



NEW YORK STATE PUBLIC HEALTH ASSOCIATION

Envisioning Healthy People in Healthy Places

Mission: The mission of NYSPHA is to promote and protect the public's health through professional development, networking, advocacy, and education.

Vision: Strengthening public health and taking action to make New York the healthiest state.

**Testimony Submitted on Behalf of the
Board of Directors and the Membership of the
New York State Public Health Association
(NYSPHA)**

by

**Brett Harris, DrPH
President, NYSPHA
Senior Research Scientist, NORC at the University of Chicago
Clinical Associate Professor, UAlbany School of Public Health**

to

**The Joint Legislative Budget Hearing on Health
Tuesday February 28, 2023**

It is an honor to provide testimony on the Department of Health Budget for Fiscal Year 2024 on behalf of the Board of Directors and the members of the New York State Public Health Association. NYSPHA is the New York State affiliate of the American Public Health Association (APHA) and serves as the statewide organization for members from all disciplines across the spectrum of public health professionals, organizations, academia, and students pursuing careers in public health. Our mission is to improve the public's health through advocacy, education, networking, and professional development.

To maintain core public health services and address emerging threats, NYSPHA recommends that the following be included in the FY 2024 enacted budget:

1) NYSPHA applauds the Governor for including three of NYSPHA's longstanding tobacco prevention and control priorities in the proposed Executive Budget. We strongly urge the legislature to include these provisions in their one house budget bills: 1) increasing the tobacco tax, 2) ending the sale of menthol cigarettes and all other flavored tobacco products, and 3) closing the loopholes in the sale of flavored e-cigarettes. Tobacco use remains the leading cause of preventable premature mortality in New York State. Approximately 12% of New York adults still smoke and 28,200 New Yorkers are projected to die from smoking-related illness this year. It is imperative that New York's enacted budget includes the Governor's proposals and takes aggressive action to prevent tobacco initiation among youth and to enable current tobacco users to quit.

Specifically, NYSHA recommends the Legislature to:

- **Increase the tobacco tax.** Increasing the cigarette tax by \$1 per pack, moving it from \$4.35 to \$5.35 per pack, is projected to generate significant public health benefits for New Yorkers. The new tax proposal would have significant public health benefits including decreasing youth (under age 18) smoking by 8.2% and helping an estimated 44,800 adults who currently smoke to quit, over time saving 15,300 lives. NYSPHA also recommends increasing the tax on all other tobacco products (OTPs) that parallels the new cigarette tax rate to ensure that the state does not inadvertently promote one tobacco product over another to youth, who are more price-sensitive than adults.
- **Increase funding for the NYSDOH Tobacco Control Program.** The TCP utilized evidence-based strategies, runs hard-hitting cessation media, runs community-based programs to prevent youth initiation, and operates the state's Smokers Quitline. Although the state receives \$2.63 billion annually in tobacco-related dollars annually, \$1.63 billion in tobacco excise taxes and \$737.7 million from the Master Settlement Agreement, it only spends \$39 million (1.6%) on the Tobacco Control Program. This funding level is a 54% decrease from the Program's peak funding level of \$85 million in the 1990s. NYSPHA recommends increasing the program's funding to \$52 million as a down payment towards the CDC-recommended level of \$203 million.
- **End the sale of menthol cigarettes and all other flavored tobacco products.** Flavors are a marketing weapon used by tobacco manufacturers to target youth and young people to a lifetime of addiction. Almost half of youth who smoke cigarettes used menthol cigarettes (46.7 percent). Products with flavors like cherry, grape, cotton candy, mint and gummy bear are clearly not aimed at established, adult tobacco users and years of tobacco industry documents confirm the intended use of flavors is to target youth. Menthol can mask the harsh effects of smoking, facilitating nicotine uptake. Tobacco manufacturers have aggressively and intentionally targeted communities of color and LGBTQ+ communities with menthol products, leading to an unequal burden of death and disease. In addition, despite ongoing

disinformation regarding policing of flavored tobacco products, New York's tobacco enforcement is conducted by state and local health department 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. Language in the enacted budget should make it clear that the police have no role in enforcing the ban of the sale of menthol cigarettes and other flavored tobacco products.

- **Support the proposed language in the Executive Budget closing loopholes and addressing enforcement issues with flavored e-cigarettes.** New York's 2020 e-cigarette legislation exempted products that have received a pre-market tobacco product authorization (PMTA) by the US Food and Drug Administration. In addition, loopholes that allow distributors to continue to carry and sell prohibited products to merchants as well as vagueness that allows retailers to claim they are selling products remotely undercut the effectiveness of the law. Local health department enforcement officers report the continued widespread availability of flavored vaping 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. These loopholes need to be eliminated.
- **Extend New York's flavored aerosolized and combustible tobacco product ban to also include a ban on flavored 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 harms caused by tobacco and a similar standard must be put in place for cannabis to provide consistent public health protections across both industries.

