



Memorandum in Support

March 16, 2023

S. 4007-B, Part DD
A. 3007-B, Part DD

By: BUDGET
By: BUDGET
Senate Committee: Finance
Assembly Committee: Ways and Means
Effective Date: 90th day after it shall have become law

THE TASK FORCE ON MENTAL HEALTH AND TRAUMA INFORMED REPRESENTATION SUPPORTS THIS LEGISLATION

New York State Bar Association’s Task Force on Mental Health and Trauma Informed Representation supports an 8.5% Cost of Living Increases for Human Service Programs.

The New York State Bar Association’s Task Force on Mental Health and Trauma Informed Representation (“Task Force”) is tasked with evaluating all areas of the law where clients living with mental illness and trauma need representation, and what lawyers need to provide the best possible representation. As part of this evaluation, the Task Force has reviewed the underlying funding for staffing provided annually for those who serve in housing, clinical and treatment roles in community-based services and finds significant additional funding is needed.

Part CC of the Executive’s Mental Health and Hygiene Budget Bill (S.4007-A/A.3007-A) establishes a “2.5% COLA” (Cost of Living Adjustment) for designated Human Service Programs. This COLA increase would be added to the state funding in support of the services of numerous community-based health care provider organizations. Among those providers are the hundreds of nonprofits providers of “behavioral health services”: those which help to meet the needs of individuals living with mental health, addiction, and developmental/intellectual disabilities, as well as co-occurring disorders.

New York, like most of the states, is facing a healthcare worker shortage. Following COVID-19, when combined with the already challenging work and often irregular hours, low wages become one of the core contributors to this staffing shortage. *“COVID-19 certainly played a major role, said Bryan O’Malley, CDPAANYs executive director, with people quitting because they didn’t want to take the risk, or because they needed to care for their own children or a sick person in their household. Despite that, almost 50 percent of the clients responding to the association’s survey said a home health aide had quit because of low pay or having found a better job. “COVID definitely made the situation worse, but it was already a crisis,” O’Malley said.ⁱ*

In 2006, the State Legislature enacted a COLA for the benefit of mental hygiene and human services providers. The statutory COLA authority has been extended every year since then, however the language included “notwithstanding” language, which has allowed the COLA to be ignored in subsequent years. A COLA was provided in 2006 but was “notwithstanding” in all except three years since then creating a lack of necessary funding to provide proper services to those in need.

In those three years in which a COLA was provided, there was a 0.2%, 1.0% and a 5.4% COLA totaling 6.6%, while the consumer price index increased during that period a total of 35.31%. (In two other years, there were modest salary increases for mental hygiene programs but no across-the-board increases.) The cumulative, compounded impact of deferred COLA increases is approximately a 30% loss in reimbursement, which directly translates to wage increases for front-line and support workers, when compared to the increase in inflation, over those 16 years.

As a result, most mental health, addiction and ID/DD community-based have seen little increase in wages, resulting in extreme difficulty hiring and retaining staff positions. Thus, many currently have double digit vacancy rates.

NYSBA applauds Governor’s Hochul’s historic proposed expansion of mental health services in her 2023-24 Executive Budget, however, it is clear that it will have limited impact without increasing funding to existing providers to pay competitive salaries to recruit and retain competent staff. The Assembly and Senate proposed budgets include the 8.5% COLA that is necessary for these services to expand.

As Task Force Co-Chair Joseph A. Glazer, who serves as Deputy Commissioner of the Department of Community Mental Health in Westchester County wrote in his budget testimony to the Joint Hearing on the Health and Mental Hygiene Article VII budget proposal, *“Our service providers are in a staffing crisis... Should these ... crises be left unaddressed, the Governor’s proposed budget will effectively bring little change in our system. We will have a huge, robust system on paper, and the static inability to fill new apartments and hire employees, unless the legislature addresses the on-going woeful inadequacy of funding for our workforce...”*ⁱⁱ

Based on the foregoing, the Task Force **supports** efforts proposed by the Assembly and Senate budgets increasing the **8.5% COLA for Human Services Programs**.

ⁱ <https://citylimits.org/2021/12/27/whats-driving-the-shortage-of-home-healthcare-workers-in-ny-low-wages-advocates-say/>

ⁱⁱ https://www.nysenate.gov/sites/default/files/westchester_dept_of_community_mental_health.pdf