. Think about that: 25 percent of  
11          18-to-24-year-olds. And we certainly know,  
12          we're very familiar, we're all familiar with  
13          the school-age children and everything going  
14          on with isolation, anxiety and depression  
15          around that.

16                  We are facing the worst mental health  
17          crisis of our lifetimes. Now, we  
18          appreciate -- the state is responding in some  
19          really strong ways. We're appreciating what  
20          they're doing around restructuring of  
21          telehealth, the emotional support line, the  
22          crisis counseling, crisis stabilization  
23          centers. That's all really good stuff.

24                  But the reality is the budget is very

1           painful. People have talked about this. A 5  
2           percent across the board funding cut to our  
3           already deeply underfunded system. We were  
4           here last year talking to you about 3 for 5  
5           and the need for more funding for our  
6           community. And now we're facing a 5 percent  
7           budget cut.

8                       We are losing \$22 million in  
9           reinvestment this year. We talked about it,  
10          you asked a lot of great questions this  
11          morning about it. Those are community  
12          services that are lauded by the Office of  
13          Mental Health and by our community. It's not  
14          about reinvestment, it's investing. You  
15          invest this funding in the community, and  
16          you're keeping people out of hospitals, out  
17          of emergency rooms, out of the criminal  
18          justice system. So it's really an  
19          investment.

20                      And the cut that really bothers me the  
21          most is the 1 percent across-the-board COLA  
22          cut of \$50 million. That's the worst cut of  
23          all, because that is the heroes -- we're  
24          impacting the heroes who have gone in during

1 COVID, our mental health community heroes.  
2 We've been talking about the larger group of  
3 healthcare heroes? These are our mental  
4 health heroes. They're going in, and  
5 unfortunately they're not even getting a 1  
6 percent increase in terms of the COLA.

7 And not to mention, obviously, the  
8 Dwyer, CIT, mental health first aid, the  
9 funding cuts to -- and Harvey talked about  
10 this too, the adult homes and non-protection.  
11 I could go on and on, but I know my time is  
12 up.

13 But really, this -- to sum it up, this  
14 is such a painful budget for many of us, for  
15 all of us. And it's coming at the worst  
16 possible time in terms of the pandemic.

17 Thank you very much.

18 CHAIRWOMAN KRUEGER: Thank you.

19 Second?

20 MS. HANSEN: Good afternoon. Can you  
21 hear me?

22 CHAIRWOMAN KRUEGER: Yes.

23 MS. HANSEN: Okay. Good afternoon.  
24 Thank you to the committee chairs and the

1 members who are joining us today.

2 My name is Kelly Hansen. I'm the  
3 executive director of the New York State  
4 Conference of Local Mental Hygiene Directors.  
5 And who we represent are the county mental  
6 health commissioners, who are responsible on  
7 the local level, the community level, for  
8 integrated services and developing  
9 priorities, programs, funding, oversight for  
10 individuals -- adults and children --  
11 affected by mental illness, substance use  
12 disorder, and developmental disabilities. So  
13 from the local standpoint, these are all --  
14 they're merged already. They've always  
15 worked in an integrated way.

16 I'd like to use my time today to touch  
17 quickly on two pieces and then talk much  
18 longer on the jail-based SUD funding.

19 So to echo my colleague Glenn and  
20 others, the 20 percent withholds are  
21 devastating. Devastating. This is state aid  
22 money that goes to the counties and the  
23 counties contract with providers based on the  
24 needs in their communities and their counties

1           to be able to provide services.

2           So at the same time this funding was  
3 withheld for 20 percent for three quarters,  
4 the need in the community has significantly  
5 increased due to COVID. Our members work  
6 very closely -- they're responsible for  
7 crisis services in the community. And the  
8 calls to the crisis lines and mobile crisis  
9 are going up significantly. The requests for  
10 individuals who are seeking treatment, what  
11 the county commissioners would tell you is  
12 we're seeing people crossing -- coming in  
13 through our doors and seeking treatment who  
14 we have never seen before.

15           So the impact of COVID will be  
16 lasting, too. We will have -- this doesn't  
17 just get, you know, fixed when a vaccine is  
18 available and everyone feels safe and  
19 comfortable. And the cuts to state aid and  
20 local assistance -- and of course now the  
21 \$22 million proposed redirect out of  
22 reinvestment into the General Fund is  
23 important as well.

24           The 50 percent cut to the funding that

1 goes to counties for SUD treatment and  
2 transition services in jails, this was an  
3 initiative of the conference from the county  
4 commissioners, who kept seeing individuals,  
5 those same folks coming in and out of jail,  
6 in and out of jail, and they had no funding  
7 to be able to provide services for them.

8 So we, together with the State  
9 Sheriffs Association and the New York State  
10 Association of Counties, came together and  
11 advocated for -- our budget ask at that time  
12 was \$12 million. We received \$3.75 million.  
13 And then in this budget, we -- it's cut to  
14 1.8, theoretically because bail reform has  
15 reduced the number of individuals in our  
16 jails.

17 Well, we needed 12 million to begin  
18 with. And so with the 3.75, there are a  
19 number of counties that got \$60,000 to be  
20 able to provide group therapy, transition  
21 services, to be able to give someone a glide  
22 path as they're being discharged and part of  
23 reentry. Peer services, which are so  
24 critically important -- the peer is always

1           the most important person in the room, and  
2           they -- those are at risk of being cut as  
3           well.

4                       So we ask that you restore that  
5           funding fully. And I'm happy to answer any  
6           questions. And I apologize for going  
7           40 seconds over, but happy to answer any  
8           questions you may have.

9                       Thank you.

10                      CHAIRWOMAN KRUEGER: Thank you.

11                      Our next speaker?

12                      MS. BURCH: Good afternoon, Senator  
13           Krueger, Assemblywoman Weinstein, chairs and  
14           members of the committee. Thank you for the  
15           opportunity to provide testimony today.

16                      We are seeing a significant surge in  
17           the need for behavioral health services which  
18           cannot be met without substantial efforts  
19           from our behavioral health providers, yet  
20           they have been met with crippling withholds  
21           and are now facing permanent cuts. To avert  
22           program closures, access barriers and  
23           reductions in service availability, the state  
24           must immediately provide full funding for

1           mental health services and restore the 5  
2           percent across-the-board cut the budget is  
3           imposing on providers.

4                    To maximize every dollar that is  
5           supporting the system, we must ensure  
6           reinvestment of any savings into behavioral  
7           health community-based services. And vitally  
8           needed federal funds received cannot be used  
9           to supplant existing state funds.

10                   We ask that new funds be used first to  
11           support our workforce and strengthen existing  
12           services, and then for new initiatives. Our  
13           provider agencies are in fiscal distress,  
14           experiencing a staffing crisis, and we have  
15           been severely impacted by COVID.

16                   The creation of an adult-use cannabis  
17           program, if enacted in the final budget, must  
18           ensure that substantial revenues are  
19           dedicated to prevention, harm reduction,  
20           treatment and recovery programs. If the  
21           Senate and Assembly approve marijuana for  
22           adult use, we ask that you include a  
23           significant commitment to this funding.

24                   The need for robust community-based



1 behavioral health services is also heightened  
2 as we see psychiatric and detox inpatient  
3 beds being disproportionately reduced by  
4 private hospitals in order to meet state  
5 overhead mandates. The loss of these beds is  
6 disturbing, both because of the increased  
7 burden it places on the underfunded  
8 community-based system as well as the human  
9 toll this is taking on those in need.

10 Along with restoring the funds to  
11 community providers, and ensuring that those  
12 most in need of care receive it, there are  
13 also funding measures that need to be put in  
14 place to ensure appropriate access to mental  
15 health services.

16 We also ask the Senate and Assembly to  
17 strengthen the Governor's proposed expansion  
18 of telehealth services by adding telehealth  
19 rate parity so that rates for audio-video  
20 services are the same as in-person rates,  
21 helping cover the full cost of services, and  
22 that all OMH and OASAS peers be included in  
23 telehealth reimbursement.

24 Now more than ever it is critical that

1           an individual receives the psychiatric  
2           medicine their doctor believes would best  
3           advance their recovery. This is why we are  
4           advocating for prescriber prevails language  
5           for Medicaid services to be included in the  
6           final budget.

