



# **NYAPRS BUDGET AND LEGISLATIVE AGENDA FY 2019-20**

**NYAPRS 22<sup>st</sup> Annual Legislative Day  
Hart Auditorium, The Egg - Albany, NY  
February 26, 2019**

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**Your Name**

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**Your Locality**

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**How to Contact You**

NYAPRS Public Policy Committee Chair: Carla Rabinowitz, Community Access

NYAPRS Board of Directors Co-Presidents:  
Peter Trout, Behavioral Health Services North  
Jeff McQueen, Mental Health Association of Nassau County

Executive Director: Harvey Rosenthal

*Since 1981, the New York Association of Psychiatric Rehabilitation Services has supported a statewide coalition of New Yorkers with psychiatric disabilities or diagnoses and community recovery providers to join together to improve services, social conditions and public policies by advancing their recovery, rehabilitation, rights and full community inclusion.*

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***NYAPRS 20th Annual Legislative Day Program  
Tuesday, February 26, 2019 Hart Auditorium at The Egg, Albany, NY***

**Program Schedule**

- 9:30 am Breakfast, Check-In Hart Auditorium, The Egg**
- 10:00 am Welcome:** NYAPRS Co-Presidents Jeff McQueen and Peter Trout  
Public Policy Committee Chair Carla Rabinowitz
- 10:05 am NYAPRS 2019-2010 State Public Policy Priorities**
- 1. Face the Mental Health Housing Crisis! Fund OMH Housing Rate Increases**  
Doug Cooper, ACL; Tiffany Monti, Federation of Organizations
  - 2. Approve a 2.9% Cost of Living Adjustment for Human Service Nonprofits**
    - Glenn Liebman, MHANYS; Phyllis Fisher, Community Access
  - 3. Support Criminal Justice Reforms**
    - **HALT the Torture of Solitary Confinement:** Victor Pate, Doug Van Zandt, Alicia Barraza, The Campaign For Alternatives To Isolated Confinement
    - **Bring Crisis Intervention Teams to More Localities:** Wendy Burch, Matthew Shapiro, NAMI-NYS
    - **Restart Medicaid 30 Days Before Prison & Jail Release** Harvey Rosenthal
  - 4. Increase Access to Mental Health and Substance Use Treatment**
  - 5. Extend Intensive Voluntary Outreach Initiative; Oppose Expansion and Permanence of Kendra's Law** – Harvey Rosenthal, NYAPRS
  - 6. Reinvest in Local Community Mental Health Services:** Harvey Rosenthal, NYAPRS
  - 7. Restore Prescriber Prevails Protections:** Glenn Liebman, MHANYS
  - 8. Thank State Policymakers for the Enactment of Legislation Prohibiting Gender Conversion Therapy:** Jamie Papapetros, NYS Psychiatric Association
  - 9. Make New York a Trauma Informed State** Michael Berry, New York City Trauma-Informed Learning Community
  - 10. Oppose Changes To The Consumer Directed Personal Assistance Program**  
Lindsay Miller, New York Association on independent Living  
Doug Hovey, Independent Living



**NYAPRS 20th Annual Legislative Day Program**  
**Tuesday, February 26, 2019 Hart Auditorium at The Egg, Albany, NY**

**Program Schedule**

**11:05 am     Featured Speakers**

- **Senator David Carlucci**: Chair, Senate Mental Health and Developmental Disabilities Committee
- **Assemblywoman Aileen Gunther**, Chair, Assembly Mental Health Committee
- **Senator Luis Sepulveda**, Chair, NYS Senate Crime Victims, Crime and Correction Committee
- **Assemblyman Jeffrion Aubry**, NYS Assembly Speaker Pro Tempore
- **Dr. Ann Sullivan**, Commissioner, NYS Office of Mental Health
- **Stephanie Campbell**, NYS Ombudsman Project Director, OASAS

**11:20 am     NYAPRS Annual Awards**

- **Lifetime Achievement Awards: Sylvia Lask, Jim Cashen, Jack Beck**
- **Public Education Award: Liz Benjamin**, Capital Tonight

**11:40 am     Role Play of Legislative Advocacy Meetings**

**12:00 pm     Lunch**

**12:30 pm     News Conference TBA**

**12:30 pm     Capital March starting at the West Steps**

**1:30 pm     Meet with State Legislators**

**4:00 pm     Re-group at Buses, Return Home**

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## **HOUSING IS ESSENTIAL TO MENTAL HEALTH RECOVERY!** ***We Must Address the Mental Health Housing Crisis!***

**Background:** For thousands of New Yorkers with major mental health conditions, there is no recovery without stable housing and consistent, reliable and accessible staffing and supports.

