



County Health Officials of New York

Leading the Way to Healthier Communities

2023 Joint Legislative Budget Hearing

New York State Association of County Health Officials (NYSACHO) Testimony on Executive Budget Proposal

NYSACHO's MISSION:

NYSACHO supports, advocates for, and empowers local health departments in their work to promote health and wellness and prevent disease, disability and injury throughout New York State.

NYSACHO is incorporated as a not-for-profit, non-partisan charitable organization with 501(c)(3) tax exempt status.

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Introduction

Summary of NYSACHO Budget Requests

Local Health Officials stand proudly with members of the New York State Assembly and New York State Senate and Governor's Executive Branch as we collectively work to support policies aimed to protect and improve health outcomes for New York's residents. Last year's enacted budget brought historic commitments to the work led by local health departments. Since the FY23's increase in article 6 state aide appropriation dedicated to local health departments, these governmental agencies have been working diligently to utilize this funding by building upon their staffing numbers and recovering from two plus years of pandemic response. We remain positive, hopeful, confident, and committed to rebuilding local public health infrastructure in New York State.

However, one year of increased funding for local health departments will not achieve *all that is needed* to fully recover from years of chronic underfunding and emergency response to public health crises. Despite our best efforts we still see that the public health workforce in New York State remains in distress with shattered morale post pandemic. Early retirements, professionals leaving local government to work in other sectors, increased vacancy rates, shrinking budgets and other local pressures continue to challenge our members. Recruiting and retaining staff, particularly public health nurses and environmental sanitarians, has presented an incredible challenge and thus is threatening the state's local emergency response capabilities led by LHDs. As noted, despite these workforce challenges, we continue working toward making improvements that will strengthen our communities, well-being, economy and health equity across the state. This year's budget presents us with many opportunities to work collaboratively toward meaningful goals.

Local Health Officials in New York State respectfully request your support and inclusion of the following priorities within your one-house budget bills during FY24 budget negotiations:

1. restore New York City's Article 6 reimbursement rate from 20% to 36%;
2. strengthen New York state's ban on flavored tobacco products and extend that ban to similar cannabis products;
3. assure that any tax revenue that is collected from the proposed increase on tobacco products be directed toward health programming including aid to localities for the work that local health departments provide around tobacco cessation, education and prevention efforts rather than allowing it to be directed to the state general fund;
4. provide truly sufficient funding to cover the cost of implementing the lowered actionable EBLL and advance lead primary prevention initiatives in the amount of \$58M and assure that

municipalities are provided legal protections when they are performing their work in good faith and with due diligence;

5. include in your one-house bill a zero-interest revolving loan fund for low-income owners as a means of sustaining funding for lead abatement projects now and in future years;
6. support and include HMM Part M, article 36 reform for Local Health Departments in your one-house budget bills;
7. support ending preventable epidemics for inclusion in your one-house budget bills;
8. clarify eligibility for public health worker within New York State's Healthcare Worker Bonus program;
9. guarantee a 50/50 state-local match for Medical Examiner pathology and toxicology services to support local surveillance around overdose rates, suicides and other preventable deaths.

What Local Health Departments Do

Local Health Department's Essential Role in Protecting Communities

In 2022, the vital need for local health departments to protect their communities through core public health services remained front and center, particularly in the area of communicable disease control. Local health departments responded to three declared public health emergencies: the ongoing COVID-19 pandemic and the evolving nature of the virus, an outbreak of Mpox, with an atypical route of transmission through intimate partner contact, and the identification of a case of paralytic polio and its subsequent detection in wastewater indicating its spread in unvaccinated populations in downstate counties. LHD efforts focused on vaccination of impacted populations and education and outreach regarding risks and prevention measures.

Even as they responded to these public health threats, LHDs were also engaged with hospitals and other community partners in the community health assessment and community health improvement planning process, identifying through data and community input, the health needs and priorities for their communities and what interventions are needed to improve health outcomes. Chronic disease prevention remains a key health priority in many communities, particularly around tobacco control and cessation. The Governor's budget includes strong public health proposals aimed at addressing the marketing tactics that continue to make flavored products that hook kids and target communities of color and other impacted populations and importantly for civil enforcement, significantly strengthens the existing statute to remove loopholes that retailers continue to use to keep flavored products on the market. The public health statutes related to banning flavored products are focused on civil enforcement and are aimed at the sellers who continue to offer banned products for sale, never at the individuals purchasing the banned

products. Providing local health departments with stronger statutory language will assure that the law can achieve the public health goals intended by its passage in 2020.

