

Overview of Legislation AB 531, SB 326 (Proposition 1) & SB 43



VENTURA COUNTY
BEHAVIORAL HEALTH

Board of Supervisors

December 5, 2023

Primary Responsibilities

Behavioral Health Department

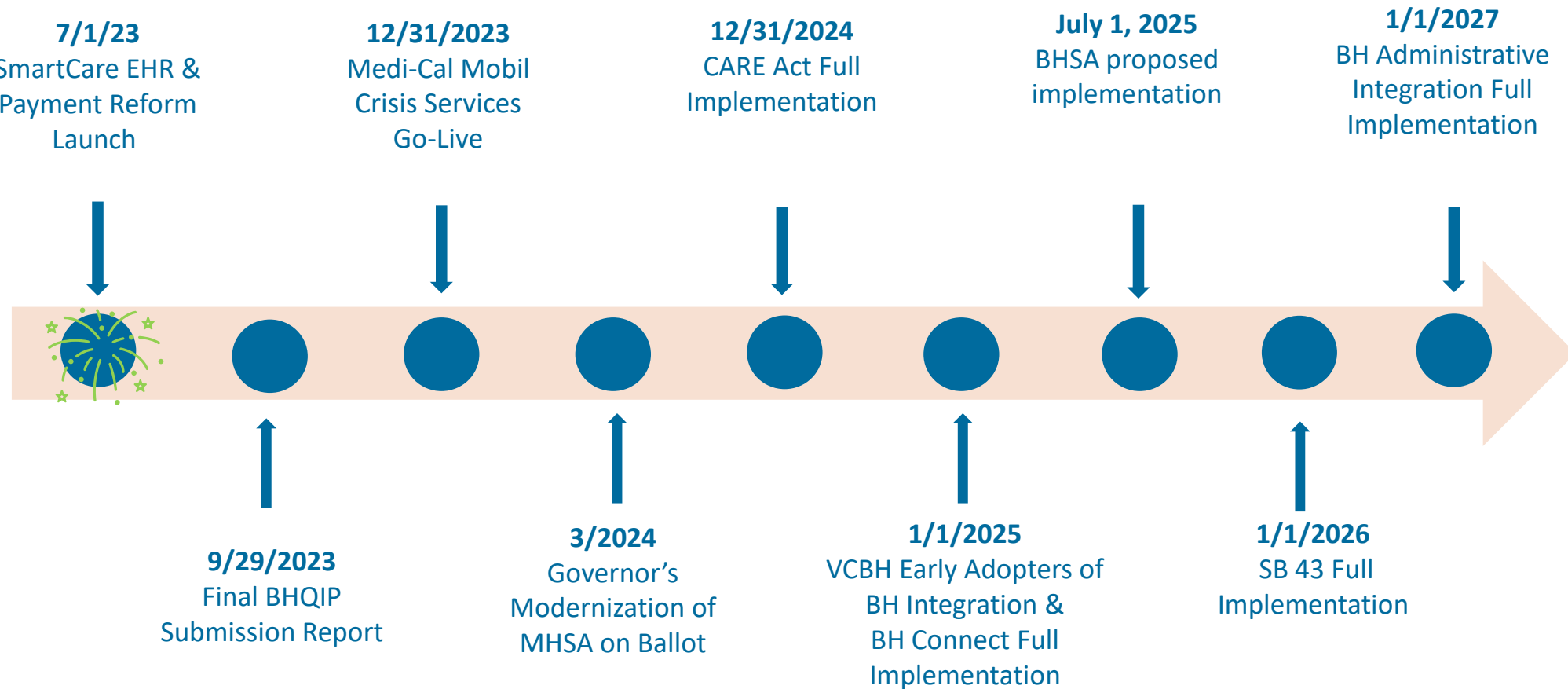
Main Organizational Responsibilities:

- Mental Health Plan Administrator
- Specialty Provider Network for Seriously Mentally Ill (SMI)
 - Direct Provider of Services
 - Contracted Network of Providers
- Drug Medi-Cal Organized Delivery System (DMC-ODS) Plan Administrator
 - Provider Network of Substance Use Disorder Service
 - Contracted Network of Providers

Major Program Areas:

- Specialty Mental Health Services – Medi-Cal
- Mental Health Services Act
- Substance Use Disorder
- Managed Care Services

Changes to the Behavioral Health System



Major Legislation

AB 531 – Enacts the Behavioral Health Infrastructure Bond Act of 2023, a major component of the Governor’s behavioral health modernization proposal. The measure includes \$6.38 billion for housing and treatment, including acute psychiatric beds.