7                       NAMI-New York State is calling for  
8           investments in services necessary for  
9           adequate community care, like mental health  
10          housing, ACT teams, mobile intervention  
11          teams, respite centers, crisis stabilization  
12          centers, CCBHCs, telehealth, first-episode  
13          psychosis programs, and school-based mental  
14          health clinics.

15                      We also ask for continued funding for  
16          New York's Institute for Police, Mental  
17          Health and Community Collaboration, which has  
18          been so successful at addressing crisis  
19          response.

20                      With the upcoming implementation of  
21          the 988 crisis number, New York has the  
22          opportunity to transform our crisis response  
23          system. We will be recommending measures  
24          that adhere to NAMI's model bill for core

1 state behavioral health crisis service  
2 systems.

3 Thank you.

4 CHAIRWOMAN KRUEGER: Thank you.

5 And the last on this panel, Amy Dorin.

6 MS. DORIN: Thank you. Good  
7 afternoon. Thank you for the opportunity to  
8 testify this afternoon.

9 I'm Amy Dorin, president and CEO of  
10 the Coalition for Behavioral Health. The  
11 coalition represents over 100 community-based  
12 behavioral health providers who offer the  
13 full array of outpatient, mental health and  
14 substance use services to over 600,000  
15 New Yorkers annually.

16 With COVID and a racial reckoning  
17 affecting historically underserved  
18 communities, demand for behavioral health  
19 services is skyrocketing. And yet  
20 one-quarter of providers can barely make  
21 payroll, showing the behavioral health system  
22 is at a breaking point.

23 Rather than cutting programs, the  
24 Legislature should look at the various

1 opportunities to raise revenue and invest in  
2 behavioral health at this critical moment.

3 We are deeply concerned by the  
4 proposed 5 percent cuts to local aid funding.  
5 These cuts will devastate already struggling  
6 organizations and communities and threaten  
7 critical services. We also oppose the  
8 proposal to suspend community reinvestment  
9 for one year. It is critical that the  
10 closure of inpatient psychiatric beds is  
11 followed with a reinvestment into  
12 community-based services. These services are  
13 essential to keep individuals from needing to  
14 be hospitalized.

15 Instead of these cuts, the Legislature  
16 has an opportunity this year to truly invest  
17 in behavioral health and ensure ongoing  
18 critical support to individuals with mental  
19 health and substance use disorders.

20 The virus may be under control soon,  
21 happily, but the behavioral health fallout  
22 will last for decades to come if we do not  
23 ensure services now. As the state looks to  
24 legalize marijuana, we encourage revenue to

1 be dedicated into prevention, treatment and  
2 harm reduction, as included in the  
3 Legislature's proposals.

4 Additionally, the opioid settlement  
5 funds provide an opportunity to infuse new  
6 dollars into treatment for substance use and  
7 co-occurring disorders, and to turn the tide  
8 on the deadly overdose epidemic. Overdose  
9 deaths have increased in the past year to  
10 new, ever more tragic heights. We must  
11 invest these funds now to prevent cuts.  
12 Opioid settlement dollars must be kept out of  
13 the General Fund, and we encourage the  
14 Legislature to include language to this  
15 effect in the budget.

16 COVID showed a clear need to reform  
17 our telehealth laws, and the proposal in the  
18 budget makes several important changes,  
19 including allowing individuals to receive  
20 care wherever they are located. However, the  
21 proposal falls short in two key ways.  
22 Telehealth must be covered at the same rate  
23 as in-person services. However, rates are  
24 not mentioned in the budget.

1           Telehealth requires a significant  
2           investment from providers, including the  
3           purchase of devices and program licenses, as  
4           well as training staff in this modality.  
5           This must be compensated at the same rate as  
6           in-person care.

7           The proposal also fails to include all  
8           peers. Peers, who are individuals with lived  
9           experience with mental health or substance  
10          use disorders, provide critical services.  
11          They're a proven part of treatment and  
12          recovery and should not be treated  
13          differently from other professionals. All  
14          peers who are eligible to be reimbursed for  
15          in-person services must be eligible for  
16          telehealth reimbursement.

17          Thank you again for the opportunity to  
18          testify today.

19          CHAIRWOMAN KRUEGER: Thank you all  
20          very much for your testimony this afternoon.  
21          Appreciate it.

22          Our next panel -- Panel G, for those  
23          of you following along -- the New York  
24          Alliance for Developmental Disabilities,

1 Russell Snaith; the Association for Community  
2 Living, Sebrina Barrett; the New York  
3 Self-Determination Coalition, Susan Platkin;  
4 and the New York Disability Advocates, Susan  
5 Constantino.

6 We'll go in that order. Russell.

7 MR. SNAITH: Great, thank you.

8 Good afternoon, committee chairs,  
9 distinguished members of the Assembly and  
10 Senate, and Committee on Mental Hygiene. My  
11 name is Russell Snaith, and I'm the founding  
12 member of the New York Alliance for  
13 Developmental Disabilities, also known as  
14 NYADD. With over 5,500 members across New  
15 York State, we advocate for and represent  
16 families and essentially the consumers of  
17 services.

18 I come before you today to speak very  
19 plainly and frankly. When it comes to  
20 funding for the disabled and those with  
21 special needs, this is not a discussion about  
22 money. It's a referendum on morality and  
23 priorities in New York State. So what I'm  
24 really here to do is to kind of reframe and

1 rebrand the context and the tone and the  
2 tenor of this discussion away from money and  
3 more about priorities, obligations,  
4 responsibility and morality, as people who  
5 are learned and in high positions, to take  
6 care of the most vulnerable in our state.

7           There's never going to be enough  
8 money. We all recognize there's never going  
9 to be enough money. So we need to change the  
10 key here away from money and put it more  
11 toward priorities. Basically, money is a red  
12 herring, but priorities are real. And I'd  
13 just like to say that one more time, that  
14 money in the budgeting process is really a  
15 red herring because there's never enough of  
16 it and at the end of the day, there are  
17 decisions that are made to allocate money  
18 that are not always the most efficient or  
19 wise or effective decisions.

20           So -- but priorities are real. While  
21 we are always hopeful for federal aid, we  
22 must first manage the revenues that New York  
23 State does have. We have to manage our own  
24 books and the revenues that we generate.



1                   Service providers have become much  
2                   more efficient and effective in the use of  
3                   their budgets over time, but has New York  
4                   State? Has New York State looked at the  
5                   money that it has and the efficiency of the  
6                   state and the decisions that it makes to run  
7                   the projects that it does run? We must take  
8                   a look at and rationalize all of the waste,  
9                   the inefficiency and noncritical  
10                  discretionary projects New York takes up at  
11                  the expense of greater needs for greater  
12                  people, and disabled and special needs.

13                 Let's put the emphasis of special  
14                 interests on those with special needs. NYADD  
15                 is a loud, clear voice for over 5,000 members  
16                 who vote in New York State, and there's a  
17                 real accounting in terms of the way people  
18                 vote to allocate funding for those with  
19                 special needs.

20                 The state has done a reasonable job in  
21                 assessing the demand for services. And I  
22                 would like to acknowledge and thank the  
23                 partnership with OPWDD. I do think that they  
24                 listen and they're doing their darndest to

1 work with what they have. Yet the demand  
2 continues to rise, and funding continues to  
3 be cut.

4 Service providers are being squeezed  
5 to the brink of extinction and unhealthy  
6 consolidation. Incessant cuts to the  
7 disabled are forcing policy decisions that  
8 put service providers in precarious  
9 situations -- policies that occur in  
10 isolation, warehousing and separation from  
11 the community and families.

12 We must pay direct support  
13 professionals a living wage. They provide  
14 care to our most vulnerable citizens. The  
15 skill set is unique and deep and is not  
16 comparable to a fast-food worker. High staff  
17 turnover reduces care and creates risk. It  
18 costs more money to operate like this than to  
19 pay staff properly in the first place.

20 So I would just like to close by  
21 saying that we're not living up to the credo  
22 of Governor Mario Cuomo. What happened?

23 Thank you for your time.

24 CHAIRWOMAN WEINSTEIN: Thank you.

1                   Sebrina Barrett?

2                   MS. BARRETT: My name is Sebrina  
3                   Barrett, and I am the executive director for  
4                   the Association for Community Living.

5                   Thank you to Senator Krueger,  
6                   Assemblywoman Weinstein and the chairs and  
7                   members of the Senate and Assembly Mental  
8                   Health Committees for this opportunity to  
9                   testify.