Counties also continue to address the overdose epidemic and mental health challenges, including suicide prevention. Mental health and substance use is another key health priority area for communities and the Executive budget proposal offers significant proposals to provide better access to services, as well as increased tools to prevent overdose deaths. LHDs continue to support people who use drugs and combat overdoses and deaths in their communities, particularly the continued rise in synthetic opioids, such as fentanyl and the emergence of additives such as xylazine which can have additional adverse health effects and confound opioid overdose response efforts.

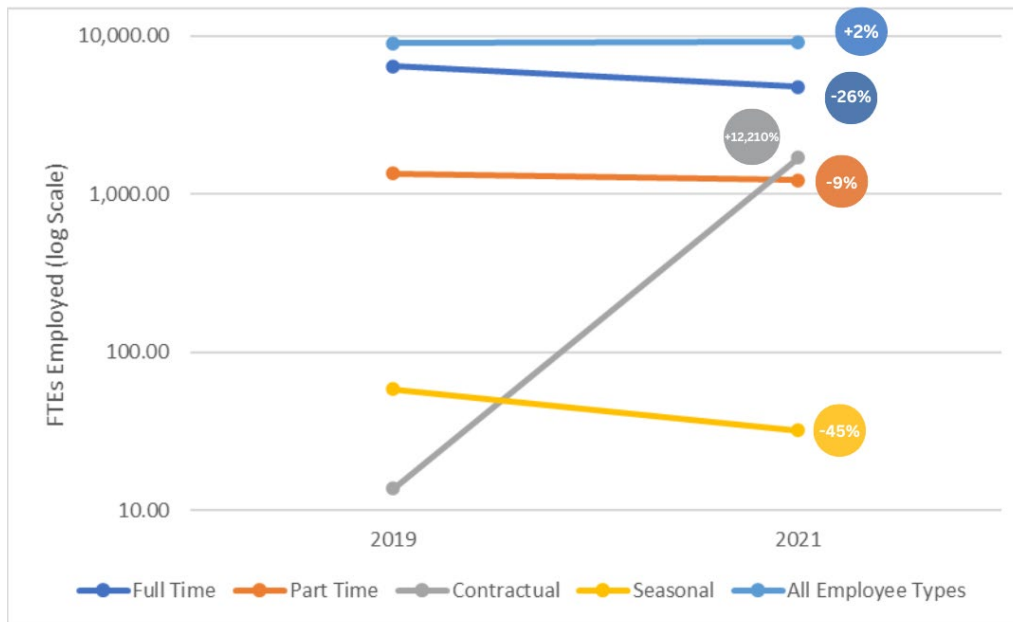
LHD Ongoing Workforce Challenges

The 2023-24 state investment in the public health reinvestment and emergency pandemic adaptability, readiness, and efficiency (PREPARE) act was a significant step towards reversing decades of disinvestment in the infrastructural state funding supporting local health departments' provision of the core public health services needed to provide a base level of protection to the communities they serve. State reinvestment in the funding for local health departments will help retain and sustain a responsive, skilled public health workforce necessary to take prompt action in public health emergencies. However, work remains to rebuild the public health foundations that support our communities, and funding local health departments can not be a one-shot deal.

In 2022, NYSACHO conducted a workforce enumeration study of New York's local health departments. Among its key determinations, this study found that New York State's LHD workforce has seen a marked decline in the number of full-time staff employed since 2019. At first glance, the LHD workforce appears to have remained stagnant, with a slight increase in all FTEs employed (2%) since 2019. This alone would be alarming given that during this time, LHDs were responding to the largest public health threat in nearly a century. However, when looking at the data broken down by employee type (full-time, part-time, contractual, and seasonal), this finding becomes even more worrying. Between 2019 and 2021, the full-time LHD workforce decreased by 26%, while contractual employees saw a huge increase, 12,210% (Figure 1). This large influx of contractual employees partly comes from COVID-19 funding provided by the State and Federal governments for LHDs to hire contracted staff to assist with COVID-19 mitigation activities such as case-investigation, contact tracing, and vaccination. However, these employees are not permanent and when funding runs out, they will leave their positions, leaving LHDs with staffing

shortfalls as they continue to fight COVID-19 and other existing and emerging public health issues, like Monkeypox and polio.

Figure 1: Changes in FTEs Employed in LHDs from 2019 to 2021, By Employee Type



Additionally, LHDs have seen a marked increase in vacancy rates since 2019. Overall, LHDs reported a 20% average vacancy rate for their departments, compared to 12% in 2019. Licensed practical or vocational nurses (39%), supervising public health nurses (26%), community health workers (24%), health educators (24%), and public health nurses (23%) were the positions with the highest vacancy rates. Respondents indicated that nursing positions, including public health nurses, were frequently vacant for more than a year. Public health physicians and health educators were the other positions that were most frequently reported to be vacant for long periods of time. Long vacancy periods leave LHDs without the full staffing required to be readily available to respond to emerging public health crises. High vacancy rates also increase the risk of existing staff becoming overworked and burnt-out, leading to turnover and further vacancies.