SB 326 – Revises and recasts the Mental Health Services Act (MHSA) as the Behavioral Health Services Act (BHSA), representing the second major component of the Governor’s behavioral health reform package.

AB 531 / SB 326

**Proposition 1
(March Ballot)**

SB 43 – Expands the definition of “gravely disabled,” for purposes of involuntarily detaining an individual, to include a condition in which a person, as a result of a severe substance use disorder (SUD) or co-occurring mental health disorder with severe SUD, is unable to provide for their personal needs. Includes personal safety and necessary medical care as “personal needs.”

Other Legislation & CalAIM

AB 1412 – Removes borderline personality disorder as an exclusion from the Pretrial Prison Diversion program, allowing individuals to be eligible for pretrial diversion, including that individual's mental disorder.

Behavioral Health Specific CalAIM System Changes

Policy Implementations - CalAIM	Go-Live
Criteria for Specialty Mental Health Services (SMHS)	Jan. 2022
Drug Medi-Cal Organized Delivery System Policy Improvements	Jan. 2022
Drug Medi-Cal American Society of Addiction Medicine Level of Care	Jan. 2022
Documentation Redesign for SUS & SMHS	July 2022
No Wrong Door (open access)	July 2022
Standardized Screening and Transition Tools	Jan 2023
Behavioral Health Payment Reform (CPT Codes and IGT Funding)	July 2023
Behavioral Health Connect	Jan. 2025
Behavioral Health Administrative Integration	Jan. 2027

AB 531 – Proposition 1

Assembly Bill 531 includes a \$6.38 billion general obligation bond to build 11,150 new treatment beds and supportive housing units as well as outpatient capacity to help serve tens of thousands of people annually – from intensive services for unhoused people with severe mental illness, to expanding infrastructure under the Behavioral Health Continuum Infrastructure Program.



\$4.4 billion: Treatment beds and sites – community-based clinical care.

\$1.5 billion will be specific for local governments.



\$2.0 billion: Permanent supportive housing units with *\$1.065 billion set aside for veteran's housing.*

SB 326 – Proposition 1

Modernizes and reforms the Mental Services Act (MHSA), which was passed as Proposition 63, 2004. The proposed reforms are summarized as follows:

- Expand services to include treatment for those with substance use disorder.
- Prioritizes care for those with most serious mental illness
- Provide ongoing resources for housing and workforce
- Continue MHSA programs for prevention, early intervention, and innovative pilot programs
- Implement new and increased accountability from the State for all services performed by Counties

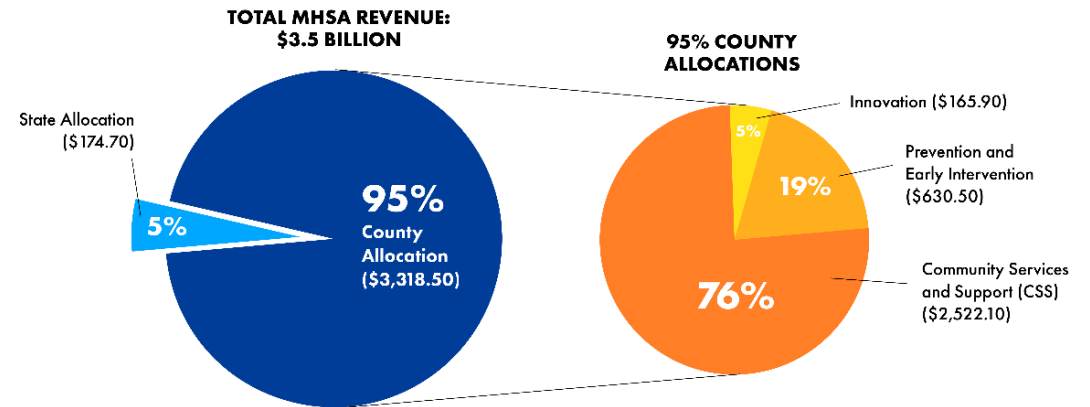
SB 326 - Funding Proposition 1

Revises and recasts the Mental Health Services Act (MHSA) as the Behavioral Health Services Act (BHSA).