However, while New York State has been a leader in creating new housing for people with mental health conditions, it has not provided the funding necessary to help housing agencies to keep pace with steadily increasing costs. This has led us to a state of full scale crisis where housing programs are simply unable to attract and retain a strong workforce, resulting in high turnover and staff shortages! Further, some providers are now declining to bid on new housing initiatives because the rates are simply too low

Housing providers can receive only \$7,600 to \$25,000 per person, per year, depending on housing model and geography: these levels are nowhere near enough for them to provide desired levels of care and to comply with their obligations under contract and regulations.

Without adequate funding for community-based mental health housing and supports, our taxpayers will be forced to shoulder avoidable mounting costs of much more costly institutionalization, hospitalization, emergency care, incarceration & homeless sheltering.

As a very active member of the ["Bring it Home, Better Funding for Better Care"](#) campaign, NYAPRS has long been asking state leaders for increased financial support to help maintain New York's essential community-based mental health housing system.

This year's Executive budget adds only \$10 million in increases to supported housing and SRO programs. We need a much stronger and sustained commitment from New York State policymakers!

We must now turn to our state legislators to give housing providers the funding levels we require before that system is no longer viable, putting at risk access to appropriate housing and supports for many New Yorkers with major mental health conditions.

***Action: NYAPRS joins hundreds of agencies, advocates, families and faith based groups who make up the Bring It Home! Campaign in urging policy makers to:***

- Phase in \$161 million over the next 5 years.***

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## **A 2.9% COST OF LIVING ADJUSTMENT for the HUMAN SERVICES SECTOR**

NYAPRS and our colleagues in the behavioral health and broader human service sector seek a long promised and long deferred 2.9% Cost of Living Adjustment (COLA) to address unmanageable vacancy and turnover rates and agency operating challenges that are significantly jeopardizing our ability to adequately support New Yorkers with serious mental health and substance use related needs.

These funds are critical to allow our agencies to address alarming increases in deaths due to opioid use and suicide, including a growing number of attempts among children under 10 years old, along with steadily mounting rates of homelessness and incarceration.

The nonprofit human services workforce is, in effect, an indirect government workforce. Given our charitable missions, nonprofits have readily stepped forward to accept this public service delivery responsibility. However, New York State has not held up its full end of the bargain.

On January 14, advocates released a newly compiled survey that pointedly demonstrated the magnitude of the workforce crisis, showing a 35% statewide turnover rates and 14% vacancy rates for the behavioral health workforce. In New York City alone, the turnover rate was over 45%.

In addition, over 80% of the human service workforce is comprised of women and over 40% are individuals of color. Many of these individuals are working one or two additional jobs.

The entire behavioral health advocacy community stands together in support of a 2.9% COLA for the broader human services sector. Though the COLA is proposed in the budget every year, it ends up being rejected by the Executive for most of the last decade. This has resulted in a shortfall of over \$500 million dollars to our sector.

Our dedicated professionals are on the front lines every day, providing housing, treatment and support to over one million New Yorkers. In order to stem the opioid epidemic, rising suicide rates and mounting increases in homelessness and incarceration, we must have the full support of New York State policy makers!