Moreover, compounding the existing staff shortage, all LHD respondents, regardless of size, reported facing high impending retirements, with 990 FTEs (almost 10% of the current workforce) planning to retire within the next three years. Since the start of the pandemic, 31% of LHD leaders (Commissioners/Directors) have retired or left their departments. Each retirement or exodus of a key leadership position equates to decades of institutional governmental public health knowledge leaving a department and the community they serve.

Despite these challenges, New York also has the opportunity to move forward many proposals through the budget process that can help improve the health of New Yorkers and strengthen the public health system. Strengthening and improving health outcomes in New York State includes the need to assure that strong public health policies come with the necessary resources for successful implementation.

Proposed FY 23-24 Executive Budget Reaction and Recommendations

Article 6 State Aid

NYSACHO is pleased to see the full annualized increase to the article 6 state aid appropriation to implement the increases to Article 6 State Aid passed in 2022. Unfortunately, the current state aid formula remains unchanged and continues to inequitably penalizes New York City by failing to address the statutory lower percentage of reimbursement for NYC's costs above the base grant.

NYSACHO strongly supports and urges legislators to act this year to restore Article 6 state aid for general public health work to New York City by returning the percentage of reimbursement above the statutory base grant to 36%, in alignment with all other local health departments (LHDs).

Reimbursement through Article 6 is provided based on the net expenses of each LHD. The net expenses are determined by subtracting revenues obtained from third party reimbursement, fees and grants from a county's gross expenditures for public health services. The remaining balance is what a LHD can submit for reimbursement for core services. It is critical to understand the 2019 cut to New York City's reimbursement in the context of this process. Because revenue must be subtracted from gross eligible public health expenditures, the justification provided in 2019 by New York State for this cut, regarding New York City's access to other funding sources, fails to acknowledge that the existing and longstanding claims process already accounts for these revenue sources and credits these savings to the state by reducing the net reimbursement paid to New York City. Thus, despite the fact that the state's statutory obligation to New York City are already reduced to reflect federal and other grant revenue, the state further imposes a 16% reduction in reimbursement above base, in effect, penalizing New York City for this revenue.

Federal revenue to New York City is in addition to federal funding to New York State, so does not impact resources to New York State, nor any passthrough of those resources to LHDs in the rest of the state. New York State daily experiences firsthand how public health risks and benefits do not reside within confined geographical boundaries. Rather than allowing federal funding to enhance New York City's public health infrastructure, thereby strengthening the overall state public health infrastructure, New York State's

reduction to their share of reimbursement above the base grant instead undermines the potential public health benefits of the federal investment to both the city and New York State.

Increasing article 6 state aid to reimburse core public health services can not occur as infrequently as once per decade. In order to truly build upon and reinforce our state's local public health infrastructure, our state should commit to a plan for increasing this reimbursement year after year. It is necessary to keep up with growing threats to public health and bolster our emergency response capacity. NYSACHO is ready and willing to talk about what such an increased investment schedule may look like in future years.

Protecting New York's Children from Lead Poisoning Requires a True Fiscal Investment in Prevention and Response

The Executive budget proposes a lead poisoning primary prevention initiative, requiring the development of a state rental registry with proactive inspections to identify lead hazards. Conceptually, NYSACHO supports s primary prevention as the most proactive approach to protecting children from lead-based paint exposure, however, local health departments are hard-pressed to endorse such proposals in light of the continued failure by state policymakers to allocate sufficient resources to support implementation of both past and the current proposed lead poisoning prevention mandates. NYSACHO urges the legislature to fully fund the costs associated with operationalizing both existing and proposed policies, including enactment of new revenue mechanisms if necessary. Current un- and under-funded costs include:

- 1) The Governor's proposal provides no direct funding to the local health departments in serving the communities of concern; while a limited amount of funding is included in the state operations budget, there is no indication of how much, if any, of this would be provided for on-the-ground implementation. Impacted counties estimate costs will be needed for additional public health sanitarians, data entry staff, fringe costs, supplies, travel, equipment including additional XRF machines, dust wipe testing, EPA certification costs and legal costs.