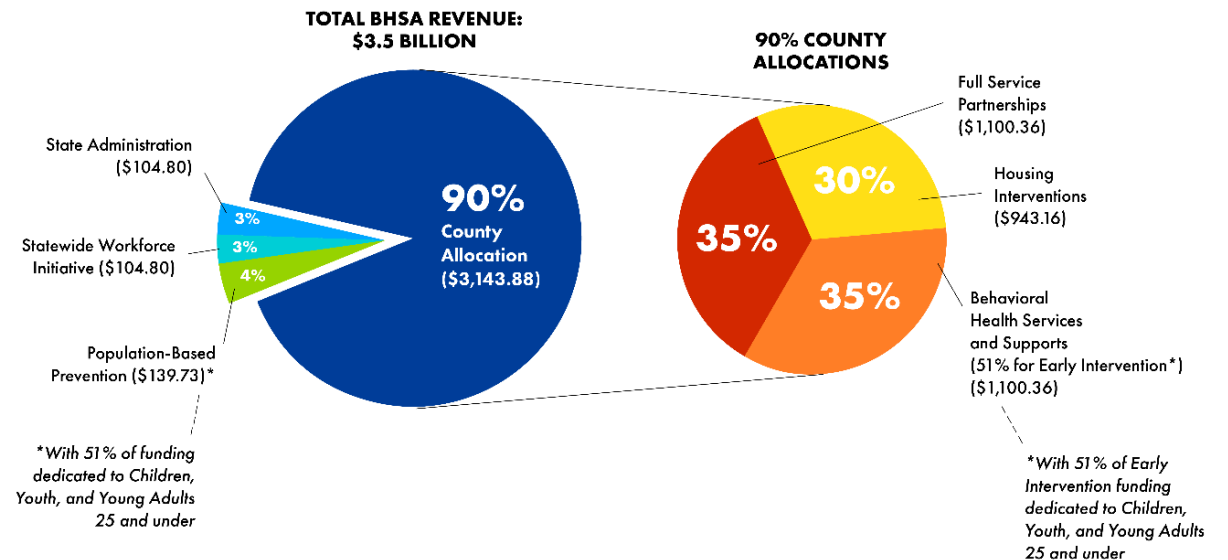
Re-prioritizes the use of MHSA Funding and shifts oversight and accountability to the State.

Total County allocation State-wide decreases by 5% and shifts 30% of the available funding to housing as a new service line.