2) **NYSPHA urges the Legislature to support the Local Health Departments and Public Health Workforce:** The first priority of New York's local health departments (LHDs) is to maintain the core public health services they are tasked to provide. These are problems that short-term increases in funding will not address. The public health infrastructure is built on people – local health officials, preparedness coordinators, epidemiologists, public health nurses, sanitarians, social workers, public health educators and support staff.

Specifically, NYSPHA urges the Legislature to:

- **Fully fund the shortfalls in existing and proposed childhood lead poisoning prevention programs, increasing the total budget from \$18 million to \$58.1million.** The shortfall is in three parts. 1) In 2019, the state lowered the blood lead action level for LHDs to follow-up with lead poisoned kids, requiring thousands of additional investigations each year with no additional funding (additional funding needed: \$36.4m); 2) In 2022, the state added five high risk counties to the thirteen receiving primary lead poisoning prevention funding but added

no additional funding resulting in the existing county programs being cut (additional funding needed: \$2.4m); and 3) the Executive Budget establishes a new lead poisoning primary prevention initiative, requiring the development of a state rental registry with proactive inspections to identify lead hazards. While this is a laudable goal, the proposal only provides limited funding in the State Operations budget and none in the Local Assistance budget (additional funding needed: \$19.4m). Without the additional funding, these programs will not adequately serve New York's children at risk for lead poisoning.

- **Clarify that public health workers are eligible for the COVID-related health care worker bonus program passed last year.** Public health workers who sacrificed so much to serve their communities during the pandemic did not receive bonuses in the program enacted last year. This has led to further deterioration in the morale and mental health of local health department employees.
- **Adopt the proposed Article 36 reforms for Local Health Departments in the Executive Budget.** The proposal amends Section 3605 of the Public Health Law so that when an LHD provides core public health services in the home, licensure under Article 36 shall not be required. This is a key legislative priority for NYSPHA to assure that local health departments are no longer being held to a clinical regulatory model misaligned with the public health services being provided.
- **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). The justification provided in 2019 by New York State for the reduction in New York City's Article 6 reimbursement rate to 20% was that New York City has access to federal and other funding sources. However, this fails to acknowledge that the existing and longstanding Article 6 claims process already accounted for these other revenue sources and credited these savings to the state by reducing the net reimbursement paid to New York City.
- **Restore funding to counties to help offset the increasing costs for medical examiner services** in recognition that state mandated-autopsy services that provide critical public health data. Prior to 2011, county coroners and medical examiners were recognized as a core public health service, with medical examiner services being reimbursed up to 36 percent with state aid from Article 6 funding to local health departments. These services are currently 100% county cost, but provide critical data for statewide emergencies such as the COVID and opioid overdose epidemics. The funding should be restored.

3) NYSPHA urges increased supports for the state's immunization infrastructure to reduce of vaccine-preventable illness, improve vaccine access, and support responsible investment in our state's immunization infrastructure. The COVID-19 pandemic has underscored the profound impact that immunization has on preventing severe disease, hospitalization, and death. Despite this tremendous impact on public health and the countless lives that have been saved by vaccination, disinformation about vaccines persists and many communities still experience challenges with accessing vaccines. This unfortunate reality has dangerous consequences. There has been a disturbing backslide in routine childhood vaccination rates as organized efforts to undermine public confidence in vaccines continues. Diseases like measles and polio, once believed eliminated in the United States, have returned in New York.

To strengthen the state's immunization infrastructure, NYSPHA recommends:

- **Increased investment in public health immunization infrastructure,** including restoration of New York City's reimbursement for public health to 36% above the base grant under

Article 6 (as outlined above). Local health departments have played a critical role in the state's COVID-19 vaccination efforts and are an important point of access for vaccines in our communities, routinely working with health care providers and schools to assure that children receive life-saving childhood immunizations and providing coordination for regional immunization efforts.