10                  ACL's members provide a home and a  
11                  path to recovery for about 40,000 New Yorkers  
12                  with severe and persistent mental illness.  
13                  Before the pandemic -- before the pandemic,  
14                  mental health housing faced a \$180 million  
15                  shortfall. This is because the funding  
16                  model, which was developed 30 to 40 years  
17                  ago, has not kept pace with inflation and the  
18                  changing demands of our community.

19                  For example, employee health insurance  
20                  premiums have risen 740 percent since 1984.  
21                  Our providers cannot afford health insurance  
22                  for staff at current reimbursement rates.  
23                  More than 30 years ago, our staff made \$6 to  
24                  \$7 an hour, double the then-minimum wage.

1           Today they make just at minimum wage, leaving  
2           them unable to afford childcare. Many have  
3           to work more than one job. We are losing  
4           staff to fast-food restaurants and retail,  
5           which can pay them more.

6                     Plus, over time, these jobs have  
7           become harder, as residents' mental and  
8           physical needs have grown.

9                     Today staff manage more than a dozen  
10          medications for residents, rather than one or  
11          two when these programs first started. We  
12          are facing a staffing crisis. We have a 25  
13          to 30 percent staff unavailability rate,  
14          vacancies that cannot be filled due to low  
15          pay, staff who must stay home to care for  
16          children, staff who themselves are ill or  
17          have had to quarantine.

18                    No one is applying for our jobs. Even  
19          when unemployment was at its highest levels,  
20          people needed jobs, but no one wanted our  
21          jobs.

22                    This impacts recovery. This week I  
23          spoke to a former resident whose recovery  
24          time was more than doubled because of staff

1 turnover. She had more than 10 different  
2 staff members over the course of her  
3 treatment. Just when she would begin to  
4 trust a staff member and progress in her  
5 recovery, that employee would leave and she  
6 would have to start over at square one.

7 Also, staff are on the front lines of  
8 COVID. Because residents have co-occurring  
9 medical conditions, of those who became ill  
10 with COVID, more than 45 percent required  
11 hospitalization, and more than 15 percent  
12 died.

13 New York's 2021 enacted budget  
14 included \$20 million for mental health  
15 housing, but due to the fiscal crisis those  
16 dollars were never allocated. We are pleased  
17 to see these dollars are in the '21-'22  
18 budget, and we urge that they be allocated as  
19 soon as possible. We know New York has a  
20 difficult budget year, but the \$180 million  
21 gap remains.

22 We also hope that continued investment  
23 in existing mental health housing will be  
24 made. In addition, we are pleased that the

1           proposed budget includes 250 million for the  
2           development of new supportive housing. This  
3           funding is crucial for New York State to be  
4           able to live up to its obligation to promote  
5           strong mental health housing programs.

6                       Finally, mental health housing is not  
7           only the right thing to do, it's fiscally  
8           smart. It is much less expensive than  
9           hospitals, prisons, and homeless shelters.  
10          We save lives, and we save money.

11                      Thank you.

12                      CHAIRWOMAN KRUEGER: Thank you.

13                      Next?

14                      (Overtalk.)

15                      MS. PLATKIN: Can you hear me?

16                      CHAIRWOMAN KRUEGER: There you are.

17                      MS. PLATKIN: Good afternoon. My name  
18           is Susan Platkin. Thanks for the opportunity  
19           to comment on the budget. I'm here  
20           representing the New York Self- Determination  
21           Coalition, a volunteer group which advocates  
22           for self-directed services through OPWDD. We  
23           also mentor families going through the  
24           process.

1           Self-directed services represent the  
2           most authentic expression of the ADA, the  
3           Olmstead decision, and the HCBS home and  
4           community settings rule.

5           Essentially, self-direction allows  
6           people with disabilities to live, volunteer,  
7           work and play while getting the supports they  
8           need, not just in their communities but as  
9           part of their communities, using an  
10          individualized budget based on their level of  
11          need.

12          I bring to this table the perspective  
13          of many families, but most importantly that  
14          of a mom to my 34-year-old daughter Ruth.  
15          Ruth loves parties, board games, and sports.  
16          She also has intellectual disabilities and  
17          bipolar disorder, and functions pretty much  
18          as a second-grader. Because of her poor  
19          judgment, she needs continuous supervision.

20          Using self-directed services, she  
21          rents a house with a roommate who also gets  
22          services. Ruth shops, cooks, cleans, does  
23          her laundry, takes out the trash --  
24          reluctantly -- with a lot of assistance from

1           staff. Despite all of her challenges, Ruth  
2           is living a good life with friends, a  
3           part-time job, and volunteering in the  
4           community where she grew up and went to  
5           school.

6                       We appreciate that there's a small  
7           increase in OPWDD's budget. However, it is  
8           inadequate. Children with I/DD are being  
9           born every day and living longer. Serving  
10          more people with a minimal budget increase  
11          has the potential to significantly degrade  
12          OPWDD services for everyone.

13                     It's not like people have a choice.  
14          They don't say, My kid is great, family's  
15          fine, let's try and get some services from  
16          OPWDD to make us happy. People need these  
17          services to live their lives.

18                     And this doesn't just affect the  
19          person with I/DD, it affects the entire  
20          family -- for example, a mom who can't work  
21          because she has to care for her 40-year-old  
22          son.

23                     At the same time, we understand the  
24          need to balance the state's budget. We urge



1           you to use COVID as an opportunity and  
2           New York's financial pressures as an  
3           imperative to right-size the system away from  
4           an institutional model of care.

5                     Self-directed services give people  
6           choice in their lives and support them to be  
7           productive citizens. In this new age of  
8           pandemics, we know they're safer than  
9           congregate programs. Relevant here, they are  
10          cost-effective. In programs, everyone gets  
11          the same services. People who self-direct  
12          get only the services they need, without  
13          wasted money for overhead.

14                    One other imperative. Decisions need  
15          to be based on data and consideration of both  
16          their short- and long-term consequences.  
17          OPWDD should be required to make public all  
18          the data they use for decision-making before  
19          making significant changes to how services  
20          and supports are delivered.

21                    We're happy to work with you on these  
22          issues. Thank you.

23                    CHAIRWOMAN KRUEGER: Thank you.

24                    There was one more --

1 MS. CONSTANTINO: I think I'm number  
2 four.

3 CHAIRWOMAN KRUEGER: Ah, thank you.  
4 Susan, yes.

5 MS. CONSTANTINO: Good afternoon. I'm  
6 Susan Constantino, representing NYDA. And  
7 NYDA is the New York Disability Advocates.

8 NYDA is comprised of seven statewide  
9 organizations: The Arc New York, which many  
10 of you know the name; the Alliance of Long  
11 Island Agencies; Cerebral Palsy Associations  
12 of New York State; Developmental Disabilities  
13 Alliance of Western New York; Inter-Agency  
14 Council of Developmental Disabilities; the  
15 New York Alliance for Inclusion and  
16 Innovation; and the New York Association of  
17 Emerging and Multicultural Providers.

18 I give you all those names because all  
19 of these groups together represent about  
20 130,000 individuals with disabilities and  
21 their families.

22 Before COVID, about one in three of  
23 our providers was experiencing financial  
24 hardships. You've heard us, we've been

1           before you before when we've talked about the  
2           need for a COLA, the need for some kind of  
3           increase, and you have always been  
4           responsive, as we've looked at our direct  
5           support staff, in providing some additional  
6           dollars. But we are desperately in need of  
7           dollars now because of COVID.

8                       From the start of the pandemic, there  
9           had been no reimbursement for any of our  
10          additional expenses. The PPE, which when it  
11          was finally available, was exceedingly  
12          expensive -- and we worked for so many weeks  
13          without having enough of it. We were also  
14          having to pay our staff. In my written  
15          notes, as I look at them, I say we had to pay  
16          our heroes, because our heroes were there  
17          every day and they needed to be paid combat  
18          pay -- again, with no reimbursement, and  
19          again despite the fact that there was an  
20          increased FMAP from the federal government to  
21          the state.

22                      I would like to first just clarify  
23          something that Commissioner Kastner had said  
24          earlier today, and that was that the retainer

1           program, which was implemented to offset the  
2           losses for the providers since the day  
3           programs were closed, only reimbursed  
4           providers not at 100 percent, but at 80  
5           percent. And this only lasted for four  
6           months. And generally the providers had kept  
7           all their staff employed, so their expenses  
8           were the same. Even -- and there was no  
9           double billing. Even with COM HAB R, there  
10          was absolutely no -- no -- OPWDD was not  
11          paying twice.