***Action: We seek a \$140 million COLA back to January 1, 2019 to maintain the state's commitment to our extremely hard pressed and essential human services work force and agencies.***

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## **REFORM OUR CRIMINAL JUSTICE SYSTEM! CREATE MORE CRISIS INTERVENTION TEAMS**

**Background:** The pathway to a life in the criminal justice system begins with encounters with law enforcement.

Too often, police officers are called on to intervene in circumstances with people in mental distress for which they have not been adequately prepared, too often leading to avoidable incarcerations and tragedies. **At least 25% of people who were fatally shot last year had a mental illness, according to the Washington Post.**

That's why NYAPRS has long advocated for the use of Crisis Intervention Teams (CIT) across New York. CIT is a highly acclaimed model that matches police training with improved local systems collaboration that has been replicated in 2,700 cities across the United States, including Philadelphia, Houston, San Diego, Los Angeles and Chicago.

Over the past 3 years, state legislative leaders have heard our call and responded with \$4.8 million in onetime funds to bring Crisis Intervention Team and other diversionary models to a number of jurisdictions across the state. For example, Senate allocations have gone to the following communities:

- Auburn
- Binghamton
- Clarkstown
- Hempstead
- Newburgh
- Syracuse
- Utica
- Poughkeepsie
- Niagara Falls
- Kingston
- Lockport
- Saugerties
- Greece

as well as to St Lawrence, Cattaraugus, Orleans, Putnam, Broome, Dutchess, Essex, Greene, Genesee, Ontario, Seneca, Niagara, Wayne, Wyoming, Monroe and Ulster Counties.

*In 2019, CIT initiatives will be extended to Steuben, Yates, Cayuga and Suffolk counties and to Amsterdam, Montgomery County.*

We are extremely grateful to our mental health committee chairs Senators Ortt and Carlucci and Assemblywoman Gunther for their generous support over the past 3 years, and urge the Legislature and the Governor to bring another complement of critically needed CIT initiatives to a new set of jurisdictions this year.

**Action: We seek a \$1.5 million allocation to bring the Crisis Intervention Team model to additional counties across New York.**

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## **REFORM OUR CRIMINAL JUSTICE SYSTEM!**

### **'HALT' THE TORTURE IN OUR STATE PRISONS**

**Background:** Imprisoned New Yorkers in solitary confinement spend twenty-three to twenty-four hours a day in barren concrete cells, with no access to meaningful human interaction, for weeks, months, years, and even decades.

They are denied access to the commissary to purchase essential items like food to supplement the meager offerings they receive through a slot in their door. They are often denied visits which are critical to their well-being. Perhaps most senselessly, they are denied access to the kinds of programs that will address the underlying issues of any truly problematic behavior. They receive no educational or rehabilitative programming, and no transitional services to help them prepare for their return to society, increasing the rates of recidivism. In these conditions, people's minds and spirits crumble.

Many of these individuals have extensive mental health needs: a recent federal study found that "29% of prison inmates and 22% of jail inmates with current symptoms of serious psychological distress had spent time in restrictive housing in the past 12 months."

Despite the passage of SHU Exclusion Legislation in 2008 that seriously limited the number of individuals with major mental health conditions, there are currently almost **900 people on the OMH caseload in the box**, according to the Correctional Association of NYS. Further, 30% of the suicides in 2014-16 happened in solitary confinement and rates of suicide attempts and self-harm were 11 times higher in solitary confinement than in the general prison population. For the first half of 2017, the suicide attempts in SHU remain high, representing 36% of the 80 attempts occurring during January through most of June 2017.

NYAPRS strongly urges state legislators to approve **HUMANE ALTERNATIVES TO LONG-TERM (HALT) SOLITARY CONFINEMENT ACT 'HALT' legislation** to:

- Prohibit solitary confinement for young and elderly people, people with intellectual, physical and mental disabilities, pregnant women and new mothers,
- End long term solitary confinement: place a limit of 15 consecutive days and a limit of 20 total days in a 60 day period on the amount of time any person can spend in segregated confinement.
- Create new Residential Rehabilitation Units as a more humane and effective alternative to provide segregated confinement and one that provides meaningful human contact and therapeutic, trauma-informed, and rehabilitative programs.
- Require training for Residential Rehabilitation Unit staff and hearing officers, public reporting on the use of segregation and oversight of the bill's implementation.