- **Provision of additional state resources dedicated to a sustained public relations campaign around general vaccine promotion and education** focused on the importance of vaccination for all New Yorkers and combatting disinformation efforts. The State's strong #VaccinateNY campaign helped educate, build trust, and generate enthusiasm in the COVID-19 vaccines. We recommend sustaining and extending state resources to similarly encourage New Yorkers to receive all recommended vaccines throughout the year.
- **A requirement for reporting of all vaccinations given to individuals ages 19 years of age or older to the state and NYC immunization registries (NYSIIS and CIR),** moving from an "opt-in" to an "opt-out" consent provision for reporting in New York. New York is one of only a handful of states or cities that require "opt-in" consent for adults to have their vaccines entered in the immunization registries. Robust immunization registries have numerous benefits, as demonstrated during the COVID pandemic. They ensure health providers have consolidated and accurate immunization records of their patients, prevent over-immunization, and provide State and local Health Departments with the tools and information to help control vaccine-preventable diseases through accurate vaccine tracking. Notably in New York State, all immunizations administered to children less than nineteen years old have been required to be reported to NYSIIS/CIR since 2008. The registries also allow immediate notification of patients and providers if a product recall is required.

4) **NYSPPHA supports increased funding for cancer prevention and control.** Cancer is the second leading cause of death in New York State. In 2023 there will be over 118,000 new cases of cancer and over 32,000 New Yorkers will die from the disease. More specifically, an estimated 17,800 women will be diagnosed with breast cancer while 870 women will be diagnosed with cervical cancer and an additional 8,950 men and women will be diagnosed with colorectal cancer. The NYSDOH Cancer Services Program (CSP) provides with free breast, cervical and colorectal cancer screenings, and diagnostic services for New Yorkers with no or limited health insurance. The CSP is currently able to reach only 18% of the eligible population because of its limited budget. That budget was cut 20% in 2017.

To ensure that every New Yorker has access to breast, cervical and colorectal cancer screening, NYSPHA supports:

- **Restoration of the 20% lost in 2017 and dedicate \$25.6 million to the CSP,** expanding the availability of screening to low-income, under-, and uninsured residents. Additionally, New York State should establish a specific budget line item for operating expenses needed to implement the CSP and allocate \$1 million in FY 2024. These investments should be a down payment on a larger investment as part of New York State's 2024-2029 Comprehensive Cancer Control Plan which is due to be released in 2023.
- **Legislation to require health insurance to cover biomarker testing.** Progress in improving cancer outcomes increasingly involves the use of precision medicine. Biomarker testing is important step for accessing precision medicine including targeted therapies that can lead to improved survivorship and better quality of life for cancer patients. Nearly 60% of all cancer drugs approved in the last 5 years require or recommend biomarker testing before use. Biomarker testing is increasingly important for cancer care – and for the

treatment of other diseases including arthritis, other autoimmune conditions and rare diseases, and possibly diseases like Alzheimer's in the future. However, not all communities are benefiting from the latest advancements in biomarker testing and precision medicine. Communities that have been excluded including communities of color, individuals with lower socioeconomic status, rural residents. Patients receiving care in non-academic medical centers are less likely to receive biomarker testing. Improving coverage for and access to biomarker testing across insurance types is key to reducing health disparities.

5) NYSPPHA supports addressing rural health disparities by restoring funding for the Rural Health Network Development (RHND) and the Rural Health Care Access Development (RHCAD) Programs. Both programs are designed to address the disparities in healthcare access and health outcomes that rural communities experience. Funding for these important rural health programs has been significantly reduced over the past several years. As recently as SFY17, the funding for these two programs totaled \$16.2M; in SFY23, the funding was \$9.41M.

- **NYSPPHA supports the restoration of funding for the RHND and RHCAD programs to \$16.2M.** This will help achieve health equity for people in rural areas and reduce disparities in healthcare access and health outcomes as a function of rurality

6) Fund universal school meals. In June 2022, federal waivers ensuring every student in the nation had access to free school meals expired. As a result, more than 726,000 New York students lost access to free school meals. Existing programs in New York leave far too many behind, including families struggling to make ends meet while hovering just above the income limits for free school meals. Additionally, kids who qualify for free school meals may hesitate to take advantage of them due to stigma and shame associated with being identified by their peers as participating in the program, acknowledging that they are impoverished. Funding healthy school meals for all would change the game. Studies have shown a direct link between healthy meals and improved academic performance, boosted attendance, and better classroom behavior. With state funding, nearly 2,000 additional schools would be able to provide universal free school meals for all students, with an anticipated annual investment of \$187.3M to \$201M.

NYSPPHA urges the Legislature to use this critical moment to use the budget process to adopt the Executive Budget's public health proposals and to include funding for additional programs as outlined in this testimony. We respectfully ask you to **support the health of all New Yorkers** by including these recommendations in the FY 2024 enacted New York State Budget. Please do not hesitate to reach out to continue the conversation.

Thank you.

Brett Harris, DrPH
President
Guthrie Birkhead, MD, MPH
Policy and Advocacy Chair
New York State Public Health Association
info@nysppha.org