12                 We also know that statewide providers  
13          had incurred reduced revenue of about \$330  
14          million, and we are concerned that OPWDD has  
15          not identified any of those savings due to  
16          the reduced disbursement to providers.

17                 We're also very concerned about the  
18          cuts that were scheduled for 10/1 and now are  
19          5/1. These are true cuts to programs. When  
20          there are vacancies, it takes months to fill  
21          those vacancies, and OPWDD controls that. So  
22          there are no dollars to the providers. And a  
23          vacant bed still costs money. We still need  
24          to have people -- our staff there, and we

1 still need to pay the rent. So it does cost  
2 money.

3 The proposed 1 percent rate reduction  
4 that's in the Executive Budget, combined with  
5 the lack of a COLA, again, for 11 years, is  
6 going to be devastating to our providers,  
7 absolutely devastating.

8 We do want to say how much we  
9 appreciate the opportunity to continue on  
10 telehealth, and we are asking the Legislature  
11 to just put in a special specific amendment  
12 which is called distance site, to make sure  
13 that the providers can be -- of those  
14 services can be in another site besides a  
15 clinic.

16 And our workforce, as everyone has  
17 said, it's getting more dire. Our  
18 percentages are very large. We are asking  
19 the state, with the money that they get for  
20 COVID relief from the federal government, to  
21 create a \$25 million fund for recruitment,  
22 training and retention, but using that fund.

23 Thank you so much for allowing me to  
24 be here.

1                   CHAIRWOMAN KRUEGER: Thank you.

2                   And just -- so sorry. Okay. Oh, I  
3 see several hands up. So I will pass it to  
4 the Assembly.

5                   CHAIRWOMAN WEINSTEIN: Okay. So first  
6 we have Assemblyman Abinanti.

7                   (Pause.)

8                   CHAIRWOMAN KRUEGER: Perhaps not. Oh,  
9 there you are.

10                  CHAIRWOMAN WEINSTEIN: Yeah, there he  
11 is.

12                  ASSEMBLYMAN ABINANTI: No, I'm trying  
13 to click in. I've got all these things  
14 they're telling me I have to click here and  
15 there and --

16                  CHAIRWOMAN WEINSTEIN: Okay.

17                  ASSEMBLYMAN ABINANTI: Let me start --  
18 first of all, I want to thank all of you for  
19 joining us.

20                  Either Susan -- or either Susan, there  
21 we go. One of the things that I started to  
22 talk to the commissioner about this morning  
23 and really ran out of time was how long it  
24 takes to get into the system. Now, I'd like

1           -- I mean, my understanding of the way this  
2           works -- and I went through it myself, and  
3           I'm still going through it, actually -- is  
4           first you have to go to OPWDD to get somebody  
5           to qualify you as having a disability,  
6           correct?

7           MS. CONSTANTINO: Correct.

8           ASSEMBLYMAN ABINANTI: And then the  
9           next step -- I'm trying to remember what it  
10          was. You have to go to local social services  
11          to --

12          MS. CONSTANTINO: Somebody has to help  
13          you where you go to social services, right,  
14          absolutely.

15          ASSEMBLYMAN ABINANTI: And then you go  
16          back to OPWDD, right. And then you go back  
17          to social services again to -- and get --  
18          then you get a care coordinator.

19          MS. CONSTANTINO: Correct.

20          ASSEMBLYMAN ABINANTI: Now, the care  
21          coordinator helps you set up a whole outline  
22          of what your needs are and how you tie the  
23          needs into the services that are available,  
24          maybe apply for Medicaid --

1 MS. CONSTANTINO: Medicaid, yup.

2 ASSEMBLYMAN ABINANTI: -- or maybe  
3 food stamps or all of the other programs that  
4 are available, right?

5 Then from the care coordinator -- now,  
6 there's only like 3,000 of them in the state,  
7 right?

8 MS. CONSTANTINO: Right.

9 ASSEMBLYMAN ABINANTI: It's a limited  
10 number. And they're doing all of this work,  
11 and there's waiting lists for some of the  
12 care coordinators, right?

13 MS. CONSTANTINO: That's my  
14 understanding.

15 ASSEMBLYMAN ABINANTI: Right, okay.  
16 And then the next step after care coordinator  
17 is we go to -- we go where? Where do we go  
18 from there, for -- after care coordinator we  
19 go to fiscal intermediary?

20 MS. CONSTANTINO: I think you -- well,  
21 if it were self-direction -- and I would let  
22 Susan speak of that -- it might be a fiscal  
23 intermediary. If it's not self-direction,  
24 you would be going to the Front Door of



1 OPWDD.

2 ASSEMBLYMAN ABINANTI: Okay. Now,  
3 they've just announced that because they've  
4 put in a new assessment system, CAS, they can  
5 insert somebody else in there. Right? A CAS  
6 coordinator.

7 So if it's self-direction, you have to  
8 go to a fiscal intermediary and then a  
9 support broker and then a CAS director. Then  
10 you get to OPWDD.

11 Otherwise, you go -- okay. Now, this  
12 whole process takes how long? I figure about  
13 two years?

14 MS. CONSTANTINO: Well, I'm not sure  
15 if it takes that long. Susan, you talk,  
16 because you know what happens with  
17 self-direction.

18 MS. PLATKIN: Yeah, with  
19 self-direction -- I was just actually  
20 speaking to somebody this morning who had two  
21 children that she was trying to get into it.  
22 And I think she was like -- she was on her  
23 like sixth care manager and had just tried to  
24 find a -- found a broker but wasn't sure what

1 she was doing next and had to switch brokers  
2 because that's a whole other conversation.

3 ASSEMBLYMAN ABINANTI: And the fiscal  
4 intermediaries in the Mid-Hudson area, or the  
5 Lower Hudson area, have a waiting list  
6 because there's not enough of them.

7 MS. PLATKIN: Right. And you know,  
8 part of the problem with the system is that  
9 it's just at a whole lot of levels, things  
10 are getting slow-walked because of lack of  
11 resources within the system, I think. And  
12 although that doesn't look like a budget  
13 change -- or a policy change, I mean, it  
14 really is a policy change because it's taking  
15 so long. You can't really have a waiting  
16 list because you can't do that on the waiver.  
17 But things are just taking a very long time.

18 ASSEMBLYMAN ABINANTI: Thank you.

19 CHAIRWOMAN WEINSTEIN: Thank you.

20 Now we -- I don't believe there's any  
21 Senate.

22 CHAIRWOMAN KRUEGER: No Senators. Do  
23 you have other --

24 CHAIRWOMAN WEINSTEIN: Let me go to

1           our People with Disabilities ranker, Missy  
2           Miller.

3                   ASSEMBLYWOMAN MILLER:   Hi.   Can you  
4           hear me?

5                   CHAIRWOMAN KRUEGER:   Yes.

6                   ASSEMBLYWOMAN MILLER:   Okay.   Thank  
7           you, everybody.   This is probably one of the  
8           panels that I can relate most to.

9                   Just to pick up right where Tom left  
10          off there, that slow-walk that you're  
11          referring to, like after this ridiculous  
12          crazy process, equals people home with no  
13          services, people not even getting into the  
14          system that's available to help them, they're  
15          just sitting there at home languishing.

16                  It used to be that these services were  
17          provided -- or the intake was done through  
18          the Medicaid service coordination agency,  
19          there were waitlists for that.   We were  
20          guaranteed that the CCOs were alleviating  
21          that.   That whole nightmare was going to be  
22          washed out with the introduction of CCOs.   If  
23          anything, it just seems more cumbersome than  
24          ever.   And I just -- it's just, you know,

1           very, very frustrating, especially when, you  
2           know, we -- those of us that live in this  
3           system and rely on this, you know, can't  
4           access what's on paper and what looks so  
5           wonderful.

6                       And I just want to highlight once  
7           again what Russell was saying. It's -- you  
8           know, there's two very poignant parts of in.  
9           Number one, for a population that seems to be  
10          discarded, overlooked, forgotten about  
11          repeatedly throughout this whole pandemic,  
12          it's just striking to me that they're always  
13          the first ones on the budget cut list or on  
14          the cut service providers list. So it's kind  
15          of insulting being one of those in the  
16          population.