Estimated costs of the Governor's proposal for local health departments: \$19,365,053.88

- 2) In 2022, as part of a new five year funding cycle, thirteen (13) of the counties with designated communities of concern for lead poisoning received administrative cuts in their lead poisoning primary prevention funding due to an update of the existing formula. While this update resulted in five additional counties becoming eligible for primary prevention funds, because the last significant increase to the state lead poisoning primary prevention appropriation occurred in SFY 2014-15, NYSDOH could only adjust the formula to fund the additional five counties by reducing funding to the other thirteen. Those LHDs losing funding included Monroe County, whose rental inspection program serves as the model for the Governor's current primary prevention proposal.

Cost to restore CLPPP+ funding to counties that received admin. cuts: \$2,419,233

- 3) New York State continues to fall short in adequately funding local health departments to protect those children already identified as having elevated blood lead levels above 5 ug/dL based on the expanded number of cases since lowering the EBLL in 2019.

Estimated unfunded cost of implementation for care coordination and lead inspection and abatement enforcement activities for children with actionable elevated blood lead levels: \$36,377,215.

Total Costs for LHDs Role in Lead Prevention Activities: We urgently request your support by increasing the Executive’s appropriation for lead funding from \$18.M to \$58.1M and further, moving the \$58.1M from the state operations to the lead poisoning prevention program under the Department of Financial Services in your one-house budget bills to ensure local health departments doing this work will undoubtedly receive the funding to do this work.

Rental Inspection Registry Proposal

Owners of dwellings with two or more units built prior to 1980, which are potentially eligible to rent, lease, or hire out per municipal zoning, are required to be registered. This proposal applies to 19 counties (Albany, Broome, Cayuga, Chautauqua, Chemung, Dutchess, Erie, Jefferson, Montgomery, Monroe, Niagara, Oneida, Onondaga, orange, Rensselaer, Rockland, Schenectady, Ulster, and Westchester). The 19 counties identified are current recipients of the CLPPP+ primary prevention funding. Funding from CLPPP+ primary prevention funding is currently used to support the extensive work that is already being done by the counties to reduce blood lead levels and address the needs of children with lead poisoning.

County-level data was drawn from the U.S Census Bureau American Community Survey to identify the number of dwellings built prior to the 1980s. This data is a rough estimate and includes owner-occupied and rental occupant dwellings. This data further demonstrates the need for funding. This proposal is foreseen to cause a significant financial and time burden for the local health department.

County	Built 1970 to 1979	Built 1960 to 1969	Built 1950 to 1959	Built 1940 to 1949	Built 1939 or earlier	Total housing units
Albany	18,312	14,369	17,924	8,005	41,651	100,261
Broome	10,474	13,756	12,943	9,625	27,877	74,675
Cayuga	3,622	3,693	3,595	2,700	12,148	25,758
Chautauqua	5,810	7,162	7,707	5,510	24,638	50,827

Chemung	4,800	4,088	5665	3,503	13,347	31,403
Dutchess	21,085	15,968	15,691	5,430	19,713	77,887
Erie	43,622	51,660	77,257	33,560	130,934	337,033
Jefferson	4,487	5,572	5,292	2,454	19,447	37,252
Montgomery	1,962	1,179	2,373	1,718	10,758	17,990
Monroe	44,117	46,108	43,051	20,139	88,166	241,581
Niagara	10,982	11,195	18,451	7,044	26,618	74,290
Oneida	9,138	13,446	15,749	8,125	34,726	81,184
Onondaga	27,268	26,021	34,936	14,360	48,738	151,323
Orange	16,885	15,147	14,343	6,527	28,431	81,333
Rensselaer	6,213	6,541	6,664	4,651	25,565	49,634
Rockland	16,586	21,164	16,476	3,526	13,425	71,177
Schenectady	4,585	6,976	12,521	6,505	24,036	54,623
Ulster	11,252	7,225	10,189	3,154	22,990	54,810
Westchester	41,984	55,520	71,988	24,072	107,560	301,124

NYSACHO also seeks the following additional changes or clarifications regarding this proposal:

NYSACHO supports the inclusion of lead abatement funding in the Division of Housing and Community Renewal Capital Projects budget and recommend that this be established as a zero-interest revolving loan fund for eligible low-income owners as a means of sustaining the fund in future years. This allows access to funding for lead abatement for low-income owners while also assuring that the fiscal responsibility for property maintenance costs continues to reside with the owner rather than the taxpayers.

Of equal importance in moving forward lead poisoning prevention policies is assurance that municipalities are provided legal protections when they are performing their work in good faith and with due diligence. NYSACHO requests that the legislature includes the following language to ensure localities are not subject to liability stemming from the passage of this program which would impede the work they do in their jurisdictions: *“immunity from liability, no governmental unit or agency shall be subjected to civil liability arising from this section”*.

