

March 25, 2022

Dear Senators and Assembly Members:

The undersigned are leaders in the civil rights community across the state who urge you to **protect the rights of New Yorkers with mental disabilities** and to **reject Governor Hochul's recent proposal to expand forced psychiatric commitment laws!**

We must not criminalize mental illness or scapegoat individuals who have mental illness. It is simply untrue that individuals with mental illness are more violent than those who do not have mental illness, and we should not be developing legislation to combat the horrific violent acts of but a few individuals.

The fact is that [only 3%–5% of violent acts can be attributed to individuals with mental illness.](#) Moreover, [people with mental illness are eleven times more likely to be victims of violence.](#)

While there is **extensive literature supporting voluntary treatment**, there is *no indication that forced outpatient treatment is successful*. Moreover, forced “treatment” under the guise of “Assisted Outpatient Treatment” or “Kendra’s Law” **is, according to the authors of New York’s study on the law, [not a violence prevention strategy.](#)** In fact, forced treatment results in the [undermining of therapeutic relationships](#) and in [long-lasting trauma.](#)

Forced “treatment” must also be seen in the context of the ensuing racial disparities as [77% of Kendra's Law orders are being implemented against Black and Brown individuals in New York City.](#) These disparities will only worsen if the proposed amendments to the Mental Hygiene Law are put in place.

We therefore must not make it easier to force treatment against an individual’s will. And we certainly can’t do that and believe that we’re doing something that is better for individuals with mental illness. Quite simply, **there is no place for coercion.** Forced “treatment” is not treatment at all, and it has long been rejected by [health practitioners](#) in favor of numerous best practices strategies that actually offer assistance -- even to those who have previously resisted offers of care.

Instead, New York must invest in the multiple models of less invasive, voluntary care (see attached) to avoid the trauma, as well as the enormous cost, of forced treatment. We must *not expand a program that* that forces New Yorkers into the same services that have already failed them in the past.

The amendments to Article 9 of the Mental Hygiene Law, as set forth in the Governor’s original budget language and in her “Confidential Public Safety Package” will unlawfully deny people with mental health concerns appropriate treatment, greatly reduce their rights to self-determination, and not result in the violence prevention that the Governor hopes for.

We urge you to reject the amendments, as follows:

- It is **wholly unnecessary**, to say nothing of **unconstitutional**, to **broaden the standard for forced in-patient and out-patient commitments, based on prediction of future harm to an individual who appears to be unable to meet basic needs such as food, clothing, shelter, and medical care.**
- The proposed amendments would also **illegally permit those who appear unable to obtain food, shelter, clothing, or medical services to be subjected to forced outpatient commitment without even requiring the currently mandatory showing that the individual have a “history of lack of compliance with treatment for mental illness,” and without even requiring that the individual is “likely to benefit from” an outpatient commitment Kendra’s Law order.** Notably, these two criteria were what the New York Court of Appeals relied on to uphold Kendra’s Law against constitutional challenge. *In re K.L.*, 1 N.Y.3d 362, 366 (2004).
- It is **totally inappropriate to expand Kendra’s Law to permit an order to be issued where an individual has had an order in place in the prior six months and merely meets a vague “standard” of having experienced a “substantial increase in symptoms of mental illness,” with absolutely no need to show the individual has engaged in any acts of violent behavior or threats of such behavior.**
- Allowing otherwise confidential medical and legal records to be shared with healthcare providers -- without the individual’s consent -- violates the Health Insurance Portability and Accountability Act, (“HIPAA”) and all other relevant common law privacy provisions.

In lieu of approving these amendments, we urge the Legislature to fund real solutions. We thank the Legislature for **already having committed to increase funding for low-threshold housing and community supports, and the historic investment in our workforce that are included in your one house budget bills.** In addition, we ask that **additional funds be devoted to building additional, successful remedies,** including Crisis Respite, Housing First, Safe Haven, Family Crisis Respite, Living Room Model, Safe Options Support Teams, INSET, and Pathway Home (see attached).

Thank you for your commitment to the health and rights of New Yorkers with mental disabilities.

Sincerely,

Acacia Network

AIM Independent Living Center

Association for Mental Health and Wellness

Baltic Street AEH

Bazelon Center for Mental Health Law

Bronx Independent Living Services

Brooklyn Center for Independence of the Disabled

Brooklyn Defender Services

CASES

Catholic Charities of Broome County

Center for Disability Rights

Center for Independence of the Disabled, NY

Coalition for Behavioral Health

Coalition of Medication-Assisted Treatment Providers and Advocates

Community Access

Community Missions of Niagara Frontier, Inc.