17                      And the other is that it's even more  
18          upsetting and frustrating because now, you  
19          know, as a parent I was just told that, and  
20          you're like, all right, what can you do, you  
21          can't get blood from a stone, right? But now  
22          being a little bit on another side of it and  
23          having some insight into the legislative  
24          process, into the budget process, I was

1           appalled to hear the Governor talk about the  
2           \$306 billion of capital improvements and  
3           other, you know, projects, special interest  
4           projects that were in his State of the State,  
5           but yet there's no money, we just keep  
6           getting cut and cut. And it's at the expense  
7           of a growing vulnerable population.

8                       So I just again think that the  
9           priorities are so out of whack. And shame on  
10          us, shame on New York State. This is not how  
11          we were. We were the gold standard, we were,  
12          you know, the leaders in taking care of our  
13          individuals with special needs. And where  
14          are we headed?

15                      So thank you all for your advocacy and  
16          for doing what you do. I'm right there with  
17          you.

18                      CHAIRWOMAN WEINSTEIN: Thank you.

19                      I think we're back to you, Senator  
20          Krueger.

21                      CHAIRWOMAN KRUEGER: Thank you. I  
22          think we are complete with this panel. Thank  
23          you all very much for testifying.

24                      And we're moving into Panel H,

1           NYC Fair, Carlene Braithwaite; Local 372,  
2           DC 37 AFSCME, Kevin Allen; the Self-Advocacy  
3           Association of New York State, BJ Stasio --  
4           who I hope is going to testify as the Muppet  
5           picture he had for himself for much of  
6           today -- and LIFEPlan CCO NY, Nick  
7           Cappoletti.

8                       So we'll start with NYC Fair.

9           MS. BRAITHWAITE: Good evening. Can  
10          everyone hear me?

11          CHAIRWOMAN KRUEGER: Yes.

12          MS. BRAITHWAITE: Yes, my name is  
13          Carlene Braithwaite, and it's my pleasure to  
14          be here representing NYC Fair. NYC Fair is a  
15          group of families and those who support  
16          individuals with intellectual and  
17          developmental disabilities throughout the  
18          entire spectrum.

19                 We have anxiously awaited this  
20          opportunity to talk to you today, but what I  
21          would like to do is to principally, for all  
22          of us and for all of you, rest on the  
23          testimony which we have provided you and then  
24          stick to the points that I think that have

5 And I'd like to start with the  
6 residential issues. We heard, from many  
7 questions posed by the members, about how  
8 residential opportunities, specifically those  
9 in certified settings, are allocated. What  
10 we know is there is a lack of transparency as  
11 to how this is done. Families repeatedly  
12 tell us that they have been on waiting lists  
13 for inordinate amounts of time. We know that  
14 those waiting lists are very, very long, with  
15 estimates in the thousands as to how many  
16 folks are actually there waiting.

17 We know that OPWDD has failed to  
18 follow 5.07, the plan required by the Mental  
19 Health Law of the State of New York. We know  
20 that they have failed to file a report, a  
21 residential needs survey report, which the  
22 Legislature had required that they file with  
23 you every two years.

24 And most importantly, they have simply

1 failed to provide any detail in how they will  
2 migrate people into these less-restrictive  
3 settings which they emphasize. Which we know  
4 will be less expensive, less of a cut on the  
5 budget, but we know we also have an  
6 obligation to serve this vulnerable  
7 population. So we're very concerned as to  
8 how they will do that.

9 So I'd like to move next to the second  
10 important issue here, and that is, I think,  
11 the workforce issue. I don't think there's  
12 perhaps an issue of more importance to the  
13 day-to-day operation of these programs than  
14 the men and women who serve, at the ground  
15 level, these folks in these programs. These  
16 are not minimum-wage jobs. We should all put  
17 our heads together to figure out how to get  
18 them a living wage.

19 We heard Kastner's testimony that he  
20 will bring them up to minimum wage, but we  
21 need them to be higher.

22 And briefly on the October 1, 2020,  
23 cuts. They will be rolled back to May. They  
24 should be eliminated. They are not



1 fact-based. You've heard the testimony from  
2 this morning. They're based on the idea that  
3 these beds will be empty for periods of time  
4 for hospitalizations and therapeutic leave.

5 We know, it's common sense, that when  
6 the beds are empty, the costs keep running.  
7 If the costs keep running, they need to be  
8 reimbursed.

9 And I see I'm slightly over my time.  
10 I appreciate the chairlady's indulgence.  
11 Thank you very much.

12 CHAIRWOMAN KRUEGER: Thank you. Thank  
13 you.

14 Next? Are you with us, Kevin Allen?

15 MR. ALLEN: Yes. Yes, good  
16 afternoon --

17 CHAIRWOMAN KRUEGER: Good afternoon.

18 MR. ALLEN: -- Chairwoman Krueger.  
19 I'm here. Good afternoon.

20 CHAIRWOMAN KRUEGER: Well, we would  
21 love to hear you bring --

22 MR. ALLEN: I'm ready. Good  
23 afternoon, Chairpersons Krueger, Weinstein,  
24 and the distinguished members of the New York

1 State Senate Finance Committee and the  
2 Assembly Ways and Means Committee.

3 I, Kevin Allen, chapter chair, speak  
4 today on behalf of President Francois and the  
5 approximately 270 substance abuse prevention  
6 and intervention specialists representing DC  
7 37 and Local 372, New York City Department of  
8 Education employees who operate in the  
9 New York City public school system.

10 The SAPIS system is currently funded  
11 by the Legislature through a joint \$2 million  
12 appropriation, and I am here seeking an  
13 increase of \$1 million for a total of \$3  
14 million in joint legislative appropriation  
15 for SAPIS.

16 The OASAS-sponsored SAPIS program has  
17 never been more vital than now during this  
18 unprecedented time. Our kindergarten to  
19 12th-grade students have been positively  
20 influenced by the services offered by SAPIS,  
21 with blended in-person and virtual remote  
22 classes in all New York City school  
23 districts. We work as key members of the  
24 guidance departments in schools providing

1 strategies and resources that help students  
2 to utilize relevant prevention skills through  
3 our evidence-based program curricula,  
4 classroom presentations, positive alternative  
5 activities, and our group and individual  
6 counseling groups.

7 Since 1971, SAPIS have provided  
8 essential social-emotional strategies and  
9 services to help youth remain learning-ready.  
10 The SAPIS program has always been equipped to  
11 serve the needs of one of our most precious  
12 populations in New York City. We are  
13 12-month employees that service the entire  
14 school and provide scheduled daily classroom  
15 presentations in our school settings.

16 Because of the COVID-19 epidemic, the  
17 emotional, mental, economical, physical and  
18 social stress upon families cannot be  
19 measured. SAPIS have always been a valuable  
20 part of the life of our students, schools,  
21 and our communities at large. SAPIS are  
22 already trained and ready to respond to this  
23 COVID-19 crisis. Our program is already  
24 tailored to address risk factors affecting

1           our students' lives.

2                   Our requested increase of \$1 million  
3           in SAPIS funding would support an additional  
4           12 full-time SAPIS positions. This would  
5           create services for up to 6,000 more  
6           students.

7                   On behalf of Local 372, once again I  
8           thank the Senate and the Assembly for your  
9           ongoing support for the SAPIS program. We  
10          look forward to working with you all to make  
11          this possible. I am available to answer any  
12          questions you may have.

13                   Thank you.

14                   CHAIRWOMAN KRUEGER: Thank you.

15                   Thank you. Continuing on with Number  
16          27, BJ Stasio, Self-Advocacy Association of  
17          New York State.

18                   MR. STASIO: Thank you.

19                   SAANYS is an association founded by  
20          people with developmental disabilities. We  
21          speak up for ourselves and others for over 30  
22          years, and it's an honor to be here today.  
23          We've spoken a lot of years, and it's an  
24          honor to be here today.

1                   And I'll give you a little background  
2                   about myself. Not only am I currently  
3                   honored to be SAANYS' president -- and I'm  
4                   from Western New York, specifically  
5                   Buffalo -- but I also have worked for the  
6                   Office for People With Developmental  
7                   Disabilities for over 20 years, and I am  
8                   honored to do so.

9                   The Self-Advocacy Association has  
10                  submitted written testimony which is more  
11                  detailed, but I won't be reading that today.  
12                  I just want to speak from the heart.