Other requested clarifications regarding the proposal include:

- Additional information on the development and maintenance of the proposed rental registry is needed to assess workload and costs.

- Much of the statute regarding inspection requirements is left largely at the discretion of the department, with little detail on inspector requirements, role of LHDs in monitoring inspection reports and abatement and assessment of how many additional inspectors might be needed to provide adequate capacity in communities of concern to meet the proposed mandates. The proposed statute states that the department may set training standards. Local health departments recommend that this permissive may be changed to “shall” and that EPA certification as lead-based paint inspectors be the minimum required standard for inspectors.
- The proposed statute does not provide sufficient detail regarding who will be identifying owners subject to the mandate and who will be enforcing the inspection requirements and abatement. Based on current experience, counties expect to incur legal costs related to enforcement where lead abatement is necessary. Are funds being allocated for enforcement action? Will a statewide enforcement procedure be established as a part of the lead rental registry proposal?
- Where lead hazards are identified, who will be responsible for certifying that abatement occurs?
- Will communities with existing registries be allowed to continue operation of those registries or will they be required to migrate to the state registry.
- More clarity is needed on the expected role of municipal code enforcement officers regarding compliance and potential actions related to certificates of occupancy for non-compliant owners.
- For lead abatement assistance, how will funds be allocated? Will there be a set amount for each community of concern?
- Will owners be required to identify if units house children under age six, to allow for prioritization of LHD monitoring of inspections and abatement?

Revenue Option to Support Lead Poisoning Prevention Policies

We close our comments regarding lead poisoning prevention funding needs with a recommendation that New York State fund these efforts through the imposition of a \$25 lead abatement surcharge on homeowner and a \$10 surcharge on rental insurance policies for housing built prior to 1979.

Of the 3.9 million owner-occupied units in New York State, 61.9% of housing units have a mortgage. As homeowners’ insurance is required when getting a mortgage, we can extrapolate there are approximately 2.4 million owner-occupied housing units that have homeowners’ insurance. Since 78% of housing units in New York State were built before 1979, we can estimate that there are approximately 1.88 million owner occupied housing units in New York State that have homeowners’ insurance that were built prior

to 1979. Adding a surcharge of \$25 per year for these 1.88 million housing units will raise approximately \$47 million.

According to United States Census Bureau data, of the 7.3 million occupied housing units in New York State, over 3.3 million, or 46% of occupied housing units are renter-occupied [5]. A study conducted by ORC International reported that only approximately 37% of renters have renters' insurance [10]. 37% of the 3.3 million renter-occupied units in New York State, is 1.2 million. Based on census data we can determine that there are approximately 950,000 renter-occupied housing units in New York State that have renters' insurance that were built prior to 1979. A \$10 surcharge on these units will raise \$9.5 million.

Adding a Surcharge Fee on Homeowners' Insurance and Renters' Insurance for all housing units built prior to 1979 will yield a total of \$56.5 million in revenue.

While we propose this surcharge, we encourage the legislature to include language that will enable landlords and renters to have this fee waived, if they can prove their housing units are lead safe and/or have undergone lead abatement. Another alternative would be to create a "disappearing" fee, which could go down proportionally based on a reduction in the number or percentage of children with elevated blood lead levels.

Closing Loopholes in Enforcement on Flavored Tobacco Products and Standardizing New York's Position on Flavored Smoked Products to Include Adult-Use Cannabis

In 200, New York State continued its leadership in protecting children from the youth-oriented marketing practices of the tobacco industry by banning the sale of most flavored; however, did not extend this ban to flavored menthol cigarettes, small cigars and hookahs. The continued availability of these products merely shifts consumers to purchase those allowable flavored products. NYSACHO expects this trend to be further exacerbated with the roll-out of the adult-use cannabis market.

Whether the product is tobacco-based or cannabis-based, flavors continue to be a marketing weapon by both industries to target youth and young people to a lifetime of addiction and/or use.

Strengthening the ban on flavored products is particularly important to address health inequities. Tobacco manufacturers, have, in particular, aggressively targeted communities of color, LGBTQ+ and low-income communities with menthol products, leading to an unequal burden of death and disease. Menthol makes cigarettes easier to smoke and harder to quit and nearly 65% of young menthol smokers say they would

quit if menthol cigarettes are banned. NYSACHO strongly supports the Governor's proposal to extend of the current flavor ban to include menthol and all tobacco products. NYSACHO strongly supports, with minor amendments, the governor's removal of existing statutory language that provides significant loopholes in enforcement of the current ban.