Compeer Rochester

Correct Crisis Intervention Today – NYC

CoveCare Center

Families Together in New York State

Friends of Recovery – NY

Gateway Hudson Valley

Hands Across Long Island, Inc.

Hetrick-Martin Institute

Hostos Community College

Hour Children

Incarcerated Nation Network, Inc.

Intentional Peer Support, LLC

Independent Living, Inc.

**Long Island Council of Churches (Public Issues
Committee)**

Mental Health Advocates of Western New York

Mental Health Association of Chautauqua County

Mental Health Association of Nassau County

Mental Health Association of New York State, Inc.

Mental Health Association of Orange County

Mental Health Association of Westchester

Mental Health Empowerment Project

Mental Patients Liberation Alliance

MindFreedom International

Mobilization for Justice

Mothers On the Inside

**National Mental Health Consumers' Self-Help
Clearinghouse**

National Action Network

National Alliance on Mental Illness of Huntington

National Alliance on Mental Illness of NYC

National Association for Rights Protection and Advocacy

Neighborhood Defender Service of Harlem

New Hour for Women & Children Long Island

New York Association of Independent Living

New York Association of Psychiatric Rehabilitation Services

New York Lawyers for the Public Interest

Northern Regional Center for Independent Living

**New York State Council for Community Behavioral
Healthcare**

People USA

Police Reform Organizing Project

Resource Center for Accessible Living, Inc.

Resource Center for Independent Living, Inc.

Restoration Society

Safe Horizon

Social Workers & Allies Against Solitary Confinement

Southern Tier Independence Center

Staten Island Center for Independent Living

Supportive Housing Network of New York

Taconic Resources for Independence, Inc.

Tri-Lakes Center for Independent Living, Inc.

Urban Justice Center

Urban Pathways

VOCAL-NY

Western New York Independent Living

COMMUNITY-BASED VOLUNTARY INNOVATIONS FOR AT-RISK INDIVIDUALS

RESIDENTIAL PROGRAMS

Crisis Respite – Intensive Crisis Residential Program: an OMH program which provides a safe place for the stabilization of psychiatric symptoms and a range of services from support to treatment services for children and adults. are intended to be located in the community and provide a home-like setting.

Crisis Respite (shorter term and less intensive): an OMH Program which provides an alternative to hospitalization for people experiencing emotional crises. They are warm, safe, and supportive home-like places to rest and recover when more support is needed than can be provided at home. The Crisis Respite Centers offer stays for up to one week and provide an open-door setting where people can continue their daily activities. Trained peers and non-peers work with individuals to help them successfully overcome emotional crises.

Peer Crisis Respite programs: an OMH-funded program which offers peer-operated short-term crisis respites that are home-like alternatives to hospital psychiatric emergency rooms and inpatient units. Guests can stay up to seven nights, and they can come-and-go for appointments, jobs, and other essential needs. The program offers a full, customizable menu of services designed to help them understand what happened that caused their crisis, educate them about skills and resources that can help in times of emotional distress, explore the relationship between their current situation and their overall well-being, resolve the issues that brought them to the house, learn simple and effective ways to feel better, connect with other useful services and supports in the community, and feel comfortable returning home after their stay.

Pathways Housing First: a housing approach that prioritizes permanent housing for people experiencing homelessness and frequently serious mental illness and substance use issues. Supportive services including substance use counseling and treatment are part of the model, but abstinence or even engagement in services is not required. Research studies examining this model have shown that it dramatically reduces homelessness and is significantly more effective than traditional treatment and housing models.

Soteria: a Therapeutic Community Residence for the prevention of hospitalization for individuals experiencing a distressing extreme state, commonly referred to as psychosis. We believe that psychosis can be a temporary experience that one works through rather than a chronic mental illness that needs to be managed. We practice the approach of “being with” – this is a process of actively staying present with people and learning about their experiences.

Safe Haven: provides transitional housing for vulnerable street homeless individuals, primarily women. “low-threshold” resources: they have fewer requirements, making them

attractive to those who are resistant to emergency shelter. Safe Havens offer intensive case management, along with mental health and substance abuse assistance, with the goal of moving each client into permanent housing.

