

Setting the Standard in Health Care Excellence

June 18, 2024

Board of Supervisors
County of Ventura
800 South Victoria Avenue
Ventura, CA 93009

SUBJECT: Receive and File Report Regarding the Implementation of Senate Bill 43's Expansion of "Gravely Disabled" Under the Lanterman-Petris-Short Act and Senate Bill 929 Reporting.

RECOMMENDATION:

Receive and file this Board Letter report regarding the implementation of Senate Bill 43's (SB 43) expansion of "gravely disabled" under the Lanterman-Petris-Short (LPS) Act and Senate Bill 929 reporting.

FISCAL/MANDATES IMPACT:

The proposed recommendation does not have a fiscal impact.

STRATEGIC PLAN PRIORITY:

The item presented in this Board letter ties to the Healthy, Safe, and Resilient Communities strategic priority of the County Strategic Plan as it is designed to meet the goal of providing equitable and timely access to quality mental health services.

DISCUSSION:

Summary of SB 43

SB 43 makes several significant changes to the state's involuntary detention and conservatorship laws under the LPS Act by:

1. Expanding the state's "gravely disabled" criteria to allow for the involuntary detention and conservatorship of individuals on the basis of a standalone "severe" substance use disorder (SUD) or co-occurring mental health disorder and severe SUD;
2. Expanding the definition of grave disability to include individuals who are unable to provide for their basic personal need for personal safety or necessary medical care;
3. Defining "necessary medical care" to mean care that a licensed health care practitioner determines to be necessary to prevent serious deterioration of an

existing medical condition which is likely to result in serious bodily injury if untreated;

4. Modifying hearsay evidentiary standards for conservatorship hearings to expand the array of testimony that can be submitted into conservatorship proceedings without requiring in-person cross examination; and,
5. Requiring that counties consider less restrictive alternatives such as assisted outpatient treatment (AOT) and CARE Court in conducting conservatorship investigations.

In February 2024, Ventura County Behavioral Health (VCBH) leadership began collaborating with counties throughout the state to develop a timeline for implementation of SB 43.

VCBH Implementation Update

In February 2024, VCBH leadership began collaborating with other counties throughout the state to develop a timeline to ensure implementation of SB 43 by no later than January 1, 2026. Specifically, VCBH and participating counties established a working group that is intended to meet through November 2024. The goal of the working group is to develop policies and procedures, analyze regulatory guidance, and discuss challenges and opportunities with implementing the various components of SB 43.

To date, the workgroup has met in the months listed below to address the following:

1. February 2024
 - o Discuss a timeline for counties' implementation of SB 43.
 - A draft handbook for counties to implement SB 43 is estimated to be available by November 2024.
2. March 1, 2024:
 - o Perform a review of grave disability standards, criteria, definitions, and policies for sample large, medium, and small counties throughout California.
 - o Perform a review of potential facility types counties are considering for the implementation of SB 43.
 - o Develop standard proposed clinical criteria for a "severe SUD" grave disability assessment in consultation with clinical experts and incorporating a review of SUD-only conservatorship criteria in other states and jurisdictions.
3. April 2024:
 - o Identify a preliminary list of facility types necessary to implement SB 43, including, but not limited to:
 - SUD conservatorship and step-down levels of care.
 - Co-occurring mental health and SUD conservatorship and step-down levels of care.

- Mental health conservatorship and step-down levels of care for individuals with co-occurring physical health needs.
- SUD conservatorship and step-down levels of care for individuals with co-occurring physical health needs.
- SUD and seriously mentally ill (SMI) conservatorship and step-down levels of care for individuals with co-occurring behavioral health and physical health needs.

Facilities Survey. The expansion of the involuntary treatment and conservatorship criteria under SB 43 is unprecedented. There are currently no clinical standards to determine when to initiate or end involuntary SUD treatment. As a result, there are currently no facilities for involuntary substance use disorder treatment in California. The addition of physical health conditions as a basis for conservatorship also requires the development of a new set of medical services to evaluate and assess physical health risks and status. The department continues to work with county leadership to survey current facilities and/or property that may be repurposed for the necessary infrastructure to treat these populations. This includes the east county crisis stabilization unit and Lewis Road Mental Health Rehabilitation Center (MHRC). The allowable design, structure, and nature of the facility types have yet to be defined pending state guidance and stakeholder engagement.

Staffing Assessment. The department is currently assessing potential staffing models and proposed training resources that will be needed amid the challenging workforce and budgetary environments. The changes under SB 43 do not trigger new, dedicated state funding to support these expanded obligations. The state does not provide funding for public guardians, designated individuals that conduct clinical assessments, or Patient's Rights Advocates that are needed to make determinations and conduct investigations and manage conservatorships. The state has not invested additional funding for expanded treatment services for SUD, mental health, or physical health conditions.

Reimbursement Challenges. Federal and state governments provide no reimbursement for long-term residential and inpatient drug treatment under Medi-Cal. The Drug Medi-Cal Organized Delivery System (DMC-ODS) allows for limited Medi-Cal coverage (up to 30 days only). Therefore, under current regulations, involuntary long-term inpatient and residential care is not reimbursed through Medi-Cal or other payers, particularly those in locked settings. Commercial insurance plans often deny counties' requests for reimbursement for mobile crisis, crisis, and inpatient residential SUD treatment services. If courts were to order involuntary SUD/medical treatment, they would not be bound by what Medi-Cal or other insurance payers would cover, leaving counties with a significant unfunded mandate. These are high-risk areas yet to be resolved as we await additional state guidance and the necessary regulatory changes.

Mandatory Data Reporting. Finally, effective May 30, 2024, counties must be in compliance with Senate Bill 929, which passed into law in 2022 and mandates the Department of Health Care Services to collect expanded quarterly data related to

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involuntary detentions under the LPS Act. Welfare and Institutions (W&I) Code Section 5402 requires each designated and approved facility and each other entity involved in implementing W&I Code Section 5150 to report specified data to the county in which it operates.

VCBH's Patient's Right Client Advocate is coordinating this process and collecting required data from key stakeholders to ensure quarterly reporting deadlines are met. The first quarterly report was submitted by the May 30th deadline.

The VCBH Interim Behavioral Health Director Loretta L. Denering DrPH, MS will provide updates to your Board as more information becomes available.

VCBH recommends that your Board receive and file this Board Letter Report.

This Board letter has been reviewed by the County Executive Office, Auditor Controller's Office, and County Counsel. If you have any questions regarding this item, please contact VCBH Interim Behavioral Health Director Loretta L. Denering DrPH, MS at (805) 981-2214 or HCA Assistant Chief Financial Officer Narcisa Egan at (805) 973-5357.


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