CURRENT ALLOCATION

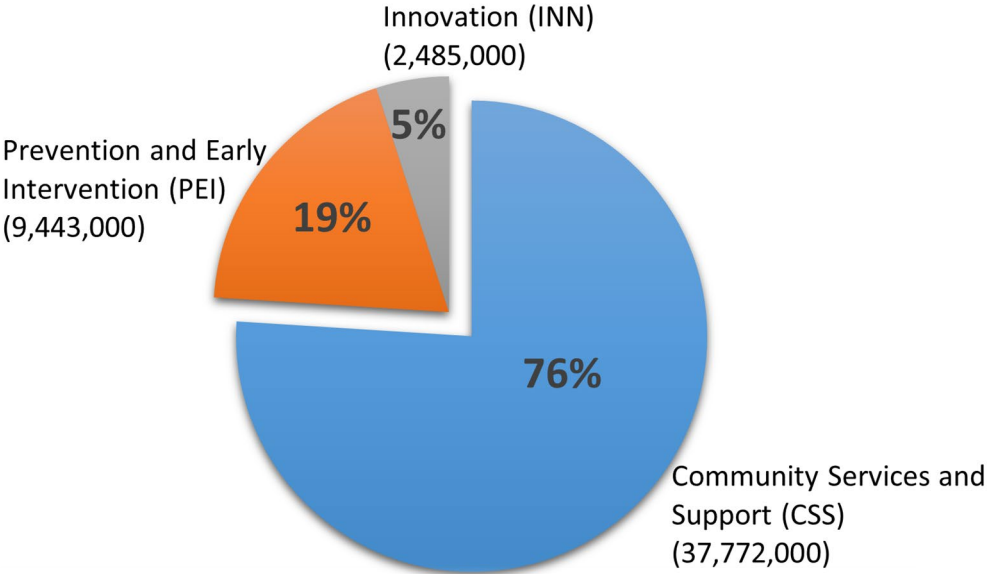


PROPOSED ALLOCATION

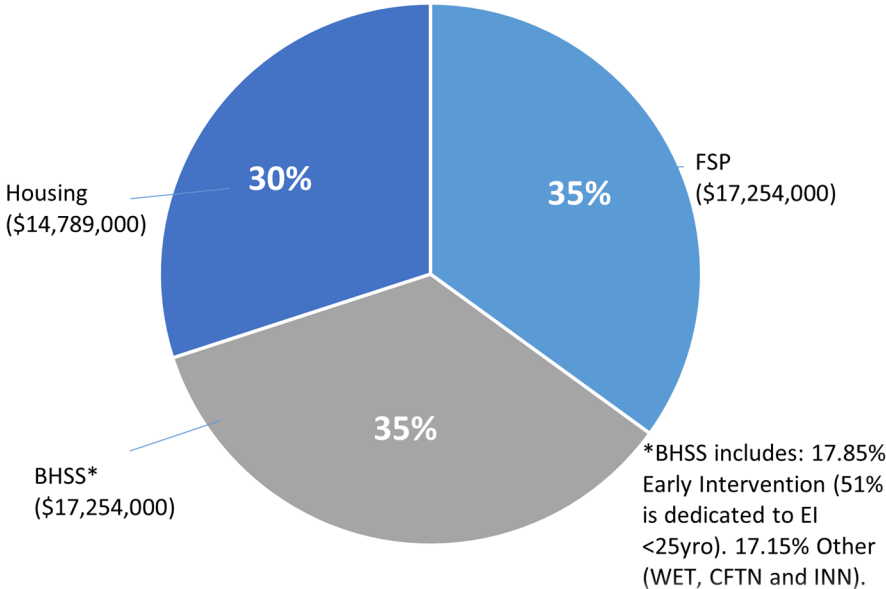


Current Budgeted Use of MHSA Funds

FY 23-24 MHSA Adopted Budget



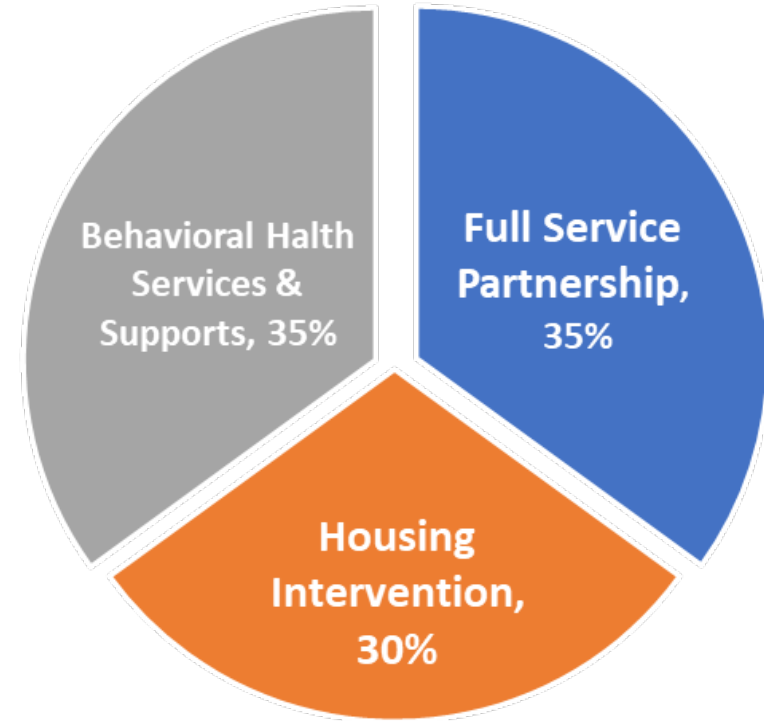
FY 22-23 Actual Costs New Category



SB 326 – Mental Health Reform Details

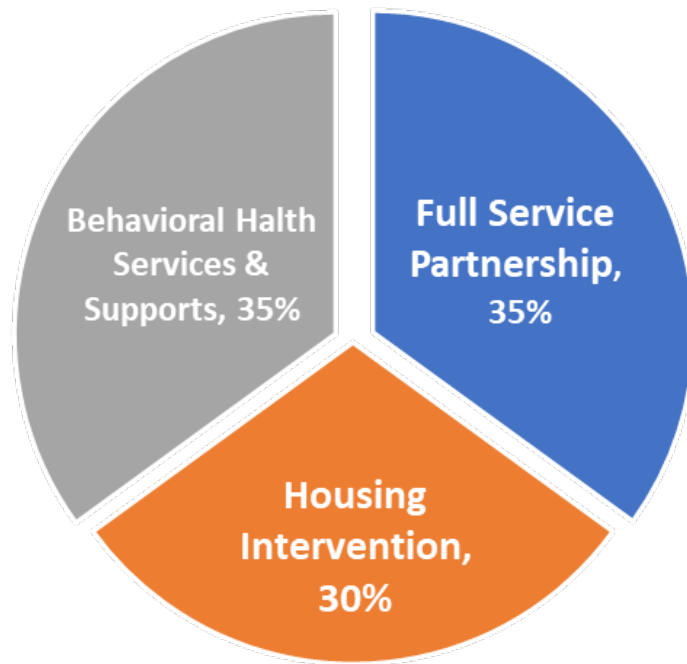
- **Adds treatment for substance use disorders (SUD) without a co-occurring Mental Health diagnosis.** County funds are to be used to access additional state and federal funds to expand SUD services.
- **New focus Housing:** 30% of the total funds to be used for housing interventions for children and families, youth, adults, and older adults living with SMI/SED or SUD conditions
 - Housing Interventions: rental subsidies, operating subsidies, shared housing, family housing for eligible children and youth, non-federal share for transitional rent.
 - 50% of all housing intervention is prioritized for chronically homeless.
 - Up to 25% may be used for capital development