13                 SAANYS has been testifying for a  
14                 number of years. We often speak about the  
15                 many areas of supports that require  
16                 investment and innovation. However, over the  
17                 past few years, it has become clear to us  
18                 that there is a real risk to our system of  
19                 services and supports as a whole. The simple  
20                 fact is that more and more people require  
21                 services each year, and the New York State  
22                 budget has not kept up with this.

23                 While it is good that OPWDD and  
24                 provider organizations are working to find

1           efficiencies, cost savings alone can't keep  
2           up with growing needs.

3           New York State has invested an  
4           additional 2 percent in OPWDD each year for  
5           the past few years, and this is appreciated.  
6           However, our understanding is that the demand  
7           for services exceeds 2 percent and may be as  
8           high as 10 annually. We now see a number of  
9           signs that our system of supports and  
10          services is at risk.

11          Among these signs is an ongoing  
12          staffing crisis and a lack of responsive  
13          services. We have many people waiting for  
14          new residential and other opportunities as  
15          well, people currently in services facing  
16          significant barriers to real choice when  
17          seeking new opportunities. Signs that we are  
18          not keeping up include our staffing crisis,  
19          which has been created by a lack of  
20          investment and fair wages for DSPs, which  
21          you've heard a lot about today.

22          Without my DSPs, I wouldn't be able to  
23          be on this legislative meeting today, so I  
24          appreciate them. The importance of a stable

1 DSP workforce can't be overstated, because  
2 without my DSPs I wouldn't have the job that  
3 I do, I wouldn't be able to support the  
4 people that I work with and for, and let  
5 OPWDD and the Legislature know their wants  
6 and needs.

7 We also see people waiting for new  
8 services or to make a change in their  
9 existing services. Often a real choice isn't  
10 available and just isn't enough. That's why  
11 we need more person-centered services so the  
12 system can survive long. And, importantly,  
13 it cannot innovate and become more  
14 person-centered if it does not have a stable  
15 foundation.

16 The core value of SAANYS is to be  
17 person-centered, so it is very important to  
18 keep that in mind, and I want everybody to  
19 know that. Investment must keep up with  
20 growth if people are to have the quality of  
21 supports and services they need.

22 Like I said, without the quality of  
23 support, some people will fall through the  
24 cracks. And SAANYS -- more, all of New York

1 State -- doesn't want that because New York  
2 State is the greatest state in the country  
3 for services for people with developmental  
4 disabilities. I want you to keep that in  
5 mind, please.

6 We are concerned that OPWDD will need  
7 to make cuts in the budget --

8 CHAIRWOMAN KRUEGER: BJ, you're a  
9 minute and a half over, so I'm going to cut  
10 you off now, okay?

11 MR. STASIO: Thank you.

12 CHAIRWOMAN KRUEGER: We have your  
13 testimony. Thank you.

14 MR. STASIO: Sorry about that.

15 CHAIRWOMAN KRUEGER: No, it's okay.  
16 You were very poignant. I didn't want to cut  
17 you off.

18 Our next speaker -- I believe actually  
19 our last speaker for the panel -- is Nick  
20 Cappoletti, from LIFEPlan.

21 Are you here, Nick?

22 MR. CAPPOLETTI: Yes, good afternoon.

23 CHAIRWOMAN KRUEGER: Good afternoon.

24 MR. CAPPOLETTI: I want to thank the



1 chairs and the members of the Assembly and  
2 Senate for holding this hearing and the  
3 opportunity to testify today.

4 My name is Nick Cappoletti. I'm the  
5 CEO of LIFEPlan, one of the seven care  
6 coordination organizations that serves people  
7 with I/DD in New York State.

8 I'm also the parent of a 30-year-old  
9 son with a rare genetic syndrome who's also  
10 the recipient of services from OPWDD.

11 Ten years ago Governor Cuomo committed  
12 that New York State would provide care  
13 management for all as part of the state's  
14 Medicaid Redesign Initiative. The seven CCOs  
15 were created three years ago to provide  
16 integrated and coordinated healthcare to the  
17 over 108,000 people with I/DD in the state.  
18 Of that number, approximately 80,000 people  
19 live either on their own or with members of  
20 their family. Many of these people have  
21 fragile support networks and are only one  
22 heartbeat away from needing crisis services  
23 or a placement.

24 Care coordination organizations are

1 specialty health homes responsible for  
2 coordinating all aspects of an individual's  
3 health and well-being, including medical,  
4 behavioral health, and long-term I/DD  
5 services. When care coordination  
6 organizations were started, we invested  
7 heavily to develop a new workforce, reduce  
8 caseloads, to provide services to medical and  
9 behavioral health, to implement sophisticated  
10 electronic health records, build clinical  
11 departments to respond to the need and reduce  
12 unnecessary emergency room and  
13 hospitalization utilization and perform  
14 comprehensive healthcare management.

15 Care coordination is very different  
16 than Medicaid service coordination.  
17 Commissioner Kastner referenced the fact that  
18 the care coordination rate is 60 percent  
19 higher than MSC. It's a completely different  
20 service. It was designed differently. I/DD  
21 care coordination is responsible for the full  
22 scope of services: Healthcare, primary  
23 healthcare, secondary care, coordinating  
24 those services, coordinating food and housing

1 supports, advocating for access to I/DD  
2 services -- at a time when we do have  
3 significant waiting lists for almost every  
4 program -- preventing crisis and responding  
5 to people's and families' needs. And also  
6 ensuring the quality of services.

7 Last July the state arbitrarily  
8 implemented a 16 percent cut to the CCOs.  
9 That's only been followed by a proposed  
10 23 percent cut effective July 1st. That,  
11 combined, represents a 39 percent cut. No  
12 Medicaid program has ever received a cut of  
13 this magnitude and survived.

14 The state is creating a scenario where  
15 CCOs will no longer be financially viable  
16 entities, ending the promise of care  
17 management for the most vulnerable population  
18 during a national pandemic. Suggesting that  
19 a Medicare incentive payment will address the  
20 damage of this cut is not realistic and will  
21 only make it more difficult for us to help  
22 our members. OPWDD has acknowledged that  
23 there's literally tens of thousands of people  
24 out there who don't even know about these

1 services and are not eligible yet but would  
2 be eligible based on the definition by Mental  
3 Hygiene Code.

4 Parents like me continue to ask the  
5 question: Who's going to care for our  
6 children when we are gone? Our current  
7 system cannot answer this question. We have  
8 people who are not served, we have people on  
9 waiting lists, we need care management now  
10 more than ever.

11 This is a social justice issue. This  
12 is a vulnerable population that has  
13 historically been marginalized and requires a  
14 quality care-management program.

15 I appreciate your interest in this  
16 program, and I'd love to take any questions  
17 that you may have.

18 CHAIRWOMAN KRUEGER: Thank you very  
19 much.

20 I see several hands on the Assembly  
21 side. Helene Weinstein.

22 CHAIRWOMAN WEINSTEIN: Yes. So let's  
23 go to our ranker on People with Disabilities,  
24 Assemblywoman Missy Miller.

1 ASSEMBLYWOMAN MILLER: Thank you.

2 Do I not get five minutes?

3 CHAIRWOMAN KRUEGER: No, I think it's  
4 three minutes now for everyone.

5 CHAIRWOMAN WEINSTEIN: No, on the  
6 panels everyone just gets three minutes.

7 ASSEMBLYWOMAN MILLER: Oh, okay.

8 So I just want to ask a question for  
9 Nick Cappoletti. You know, I hear your  
10 testimony, I read it, I listened to it, and I  
11 relate to so much of what you're saying.  
12 Certainly, you know, as a parent as well, it  
13 sounds so on target.

14 I'm struggling still to understand.  
15 The CCOs are new, it's new to all of us. I'm  
16 still struggling so much to understand. It  
17 just seems that so many of our population and  
18 so many people that I hear from feel that  
19 they're not getting from the CCO what you're  
20 describing, certainly, and certainly not what  
21 we were promised would be coming.

22 You testified asking for more money,  
23 that we can't sustain with the proposed cuts,  
24 but we're not getting the services that are

1           supposedly being delivered. In fact, from --  
2           in my attempt to understand, I've done a  
3           little research of this whole system, and so  
4           I just have a few questions based on that.

5           I'm going to ask my questions first so  
6           that in case we run out of time I can ask  
7           that you just respond to Ways and Means so  
8           that they're on record.