**Action: Pass Assembly 2500 (Aubrey); Senate 1623 (Sepulveda)**

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## **REFORM OUR CRIMINAL JUSTICE SYSTEM!**

### **RESTORE MEDICAID 30 DAYS PRIOR TO PRISON AND JAIL RELEASE**

NYAPRS is in strong support of a current proposal, referenced in this year's Executive Budget, to seek federal approval to restart Medicaid coverage to vulnerable individuals in the criminal justice system during their last 30 days of incarceration for medical, pharmaceutical, and behavioral health care coordination services.

Currently, incarcerated individuals who are Medicaid-eligible cannot receive Medicaid-covered services prior to release under current state and federal law.

As a result, these individuals often have to wait 45 days to get the medications and services that best enable them to successfully transition to the community and avoid relapse, recidivism and tragedy, including a 12-fold rise in the risk of death in the first two weeks post-release.

Last year, NYAPRS successfully joined with the Legal Action Center and other advocates to help win a change in the Social Services Law that authorized the state to seek this federal waiver.

If New York is able to gain federal authorization to implement this waiver, we will be the first state in the nation to take such a huge step in transforming the criminal justice system from a punishment to a treatment-focused model.

***Action: No Legislative Action Required.***

**We strongly support the Administration's plan to seek federal approval to restart Medicaid coverage to individuals in the criminal justice system during their last 30 days of incarceration**

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## **INCREASE ACCESS TO BEHAVIORAL HEALTH SERVICES**

NYAPRS is extremely supportive of the Governor's proposed to ensure greater access to critically needed behavioral health services.

The passage of the new parity law will provide greater public information about Health plans and their record of covering behavioral health benefits on the Department of Financial Services (DFS) Web Site.

It funds additional staff at DFS and the Department of Health to monitor health plan compliance and ensures that OMH will now be helping to define medical necessity standards as they apply to needed mental health services. It also requires that plan mental health utilization review staff must have "subject matter expertise" in this area.

Further, the Governor also proposes to increase the amount of SUD and psychiatric care New Yorkers can receive without health plan prior authorization from 14 to 21 days for SUD inpatient coverage and from 2 weeks to 3 weeks or 14 to 21 visits for SUD outpatient treatment. It also ensures access to inpatient psychiatric care for youth during the initial 14 days of treatment.

The proposal allows ensures coverage for naloxone to reduce effects of opioid overdoses and removes prior authorization barriers for medication assisted treatment (e.g. buprenorphine (Suboxone) methadone and extended release naltrexone (Vivitrol).

It also requires general hospital emergency departments to have policies and procedures in place for providing medication assisted-treatment (MAT) prior to patient discharge.

In addition, the proposal allows OASAS to designate a standard utilization review tool rather than permitting differing standards by different health plans.

Finally, it prohibits multiple co-payments per day and requires behavioral health copayments to be equal to a primary care office visit.

***Action: Approve proposed initiatives to ensure much greater access to mental health and substance use treatment and rehabilitation***

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## **EXTEND INTENSIVE VOLUNTARY OUTREACH INITIATIVE for INDIVIDUALS and FAMILIES in CRISIS Oppose Expansion And Permanence Of Kendra's Law**

**Background:** NYS policy makers and mental health professionals are regularly confronted with the challenge of how to best help individuals with serious mental health conditions who have not engaged in traditional treatment and who are at risk for avoidable crises, relapses, hospitalizations, incarceration and homelessness.

In 1999, New York enacted Kendra's Law, which relies on mandatory outpatient treatment orders, sometimes called 'Assisted Outpatient Treatment' to coerce individuals into treatment. But what does the research on Kendra's law tell us?

### **No Proof That Court Orders Produce Better Results**

- A 3-year study at Bellevue Hospital compared the impact of providing an enhanced, better-coordinated package of services to 2 groups, one with and one without a court mandate. Results: "On all major outcome measures, no statistically significant differences were found between the two groups", suggesting that people do better when they are offered more and better services voluntarily.
- Yet, despite a NYS legislative directive to compare voluntary approaches and Kendra's Law court mandates, researchers failed to do so, conceding that they were only able to provide "a limited assessment of whether voluntary agreements are effective alternatives to initiating or continuing AOT" in their 2009 study
- In fact, a later review of that study found that "the results do not support the expansion of coercion in psychiatric treatment."