BHSA Funding at County Level



SB 326 – Mental Health Reform Details

BHSA Funding at County Level



- **35% of the total allocation to be focused on Full-Service Partnerships (FSP)**
- **35% remains for Behavioral Health Services and Support**
(51% for Early Intervention, with majority for people 25 or younger)
- **Flexibility in funding to be moved from one category to another up to 7% with a maximum of 14% to any one category.**
- **State-Wide Investment (10% of total state-wide allocation)**
 - 4% Prevention programs
 - 3% Workforce investment, culturally-competent and trained behavioral health workforce
 - 3% Statewide Oversight and Accountability
 - Statewide outcomes
 - Conduct oversight of county outcomes, (all uses of funds and plans for services to reviewed by the State)
 - Train and provide technical assistance, research and evaluate.

New Statewide Oversight and Accountability



Authorizes Department of Health Care Services (DHCS) to impose corrective action plan on counties that fail to meet the requirement of BHSA.



Authorizes BHSA funding to be used to improve planning, quality, outcomes, data reporting, and subcontractor oversight (2%).



Reduces local prudent reserve amounts.



Strengthens the independent Mental Health Services Oversight and Accountability Commission (MHSOAC) by increasing scope of advisory review to all behavioral health funding.

SB 43 Lanterman- Petris-Short Act

Significant changes to the state's involuntary detention and conservatorship laws under the Lanterman-Petris-Short (LPS) Act

- Expanding the state's "gravely disabled" criteria to allow for the involuntary detention and conservatorship of individuals based on a standalone "severe" substance use disorder or co-occurring mental health disorder and severe SUD;
- 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;
- 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 left untreated;
- Requiring counties consider less restrictive alternatives such as assisted outpatient treatment (AOT) and CARE Court in conducting conservatorship investigations.

Key Issues and Concerns

SB 43

Implementation

- Expansion of the involuntary treatment and conservatorship criteria are unprecedented.
- Counties will need time to develop an extensive array of new policies, procedures, workforce, and treatment capacity with no new state funding and counties will need time to secure staffing and resources necessary to support implementation.
- New criteria to capture severe Substance Use Disorder (SUD); significantly expands the population potentially subject to detention and conservatorship from *1% up to 10%* of the population.
- Peace officers and individuals designated by the county may, with probable cause, detain a person and take them into custody for an assessment.
 - Counties will need to develop criteria assess for “severe SUD” grave disability; **no assessment currently exists. Currently no clinical standards to determine when to end involuntary SUD treatment/hold.**
 - Counties will need to develop criteria and policies, as well as protocols for designating individuals to perform severe SUD grave disability assessments.
 - Very few treatment settings across the state have the capacity to serve individuals with complex co-occurring medical, SUD and mental health treatment needs.
 - By adding physical health conditions as a basis for conservatorship, the state would require counties **to develop a new set of medical services to evaluate and assess physical health risks and status.**



SB 43 Financial Risks & Impacts

- LPS law changes do not trigger new state funding. State does not provide funding for public guardians, designated individuals to conduct assessments, or the Patient's Rights Advocates needed to make determinations and conduct investigations and manage conservatorships. In fact, county behavioral health often funds these functions within their existing resources and county general fund dollars.
- No additional funding for expanded treatment services, including SUD, mental health, or new physical health providers necessary to evaluate grave disability on the basis of failing to meet basic medical needs.
- Federal and state governments provide no reimbursement for long-term residential and inpatient drug treatment under Medi-Cal.
 - Drug Medi-Cal ODS waiver allows for limited Medi-Cal coverage (up to 30 days only) of these services if they maintain a 30-day average length of stay for residential and inpatient treatment.



SB 43 Financial Risks & Impacts

- 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 treatment, they would not be bound by what Medi-Cal or other insurance payers would cover, leaving counties with a significant unfunded mandate.
- Involuntary long-term inpatient and residential care, which would not be reimbursed through Medi-Cal or other payers, particularly those in locked settings, would need to be addressed in to ensure adequate access to humane treatment.
- State needs to invest more in consistent, sustainable reimbursement for longer-term residential and inpatient SUD treatment to both prevent the deterioration of individuals and to assist with long-term treatment and recovery.



Questions



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