Living Room model: a community crisis center that offers people experiencing a mental health crisis an alternative to hospitalization. health crises a calm and safe environment. The community outpatient centers are open 24 hours a day, 7 days a week and people receive care immediately. Services include crisis intervention, a safe place in which to rest and relax, support from peer counselors; intervention from professional counselors including teaching de-escalation skills and developing safety plans, Linkage with referrals for emergency housing, healthcare, food, and mental health services.

Crisis Stabilization Centers: 24/7 community crisis response hub where people of all ages can connect immediately with an integrated team of clinical counselors, peer specialists, and behavioral health professionals, as well as to our local community's health & human service providers, to address any mental health, addiction, or social determinant of health needs. People use the Stabilization Center when they're experiencing emotional distress, acute psychiatric symptoms, addiction challenges, intoxication, family issues, and other life stressors.

Parachute NYC: provides a non-threatening environment where people who are coming undone can take a break from their turbulent lives and think through their problems before they reach a crisis point. Many who shun hospitals and crisis stabilization units will voluntarily seek help at respite centers. Parachute NYC includes mobile treatment units and phone counseling in addition to the four brick-and-mortar respite centers.

NON-RESIDENTIAL PROGRAMS

Safe Options Support Teams: consist of direct outreach workers as well as clinicians to help more New Yorkers come off of streets and into shelters and/or housing. Safe Options Support (SOS) Teams are comprised of licensed clinicians, care managers, peers, and registered nurses. Services are provided for up to 12 months, pre- and post-housing placement, with an intensive initial outreach and engagement period that includes multiple visits per week, each for several hours. Participants learn self-management skills and master activities of daily living on the road to self-efficacy and recovery. The teams' outreach facilitates connection to treatment and support services. The SOS Teams follow the Critical Time Intervention (CTI) model – a time-limited, evidence-based service that helps vulnerable individuals during periods of transitions. The teams serve individuals as they transition from street homelessness to housing.

INSET: a model of integrated peer and professional services provides rapid, intensive, flexible, and sustained interventions to help individuals who have experienced frequent periods of acute states of distress, frequent emergency room visits, hospitalizations, and criminal justice involvement and for whom prior programs of care and support have been ineffective. Mental Health Association of Westchester has found that participants, previously

labeled “non-adherent,” “resistant to treatment” or “in need of a higher level of care” and “mandated services,” become voluntarily engaged and motivated to work toward recovery once offered peer connection, hope and opportunities to collaborate, share in decisions and exercise more control over their lives and their services and supports their treatment plans. The program has high rates of success, successfully engaging 80% of people who were either AOT-eligible or AOT-involved.

NYAPRS Peer Bridger™ model: a peer-run and staffed model providing transitional support for people being discharged from state and local hospitals, with the goal of helping people to live successfully in the community, breaking cycles of frequent relapses and readmissions. The program includes inpatient and community based intensive one on one peer support groups, discharge planning, connection to community resources; provides access to emergency housing, wrap around dollars and free cell phones and minutes.

Intensive Mobile Treatment teams: a NYCDOHMH program providing intensive and continuous support and treatment to individuals right in their communities, where and when they need it. Clients have had recent and frequent contact with the mental health, criminal justice, and homeless services systems, recent behavior that is unsafe and escalating, and who were poorly served by traditional treatment models. Intensive Mobile Treatment (IMT) teams include mental health, substance use, and peer specialists who provide support and treatment including medication and facilitate connections to housing and additional supportive services.

Pathway Home™: a community-based care transition/management intervention offering intensive, mobile, time-limited services to individuals transitioning from an institutional setting back to the community. The Coordinated Behavioral Care (CBC) program acts as a single point of referral to multidisciplinary teams at ten care management agencies (CMAs). These teams maintain small caseloads and offer flexible interventions where frequency, duration and intensity is tailored to match the individual’s community needs and have the capacity to respond rapidly to crisis. The program employs Critical Time Intervention (CTI) -- a time-limited, evidence-based practice that mobilizes support for society’s most vulnerable individuals during periods of transition. It facilitates community integration and continuity of care by ensuring that a person has enduring ties to their community and support systems during these critical periods.

Fountain House Clubhouses: Fountain House addresses both the health and social needs of its members through an integrated model that connects its physical clubhouse – where members are engaged in an innovative therapeutic community rooted in social practice, and take steps in reclaiming their agency and dignity – with access to clinical support, housing, and care management.

Westchester Forensic Mobile Teams: work directly with law enforcement in the field and courts, seeking alternatives to incarceration (ATI), to provide immediate crisis response and/or transitional care services to people at risk of entering the criminal justice system due to under-addressed mental health, addiction, or social determinants of health issues.