***New York should be regarded as a national exemplar for FIXING NOT FORCING services that have failed to successfully engage individuals and families in crisis. Our mental health systems must not turn over our responsibilities to the courts and police and treat system failures as patient and family failures!***

Last year, the Assembly approved a \$500,000 allocation to launch a new Project INSET model in Westchester County that is providing "immediate, intensive and sustained" response to people and families in crisis that is driven by the work of trained peer specialists. The program has been taking referrals from area clinics, hospitals and correctional facilities and is helping scores of individuals who had previously not accepted community services to increase their participation with friends, family and treatment, resulting in reductions in avoidable hospital readmissions/stays and incarceration and promotion of improved health and family reunification.

### **Action: NYAPRS strongly urges state legislators to:**

- ***Extend funding for this successful alternative to court mandated treatment by another year, at a cost of \$500,000***
- ***Don't expand Kendra's Law's controversial program or make it permanent, to allow for ongoing legislative oversight of both the Law and the INSET Alternative program.***

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## REINVEST IN SPECIALIZED LOCAL COMMUNITY MENTAL HEALTH SERVICES

**Background:** The budget also keeps faith with New York's long, progressive commitment to moving resources to best support people with more serious mental health needs to succeed in the community, in place of long or repeat stays in our state psychiatric hospitals.

In recent years, community reinvestment dollars have been used to create critically needed mobile intensive outreach teams, peer bridger and respite programs, crisis intervention, warm line and housing services for adults and children, family empowerment services, managed care transitional supports, forensic ACT team and social club services. See details at <https://www.omh.ny.gov/omhweb/transformation/>.

Towards those ends, the Executive Budget funds another annualized Community Reinvestment allocation of \$5.5 million, annualizing to \$11 million locally selected services and supports to further enhance our capability and capacity to support New Yorkers with the most serious behavioral and physical health and social needs.

**Action: NYAPRS strong supports \$5.5 million in transformative service enhancements across New York State regions and localities.**

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## RESTORE PRESCRIBER PREVAILS PROTECTIONS

**Background:** Prescriber Prevails policies allow prescribers to ensure that their patients are afforded the best and most effective medications that *they select*, and not the cheapest. Many within our community require very specific medications in order to get the best results with the least degree of side effects, as regards both their behavioral and physical health related needs.

This year's Executive Budget proposes to repeal prescriber prevails for all medication classes in both Medicaid fee for service and managed care. This will leave millions of patients without protections for necessary medications.

NYAPRS thanks state legislators for their steadfast unwillingness to approve this policy and urges that you reject it once again this year.

**Action: *Reject elimination of prescriber prevails protections for Medicaid beneficiaries.***

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## PROHIBITING GENDER CONVERSION THERAPY

NYAPRS is very grateful to state legislators and Governor Cuomo for enactment of new legislation that designates engaging in sexual orientation change efforts by mental health care professionals upon individuals under 18 years of age as professional misconduct.

The measure, which passed 57-4 in the Senate and 134 to 3 in the Assembly, made New York the 15th state to ban the controversial practice, which is widely discredited by medical and mental health organizations.

So-called sexual orientation ‘conversion therapy’ has been roundly discredited by major medical and professional organizations. We were proud to stand with the American Medical Association, American Psychiatric Association, American Academy of Child and Adolescent Psychiatry, American Psychological Association and the National Association of Social Workers among others who have repudiated the practice.

We support the assertion that efforts to convert the sexual orientation of a minor exposes them to harmful consequences such as depression, self-loathing and suicidality.

Further in this regard, we echo our Commissioner of Mental Health, Ann Marie T. Sullivan, M.D., who has rightly stated that “homosexuality, bisexuality, or living as transgender, are not mental disorders and they should not be treated as such... we aim to protect the inalienable right of self-determination for New York youth, reducing the trauma this so-called [conversion] treatment can produce in the LGBT community, and helping to end the stigma that has been associated with being LGBT for far too long.”