Despite ongoing disinformation regarding policing of flavored tobacco products, ***New York's tobacco enforcement is conducted by public health employees through a civil enforcement process only.*** Statutory requirements and penalties are set forth in public health law and place the responsibility for compliance and penalties for non-compliance exclusively on tobacco product retailers, distributors or wholesalers. Consumers who purchase regulated flavored tobacco products are never subject to any public health enforcement action.

Local health department enforcement officers report the continued widespread availability of flavored vapor products in licensed retail dealers. Despite continued enforcement efforts, the profits to the industry result in the existing fines being considered part of the cost of business, rather than an incentive for compliance. Additionally, overly broad statutory language allows subjective interpretation related to intent to sell, with the end result, again, being that flavored products remain very much available throughout New York State. The governor's proposed language offers clear and unequivocal statute that would assure an objective intent and standard necessary to assure compliance and support enforcement actions when flavored products are found. The language further assures that these products cannot remain on premises, and thus, available for illegal sales.

Based on feedback from LHD environmental health enforcement agents, NYSACHO further recommends that the Governor's proposed changes to 1399-mm-1 regarding flavor sensations be amended to remove the phrase "*distinguishable by an ordinary consumer*". This merely inserts new subjective language open to interpretation resulting in inconsistent and unequal interpretation of the statute regarding permissible products.

NYSACHO strongly urges the legislature to extend New York's ban on flavored aerosolized and combustible tobacco product ban to also include a ban on cannabis products. It makes no sense that New York State would put in place these protections in the tobacco market while at the same time allowing their availability in the roll-out of the cannabis market. Regardless of whether the discussion is tobacco or cannabis, data supports that flavored products are attractive to children and adolescents and encourage consumption of both products, which carry significant health risks to all consumers. New York's ban on flavored products is intended to reduce those harm caused by tobacco and a similar standard must be put in place for cannabis to provide consistent public health protections across both industries and to assure

that the cannabis market does not provide a mechanism to allow continued access to flavor additives among tobacco consumers, particularly the illicit youth market.

NYSACHO also strongly supports the governor's proposed changes strengthening enforcement by the New York State Department of Taxation and Finance for those retailers with multiple violations. Retailers need to be held accountable for refusing entry by inspectors and fined must be sufficiently high to compel compliance, rather than just being considered the cost of doing business.

Our members also strongly support the Governor's proposed increase to the tobacco tax by \$1.00, which is an evidence-based policy which has demonstrated as a successful barrier to preventing new smokers from becoming addicted to tobacco products. Tax increases are particularly effective in reducing youth tobacco use, as they are more sensitive to increases in price. The last tax increase took place ten years and is long overdue. We believe that this tax proposal will have a significant impact on health outcomes by preventing the number of youth, under the age of 18, from starting to smoke. We further recommend that any revenue that is garnered from this tax increase be appropriated back into ONLY programs that support tobacco prevention efforts, including aid to localities for the work local health departments provide in tobacco education, cessation, and retail enforcement.

Article 36 Reform for LHDs

NYSACHO strongly supports the Governor's proposal amending Section 3605 of the Public Health Law so that when an LHD is providing core public health services, licensure under Article 36 shall not be required. This is a key legislative priority of the association to address the need to assure that local health departments are no longer being held to a clinical regulatory model misaligned with the public health services provided.

For many years, local health departments served as safety net health care providers in their communities, to both meet gaps in service capacity, and to provide care for the un/underinsured. Local health departments started moving away from the provision of primary care services in the 1990s and 2000s due to Child Health Plus, Medicaid Managed Care and payment system changes. The expansion of managed care included policies and practices aimed at promoting continuity of care by assuring those individuals established a medical home for primary care services. The Affordable Care Act further reduced the need for local health departments to serve as safety net primary care providers. The trend in both state policy and funding (in statute, regulation and administrative actions) continues to encourage, and at times, require that local health departments move away from providing clinical, primary care services. Ongoing shortages in clinical professions, particularly nursing, lent additional impetus to reducing clinical services provided by local health departments.

Per the NYSDOH website, “Licensed Home Care Services Agencies (LHCSAs) offer home care services to clients who pay privately or have private insurance coverage. These agencies may also contract to provide services to Medicare/Medicaid beneficiaries whose cases are managed by another provider or entity, such as providing home health aide services to a certified home health agency patient or providing a licensed practical nurse for a Medicaid prior-approved private duty nursing shift.” In contrast, services provided by public health nurses in the home are paid for through local tax dollars and state aid for general public health work.

