



December 19, 2022

Commissioner Chinazo Cunningham, M.D.
Office of Addiction Services and Supports
501 Seventh Avenue
New York, New York 10018

Dear Commissioner Cunningham:

Thank you for your response, dated December 6th, 2022, to the OSFAB's recommendations. The Board comprising of providers, individuals with lived experience/families, local governmental units, and state agencies offers an excellent opportunity for NYS to benefit from a truly collaborative process – one in which state agencies collaborated wholly around the development of initiatives that were then presented to the Board and were voted on. The Board appreciates that the state agencies thoroughly reviewed the report, and that all three continue to work together toward the execution of the opioid settlement funds.

The Board was pleased to learn that all but two of their recommendations (Appendix A, Section 1 (pg. 25), and Appendix A, Section 1 (b)) were accepted. Below please see the Board's response to the recommendations that were declined.

- Appendix A, Section 1 (pg.25), the Board does not have the power to violate any laws or the New York State Constitution. We recommended that harm reduction money be allocated for disbursement by DOH. The Board is aware that its jurisdiction is as an Advisory Board, and that we do not have the authority to spend the State's funds. All the points mentioned in the report were in the spirit of recommendations. Hence, the Board recognizes that the wording in its recommendation should have been more suggestive rather than directorial. Therefore, the recommendation should now read as such: "As reflected in the meeting minutes, we strongly suggest that all dollars for Harm Reduction go to the Department of Health for appropriate disbursement for collaboration with other agencies."
 - **The Board requests further clarification on how the State will include DOH in the execution of the larger plan under the Harm Reduction section of the report. This will help us to better understand why the recommendation was declined and provide more context for when we make recommendations in the future.**
- Appendix A Section 1(b) (pg.27), The Board understands, the State's position. However, New York has a proud and renowned tradition of enacting bold public health solutions, being a progressive leader in the country when it comes to keeping our constituencies safe and healthy. As an example, the ground-breaking regulatory work of the AIDS Institute/State DOH

along with the SSPs and other stakeholders in developing NYS's harm reduction portfolio, has been a national model since 1992.

- **We would like to reiterate our support of OPCs and our request for continued advocacy, leadership, and regulation in support of these important lifesaving, community-based resources.**

- o The authors of the prevailing state legislation governing the actions of the Advisory Board wrote, and passed the law, establishing the Board and its role. This unanimously bipartisan legislation sought to ensure that monies from these settlements would go *directly* to meaningful substance use disorder prevention, treatment, recovery, and harm reduction services for New Yorkers. We are concerned that the December 6th decision by the State diverges from both the text and the spirit of the prevailing statute. While there are a host of reasons that we object to this decision, we have summarized our thinking across five key themes:
 - **These monies would be for supportive services**, not brick and mortar OPCs. Pursuant to the prevailing legislation ([S7194/A6395](#)), which both created and governs the Board, the actions recommended by the Board are entirely in line with the language and spirit of this bill. The funds that were secured through the opioid settlement decisions are to be explicitly “used to supplement and not supplant or replace any other funds, including federal or state funding, which would otherwise have been expended for substance use disorder prevention, treatment, recovery or harm reduction services or programs.”

 - **OPCs have been successful in New York City.** OPCs can reduce the risk of severe infection and disease by as much as [50%](#). A NYC [Health Department feasibility study](#) found that OPCs in New York City would save up to 130 lives a year. The NYC Health Department [has shown that opioid-involved deaths are preventable](#) through simple measures like expanding access to naloxone, and providing for other supportive services through OPCs.

 - **There are dangerous overdose trends both nationally and locally.** [Across the country and in New York State](#), overdose deaths continue to rise. In New York, overdose deaths have risen steadily over the past 15 years. In 2017, public health data confirmed nearly 4,000 overdose fatalities in the state. The [most recent data shows that by 2021, the number of overdose fatalities soared to more than 5,800](#). This crisis is only worsening. Failing to support people struggling with addiction will only exacerbate this trend.

 - **We Cannot Disinvest in Harm Reduction Monies.** The AIDS Institute's Office of Drug User Health rests on a successful thirty-year history of community collaboration and research exceeding and challenging expectations on drug user behavioral health. As the above trends show, harm reduction monies being disbursed by the DOH are critical to help stem tragic yet preventable deaths. The proper resources and expertise must be lent to this issue and fall squarely under the Board's authority to make

recommendations to the Legislature on how monies should be spent. We feel strongly that monies for the AIDS Institute/State DOH and OPCs could save the lives of more New Yorkers from overdose.

- **In Conclusion**, the Board recommends that the State work with the Legislature to make policy changes that will support OPCs. During the Public Comment period at our Advisory Board meeting on December 14th, members of the OPC community repeatedly suggested that Board members visit their facilities to fully appreciate the activities that occur within an OPC. We want to encourage communities to support their OPCs, which could be funded through alternate resource streams (e.g. the \$89M NYCDOHMH received). While we recognize that this would reduce the speed at which we want to get help into our communities, the Board believes it would be valuable to have listening sessions/hearings across the state to better inform communities about OPCs. The Board encourages the State to look at the model used with the inception of Syringe Exchange programs which resulted in a solution that reflected collaboration among a wide range of actors, including the State, private foundations, and advocates.

Again, we greatly appreciate the commitment to collaboration between OASAS, DOH, and OMH. We look forward to learning about funding opportunities that avoid redundancies between the agencies and address the critical need for integrated mental health and trauma-informed services as well as other social determinants of health.

Overall, the Board is pleased with the first report year. We voted at our December 14th meeting to receive monthly updates from the State agencies on the implementation of the recommendations reflected in the annual report dated November 1, 2022. This will ensure transparency and illuminate for us the impact of our recommendations while giving us vital data that will be useful when making our recommendations next year.

On behalf of the Board, I thank you for your review. We look forward to our ongoing collaboration with the State in the furtherance of the good health of all New Yorkers.

Best regards,



Debra Pantin, Chairperson
Opioid Settlement Fund Advisory Board

cc: Honorable Andrea Stewart-Cousins
Honorable Liz Krueger
Honorable Pete Harckham
Honorable Carl Heastie
Honorable Helene Weinstein
Honorable Phil Steck