NYAPRS was very pleased to join a broad array of advocacy groups in support of this landmark bill and extends our very special thanks to the law’s sponsors, Assembly Member Deborah Glick (Assembly 1046) and Senator Brad Hoylman (Senate Bill 1046).

***Action: Thank state legislators for their strong support in enacting this bill into Law***

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## **Make New York a Trauma-Informed State!**

The impact of trauma on behavioral health has become increasingly apparent in recent years with studies suggesting that over 90% of people with psychiatric diagnoses identify themselves as survivors of trauma.

Unresolved trauma as a result of Adverse Childhood Experiences (ACEs) can negatively impact development across the life span and intergenerationally; contributing to substance misuse, child abuse, poverty, and incarceration.

Failure to address the consequences of unresolved trauma can negatively impact an individual's ability to form healthy adult relationships and pursue activities essential to his or her wellbeing.

Survivors' attempts to cope with unresolved trauma may be misinterpreted by others as "non-compliance" and result in punitive service delivery responses that contribute to a revolving door of poor and inappropriate treatment, service refusal, costly repeat hospitalization, homelessness, and incarceration.

Increasingly, national efforts have attempted to change the narrative around trauma from one of negative outcomes based on past experiences to an opportunity to create positive outcomes through prevention, treatment, and outreach programs that are based on effective trauma-informed approaches, shifting the focus from illness to wellness--to hope, recovery, and resilience.

Executive Orders have been passed in Oklahoma, Oregon, Utah, Wisconsin and Delaware requiring state agencies to create trauma-responsive communities, organizations, and schools.

In 2018, Congressional bi-partisan support for the importance of trauma-informed care was recognized through the passage of U.S. HR 443/SR 346, 2018- a resolution recognizes the importance, effectiveness, and need for trauma-informed care among existing programs and agencies at the Federal level and declaring May 22, 2018 as "National Trauma-Informed Awareness Day".

### **Help Make New York A Trauma Informed State!**

- Ask your representative to support cross-sector collaborations and community-based training and education throughout New York State to ensure a coordinated effort to address the devastating impact of trauma.
- Several states have declared May 22 "National Trauma-Informed Awareness Day". Ask your elected official to demonstrate New York State's commitment to becoming a trauma-informed state by declaring May 22, as "National Trauma-Informed Awareness Day" in order to highlight community resilience through trauma-informed change.

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## **OPPOSE CHANGES TO THE CONSUMER DIRECTED PERSONAL ASSISTANCE PROGRAM**

New York's Consumer Directed Personal Assistance Program empowers people with disabilities to have full control over their lives and independence. It puts people with disabilities in charge of determining how, when and by whom their services are provided. Fiscal Intermediaries (FIs) provide necessary assistance to ensure CDPA consumers are successful and maintain their independence in the community through training, peer mentoring, ongoing support, payroll and other administrative assistance. This Budget proposal threatens to decimate CDPA as we know it.

The Governor's proposal would limit the organizations allowed to operate as Fiscal Intermediaries and allow the Department of Health the power to award a no-bid contract for a statewide Fiscal Intermediary. Transitioning all CDPA consumers into one or a few statewide FIs is a bad idea and could weaken if not eliminate the critically important role local Independent Living Centers have long played in supporting the program, as part of the comprehensive service package they currently provide. FIs must have a local presence to be successful in their role supporting consumers to manage their own services, and individuals must have choice when selecting their FI.

The bill also gives the Commissioner of and the Department of Health total administrative authority to change the reimbursement methodology, and DOH has indicated its intent to change to a per member, per month fee. This approach could put at risk the many additional tasks and wrap-around services FIs provide that help to ensure CDPA consumers are successful and maintain their independence.

Further, it shifts the risk from managed care organizations to fiscal intermediaries whose role is to support people with disabilities managing their own services, and thus creates a disincentive for FIs to serve people with significant disabilities who have larger numbers of attendants, hours and support needs.

Because the proposal repeals the existing state CDPA law and replaces it with new law, it allows the Federal Government to control whether these changes will be approved, at a time when Federal approval is anything but certain. This puts CDPA in New York at grave risk.

***Action: NYAPRS strongly urges the legislature to reject this harmful proposal that could end CDPA in NY!***

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