Despite only providing limited public health related clinical services, which include providing assessments of new mothers and infants, direct observation, lead screening, immunizations, TB testing/DOT, verbal assessment, counseling and referral services, LHDs are currently required to be licensed home care services agencies, as this is the only existing statutory model available for in-home nursing services.

The proposed carve-out for LHDs will provide administrative relief and efficiencies to both the state and localities. Defining a limited scope of public health services for which Article 36 licensure is not required will allow the state to direct their regulatory staffing resources to those facilities and agencies that provide higher levels of clinical care or more traditional in-home services, where such regulation is appropriate and necessary. It will also eliminate duplicative monitoring activities conducted by Center for Community Health and Office of Primary Care and Health Systems Management staff, as well as the need for local health departments’ staff time in responding to monitoring activities.

Potential cost-savings to both the state and local governments would depend on future regulatory requirements, but overall, the expectation would be that a lessening of regulatory requirements will allow for reductions workload at both the state and local level in regard to mandated policies and procedures, paperwork, reporting, and other requirements so as to better aligned with the level of clinical services provided. Additionally, decreased monitoring needs at both the state and local level can result in administrative savings and redeployment of existing tax levy to meet other public health needs.

NYSACHO strongly urges the legislature to pass the Article 36 reforms related to the delivery of core public health services by local health departments to allow the statutory and regulatory framework to more appropriately reflect the level of service delivery provided and the uniqueness of local health department nursing services provided in the home compared to the traditional licensed home care service delivery model.

End Preventable Epidemics

NYSACHO supports the executive budget proposal to expand hepatitis C virus (HCV) screening to all adults and pregnant persons in New York. Local health departments would like clarification on the language requiring this of all Article 28 facilities to limit it to those Local health departments who provide family planning clinic or STI testing, under their Article 28. Most local health department clinics outside of those for STIs or family planning, provide a limited set of public health services, such as immunizations where they would not have the staffing or capabilities to provide the necessary testing and follow-up. NYSACHO believes that the language should reflect that the testing requirements for Article 28 facilities be limited to those providing those higher levels of primary care.

NYSACHO strongly supports the proposed language to require syphilis testing of all pregnant people in the third trimester to decrease rates of congenital infections. The rise in syphilis cases and rates nationally and within the state of New York led the NYS Department of Health to issue a Health Advisory in June 2021 describing an alarming increase in syphilis overall, syphilis among persons reported as female, and congenital syphilis. The Department of Health subsequently issued a Dear Colleague letter to NYS clinicians in January 2022 reporting on continued increases through the remainder of 2021.

Syphilis is a complicated infection and may lead to significant health conditions in those who contract the infection. It is difficult to diagnose without specific testing of blood and is highly contagious. Congenital syphilis (syphilis in a fetus or newborn) is a tragic consequence of undiagnosed and/or untreated syphilis in those who are pregnant and is completely preventable with vigilant testing and treatment. The addition of required third trimester testing to the existing NYS requirements for testing at the initial visit is the most effective intervention to lead to enhanced treatment of syphilis in pregnancy and thereby decrease the occurrence of congenital syphilis. In addition, the adoption of this additional testing during pregnancy would align New York state public health law with a similar change already enacted through local regulation in New York City and assure that all pregnant New Yorkers would be receiving the highest quality of care.

NYSACHO is mindful of the need to respect the clinical judgement of healthcare practitioners, however, local health departments strongly believe that both the growing incidence of syphilis infections in the general population and in pregnant women, as well as the increase in congenital syphilis warrant moving the proposed legislation forward as a requirement.

Health Worker Bonus Program

Last year's budget included a one-of-a-kind health care worker bonus program, of which, was never clearly indicated to be applicable to all of the public health workers who sacrificed so much to serve their

communities during the pandemic. Many of these workers did not receive a bonus during the administration of this program which has further deteriorated the morale and mental health of local health department employees. We ask that the legislature provide clarification of the statutory language encompassing this program to confirm eligibility of all those involved in pandemic response, including those working at local health departments.

Medical Examiner/Coroner Services: Lack of State Support for Vital Death Investigations

Death investigations are a critical public health activity. While the popular view of these services focuses on investigations related to criminal activity, under New York state statute, coroners or medical examiners have jurisdiction and authority to investigate every death within their county, or body found within the county, which is or appears to be violent, suicide-related, criminal in nature, suspicious in nature, unattended by a physician, or a death of a person confined in an institution.

In addition to deaths related to criminal activity, commonly encountered reportable unnatural deaths include opioid related, motor vehicle accidents, infectious deaths following an injury, hip fractures, subdural hematomas, death by asphyxiation, head injuries, traumatic deaths or cases where there is uncertainty or inadequate clinical information at the time of admission or death.