9           The intention of New York State for  
10          creating these CCOs was to provide  
11          conflict-free case management between  
12          self-coordination and provision of services.  
13          So based on that, do you believe that this is  
14          actually happening? When I reviewed your  
15          website, I saw that every member of your  
16          board represents a provider agency. And do  
17          you believe this is a conflict of interest?  
18          And isn't that contrary to what was intended  
19          with respect to conflict-free case  
20          management?

21          My second question, on the fiscal  
22          side, can you share with us if there were  
23          surpluses generated in fiscal years '18, '19  
24          and '20, and what did LIFEPlan do with these

1           surpluses?

2                   And my last question, as a for-profit  
3           company, has LIFEPlan ever disclosed to New  
4           York State how much revenue you've generated  
5           so the Division of Budget can accurately  
6           gauge your fiscal situation so that we can  
7           move, you know, forward?

8                   There were -- I had so many other  
9           things as I was reading and researching,  
10          there were just so many things that pop out  
11          at me that I don't understand. I'm not --  
12          I'm not -- I must not be understanding how  
13          this is supposed to be working. What I can  
14          say is on the receiving end of it, and  
15          hearing from so many others, we're just not  
16          getting any of these services.

17                  I happen to have one of those very  
18          complex kids who has a variety of different  
19          services. I've had multiple care  
20          coordinators. The care coordinator that we  
21          have now calls every month and asks to speak  
22          to my nonverbal child on the phone to check  
23          in and find out what's going on. I just  
24          don't see how this is working.

1 I'm sorry, I see we're already out of  
2 time, so --

3 CHAIRWOMAN WEINSTEIN: Assemblywoman,  
4 we do have the email, all the contact  
5 information for this panel, if you want to,  
6 through -- either directly to me or through  
7 Assemblyman Ra, if you prepare a list of  
8 questions, we'll be happy to send it to the  
9 panel and ask them to respond and make it  
10 part of the official record of this hearing.

11 ASSEMBLYWOMAN MILLER: That would be  
12 great. Thank you very much.

13 CHAIRWOMAN WEINSTEIN: Okay, now we go  
14 to Assemblyman Abbate {sic}. You had your  
15 hand raised, Tom? Did you want to --

16 ASSEMBLYMAN ABINANTI: Oh, you're  
17 confusing me with Peter.

18 Anyway, can you in 25 words or less,  
19 Nick, explain the function of a care  
20 coordinator? You don't hire the people to do  
21 the work, correct?

22 MR. CAPPOLETTI: Correct. Correct.

23 ASSEMBLYMAN ABINANTI: Tell us what  
24 you do.



1                   MR. CAPPOLETTI: So the design  
2 point -- and again, this is the design point  
3 as proposed by OPWDD -- is that the CCOs are  
4 actually -- by design, were created by the  
5 provider organizations. So to address Ranker  
6 Miller's question, that is part of the OPWDD  
7 design, that the CCOs would be started by the  
8 providers.

9                   But there is a degree of separation.  
10 The point of the care coordinators is to look  
11 at the person -- first of all, we help many  
12 people, most people -- you talk about the  
13 issue between front door, going to social  
14 services, back and forth. The care  
15 coordination organizations, we have dedicated  
16 teams that try to make that easier, but it's  
17 not an easy task given how complicated the  
18 OPWDD system is in the system of getting  
19 Medicaid.

20                   But we assist with eligibility. We  
21 then develop a person-centered plan and help  
22 the person apply for services. But it needs  
23 to be recognized that OPWDD ultimately  
24 approves all services. It's not the CCO.

1                   We actually combine -- the seven CCOs,  
2                   we actually track how many people are not  
3                   getting services and try to advocate for  
4                   them. And then we're there as kind of the  
5                   safety net looking at does the person have  
6                   adequate healthcare, housing, do they get  
7                   supports as determined by OPWDD, are the  
8                   providers actually providing that support.  
9                   So there is the level of separation. And --

10                  ASSEMBLYMAN ABINANTI: Who actually  
11                  hires -- who actually hires -- if you're  
12                  talking about self-direction or that piece,  
13                  who actually hires the staff? That's not a  
14                  care coordinator, correct?

15                  MR. CAPPOLETTI: No, it is not. So  
16                  there's actually agencies that serve as  
17                  fiscal intermediaries that work with the  
18                  individual and family to actually identify  
19                  the staff, and the person chooses who they  
20                  hire. And ultimately that organization does  
21                  hire them.

22                  ASSEMBLYMAN ABINANTI: I think part of  
23                  the confusion and part of the problem here is  
24                  what we're talking about today is the

1           totality of somebody's life. And the job of  
2           the care coordinator, as I understand it, and  
3           as I've seen it work, is that that care  
4           coordinator is supposed to look at the  
5           totality of that person's life --

6                     MR. CAPPOLETTI: Correct.

7                     ASSEMBLYMAN ABINANTI: -- and ensure  
8           that every piece of it is taken care of.

9                     So if you have an intact family that's  
10          providing services and who's really just  
11          looking for self-direction to get some money  
12          to provide those services themselves, in  
13          effect -- they can hire people, et cetera --  
14          the care coordinator doesn't have to do very  
15          much.

16                    But if you have a broken family with a  
17          young man who has no support, no services, no  
18          nothing, then the care coordinator becomes a  
19          substitute mother, in effect.

20                    MR. CAPPOLETTI: So it ranges. That  
21          is correct, Assemblyman. The range of need  
22          is wide. At minimum --

23                    ASSEMBLYMAN ABINANTI: I just want to  
24          go to one other thing, then.

1 MR. CAPPOLETTI: Sure.

2 ASSEMBLYMAN ABINANTI: Now,  
3 understanding that there's a 5 percent cut  
4 this year, this budget will cement that in  
5 place, correct? And then they're proposing  
6 another cut on top of the 5 percent cut from  
7 this year.

8 So if you compare what you're going to  
9 get in April of 2021 with what you got in  
10 February of 2019, it will be 5 percent less  
11 plus another 1 percent cut, correct?

12 MR. CAPPOLETTI: No. Actually,  
13 Assemblyman, it's actually worse than that.

14 So in July of last year we received a  
15 16 percent cut. And it's proposed that we  
16 will receive another 23 percent cut July of  
17 this coming year, in 2021. So, combined, a  
18 39 percent cut.

19 ASSEMBLYMAN ABINANTI: But the system  
20 itself also, across --

21 MR. CAPPOLETTI: And the system is  
22 getting cut. And we have waiting lists for  
23 all services. And this is a new program. So  
24 it was a significant change in scope from

1           what we had with Medicaid service  
2           coordination to moving to this health home  
3           model and having to train over 3500 workers  
4           on delivering a whole new model of service,  
5           hiring clinical supports, data analytics, new  
6           integrated health systems to support them.  
7           So it has been a significant transition.

8                     CHAIRWOMAN WEINSTEIN: Thank you.  
9           Thank you for your answer.

10                    We go to Harvey.

11                   ASSEMBLYMAN EPSTEIN: Thank you, Madam  
12           Chair.

13                    So I really appreciate what you're  
14           saying. The cuts seem really horrific. And  
15           I'm wondering how much you guys are talking  
16           about revenue, because there's an Invest in  
17           Our New York Coalition talking about raising  
18           revenue. And, you know, I think we've heard  
19           -- you know, every day we hear of these  
20           horrific cuts. And I'm wondering if you're  
21           putting some energy on the revenue side to  
22           try to get new revenue to New York State.  
23           And that's for anybody on the panel.

24                    (No response.)

1                   ASSEMBLYMAN EPSTEIN: Because the  
2                   cuts are bad. And, you know, the question is  
3                   are we going to divide up a smaller pie  
4                   together? Or we're going to seek new revenue  
5                   sources so the necessary social service for  
6                   people with disabilities can happen? And if  
7                   we have less revenue, we're all going to get  
8                   cut and we're all going to be -- we're going  
9                   to really feel the pain.

10                  The only way around that is to have  
11                  more revenue. And that's some federal  
12                  dollars, but it's also going to be New York  
13                  State dollars. And Investing in Our New York  
14                  is an effort across the board, across issue  
15                  areas, to put more resources in. And, you  
16                  know, as Assemblywoman Miller said earlier,  
17                  this used to be where New York really shone,  
18                  and now we're -- we are not.