Many medical examiners offices also provide pathology and toxicology services to counties served by coroners. In 2019, the 20 counties operating medical examiner programs accounted for roughly \$108M of the \$122M or roughly 88.5% of the total 2018 budget for coroner and medical examiner services across all of the counties in NYS.

Prior to 2011, county coroners and medical examiners were recognized as a core public health service, with medical examiner services reimbursed up to 36 percent with state aid from Article 6 funding to local health departments.

In 2011, the State Budget recommended shifting the reimbursement for medical examiners from the New York State Department of Health (NYSDOH) to the New York State Department of Criminal Justice Services (DCJS). County objections over the need for objectivity and distance from criminal justice agencies were recognized as a valid concern, however, rather than returning funding to Article Six reimbursement, the funding simply was no longer available as the state continued to deem this activity to be a public safety and not a public health function.

Since that loss of state support for ME services, the public health need for these services has grown. Death investigations and data are a critical piece in addressing the ongoing Opioid epidemic, particularly

as many opioid-related deaths are unattended. Similarly, toxicology results help identify new trends in street drugs, such as the rise in drugs mixed with fentanyl. A key part of the COVID-19 response, particularly in the early time period of the epidemic, was equally critical to informing disease incidence, contributing health factors for COVID deaths, as well as death rates.

The Governor and State lawmakers must restore funding to counties to help offset the increasing costs for state-mandated autopsy services in recognition of the critical public health data provided by death investigations. Given the 2011 loss of funding, and subsequent increases in costs and challenges facing county coroner and medical examiner services, NYSACHO joins the New York State Association of Counties (NYSAC) and the New York State Association of County Coroners and Medical Examiners (NYSACCME) to request that the state to fund 50 percent of the autopsy and toxicology services impacting counties due to the changing pathology landscape in NYS and the opioid epidemic.

Conclusion

The public health challenges facing New Yorkers continue to swell in magnitude with unintended consequences stemming from the covid-19 pandemic (overdose rates, missed disease screenings, vaccine hesitancy, rising rates of sexually transmitted infections, vector borne illness, etc.) placing communities at heightened risk. Local health departments continue to rise to meet those challenges despite ongoing workforce erosion, continued spread of public health disinformation and challenges from industries where profit is prioritized over health. Using just the past year as an example, local health departments responded to, for the first time in our state's history, three concurrent statewide imminent threats to public health: COVID-19, Mpox and Polio. These events coincided with ongoing public health issues, such as an increase in rates of sexually transmitted infection; other communicable disease outbreaks; opioid overdoses and deaths; suicide fatalities; an increase in reports of children with elevated blood lead levels due to a change in public health law and other severe public health crises.

There has never been a more pivotal time to take a stand in support of public health and the work local health departments partner with their communities to provide. We ask you, New York's respected lawmakers, to support our local health departments by taking the following action and support within your one-house budgets:

1. restore New York City's Article 6 reimbursement rate from 20% to 36%;
2. strengthen New York state's ban on flavored tobacco products and extend that ban to similar cannabis products;
3. assure that any tax revenue that is collected from the proposed increase on tobacco products be directed toward health programming including aid to localities for the work that local health

departments provide around tobacco cessation, education and prevention efforts rather than allowing it to be directed to the state general fund;

4. provide truly sufficient funding to cover the cost of implementing the lowered actionable EBLL and advance lead primary prevention initiatives in the amount of \$58M and assure that municipalities are provided legal protections when they are performing their work in good faith and with due diligence;
5. include in your one-house bill a zero-interest revolving loan fund for low-income owners as a means of sustaining funding for lead abatement projects now and in future years;
6. support and include HMM Part M, article 36 reform for Local Health Departments in your one-house budget bills;
7. guarantee a 50/50 state-local match for Medical Examiner pathology and toxicology services to support local surveillance around overdose rates, suicides and other preventable deaths.

By taking these actions, you will be demonstrating your commitment to the foundational services that underpin the public health system and advance progressive public health policies with the financial support necessary to protect residents in New York State.

On behalf of the 58 local health departments in New York State, it is an honor to submit budget testimony to the joint legislative committees on Health and Finance and Ways and Means. LHDs implement state public health policy in each of your counties, through the provision of core public health services. As new threats emerge, local health departments are your public health first responders.

The County Health Officials of New York and their association, NYSACHO, look forward to working with you to develop the policies and identify the resources and services necessary to rebuild New York's public health infrastructure. Please do not hesitate to call on us locally or contact our association NYSACHO to aide as you work to strengthen public health policies in New York State.