19                  So we could really -- I would love to  
20                  see you guys engaging on the revenue side  
21                  because if we don't, this is -- we're just  
22                  going to have -- this conversation is going  
23                  nowhere.

24                  MR. CAPPOLETTI: And I think,

1           Assemblyman, we -- as part of the creation of  
2           the CCOs, that allowed New York State to  
3           access significantly more Medicaid dollars.

4           CHAIRWOMAN WEINSTEIN: We'll be  
5           discussing the revenue at our revenue  
6           hearing. It's not necessary every witness --

7           (Overtalk.)

8           ASSEMBLYMAN EPSTEIN: I appreciate  
9           that. But just to -- just if I -- just  
10          finally, if the cuts come down as they  
11          propose, what does that mean for your  
12          programs? What realistically is going to  
13          happen with your programs? Can you stay  
14          afloat?

15          MR. CAPPOLETTI: Well, for care  
16          coordination organizations, I can tell you  
17          that all seven would be projected into a  
18          deficit either by the end of this year or  
19          certainly in 2022. We've already given that  
20          information to OPWDD.

21          And to the point that Assemblywoman  
22          Miller said, the CCOs are all required to  
23          require CFRs and are in the process of doing  
24          so.

1 ASSEMBLYMAN EPSTEIN: Thank you.  
2 Thank you, Chair, I appreciate it. Thank you  
3 all.

4 CHAIRWOMAN KRUEGER: Thank you. Oh, I  
5 see --

6 CHAIRWOMAN WEINSTEIN: I just want to  
7 --

8 CHAIRWOMAN KRUEGER: I see a couple  
9 more hands, Helene.

10 CHAIRWOMAN WEINSTEIN: Oh, do we? Ah.  
11 Okay.

12 So Assemblyman Ra, please.

13 ASSEMBLYMAN RA: Thank you,  
14 Chairwoman.

15 And as the chairwoman said, maybe I  
16 will work with Ranker Miller to follow up  
17 further in writing.

18 But I just -- in light of  
19 Assemblywoman Miller's questions and  
20 Assemblyman Abinanti's questions,  
21 Mr. Cappoletti, if I could just ask something  
22 I guess a little more open-ended, because I'm  
23 getting a little bit more of an understanding  
24 through your answers.



1           I mean, do you feel -- I know you said  
2           there was kind of a continuum here depending  
3           on the need of the individual, the family and  
4           all of that. But, I mean, do you feel that  
5           this system is working in the way it was  
6           intended when it was set up a few years ago?

7           MR. CAPPOLETTI: So I think the care  
8           coordination organizations are definitely  
9           having a major impact. I'll just give you  
10          one example. We had -- now that we're  
11          looking at not just the I/DD services but  
12          also the person's healthcare, their  
13          behavioral health, et cetera, we have newly  
14          formed clinical teams that are working  
15          together with the care coordinators to  
16          identify people who are high users going into  
17          the ERs, hospitals, et cetera.

18          We're forming partnerships with  
19          non-I/DD providers like Federally Qualified  
20          Health Centers, hospitals, et cetera, to make  
21          it easier for people -- one of the big  
22          challenges, and I'm sure the other parents  
23          here could attest to this, is finding  
24          qualified primary care providers, secondary

1           or specialty providers who will serve this  
2           population. So we have a lot of work going  
3           on right now to do that.

4                     Like I said, we're only 30 months into  
5           this care coordination model, and it does  
6           have a much broader scope than just  
7           coordinating disability services. So I think  
8           we're on our way.

9                     But we have to recognize that there  
10          are a lot of challenges with this current  
11          system. It's not set up to easily serve  
12          people. It's got a lot of complicated  
13          processes between going from OPWDD front door  
14          of applying for services, going to social  
15          services, going back, applying for  
16          self-direction. We know that there's a lot  
17          of complicated things here, and we have  
18          shared those with OPWDD to hopefully  
19          streamline some of that so that when a care  
20          manager identifies somebody who is in crisis,  
21          we can get them, you know, services.

22                     We have a young man right now that has  
23          been over three months in a hospital. That's  
24          unacceptable. You know, people can't -- we

1           can't be using our institutions, the  
2           hospitals, the jails, the institutions as a  
3           service. We have to develop more  
4           community-based services.

5                     ASSEMBLYMAN RA: Well, thank you.  
6           Thank you for your answers, sir. Thanks for  
7           being here.

8                     CHAIRWOMAN WEINSTEIN: Now we go to  
9           Assemblymember Anderson.

10                    ASSEMBLYMAN ANDERSON: Thank you,  
11           Madam Chair.

12                    And thank you to this panel that has  
13           testified on this critically important issue.

14                    I want to just speak to the importance  
15           of care coordination and the need for us to  
16           have care coordinators in a healthcare system  
17           that is extremely opaque and robust and large  
18           and massive. So being able to have folks  
19           that help with folks with disabilities  
20           navigate the system, be able to get the  
21           services that they need, to get the care that  
22           they need, to make sure that they're seeing  
23           the right doctors and all the services is  
24           vitally important.

1           My mom relies heavily on her care  
2 coordinator, who checks in on her every month  
3 to make sure that all of her services are  
4 needed and met. And I do want to provide  
5 this constructive criticism to the industry  
6 of care coordination. I'm sure you don't  
7 represent the whole industry, but I just want  
8 to put this out there.

9           As we're trying this new model, it's  
10 important that -- and this piggybacks off of  
11 Member Miller's point -- we've got to make  
12 sure that our outreach to the patients makes  
13 sense to the disability that that patient  
14 lives with. There's no sense in reaching out  
15 to a nonverbal patient in a way that's not  
16 effectively and adequately communicated with  
17 that person.

18          You know, my mom has a variety of  
19 different ailments that I will respectfully  
20 not share. But just finding that effective  
21 way to best communicate with folks is crucial  
22 and critical, especially in a healthcare  
23 system that has so many layers of confusion,  
24 so many layers of how to get help on how to

1           get resources.

2                       We haven't had the best experience  
3           with care coordinators and consequently had  
4           to switch insurances and providers and things  
5           of that nature. But I do believe in the  
6           program, and I do believe in making sure that  
7           we preserve it. And I will encourage you to  
8           join -- I know, Chairwoman, you've heard this  
9           several times, but I do encourage you,  
10          Nicholas and the folks who are here today, to  
11          join us in the fight to make sure that we  
12          increase revenue so that we can continue to  
13          fund programs and models like this.

14                      Because this is how we will improve  
15          healthcare for seniors, this is how we'll  
16          improve healthcare for folks who live with  
17          disabilities, this is how we'll improve  
18          healthcare for people who truly, truly need a  
19          navigator and someone that they can trust to  
20          support the system. So join us in the fight  
21          for more revenue so that we can fund your  
22          program.

23                      I yield the rest of my time.

24                      CHAIRWOMAN WEINSTEIN: Thank you.

1                   And Senator Krueger, I think it's back  
2                   to you to close us out for tonight.

3                   CHAIRWOMAN KRUEGER: All right, thank  
4                   you.

5                   I want to thank everyone who  
6                   participated today, all the panelists on all  
7                   of the panels, all of the members of the  
8                   Senate and the Assembly, all our staff who  
9                   work so hard for us to pull off these virtual  
10                  hearings. And we either had three or four  
11                  this week -- I think we had four hearings  
12                  this week.

13                  CHAIRWOMAN WEINSTEIN: Three. Three.

14                  CHAIRWOMAN KRUEGER: Well, we had one  
15                  that was a two in one day.

16                  CHAIRWOMAN WEINSTEIN: That's true.  
17                  Four hearings, correct.

18                  CHAIRWOMAN KRUEGER: Four hearings.

19                  So I want to thank my partner in crime  
20                  Helene Weinstein. And we will be back not  
21                  Monday, but I believe Tuesday.

22                  CHAIRWOMAN WEINSTEIN: Tuesday morning  
23                  at 9:30 for the Human Services hearing. And  
24                  we look forward to people's participation.

1                   CHAIRWOMAN KRUEGER: Yes, thank you.

2                   Yes.

3                   So thank you all for all your good  
4                   work. And I hope you can do something a  
5                   little more relaxing with your weekend, if  
6                   possible. Take care.

7                   SENATOR SAVINO: Goodbye, everyone.

8                   (Whereupon, at 5:35 p.m., the budget  
9                   hearing concluded.)

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