

BEHAVIORAL HEALTH ADVISORY BOARD
Executive Committee Meeting
Monday, October 12, 2020, 1:00 – 2:30 PM
VIRTUAL MEETING VIA ZOOM

Zoom Participation

The following information referenced below and on page two of this Agenda is provided to you in support of your attending the upcoming BHAB Executive Committee Meeting via Zoom:

Join the zoom meeting in the following way:

Join Zoom Meeting: <https://us02web.zoom.us/j/81014411236?pwd=KzJwU2phdVlxZkt4akJjajUwVGRDQT09>

Meeting ID: 810 1441 1236

Password: 785009

Dial-in: 669-900-9128

AGENDA

- I. Call to Order
- II. Roll Call - Board Executive Committee Attendees
- III. Approval of the Agenda – **ACTION** (Roll Call)
- IV. Approval of the September 14, 2020 Minutes – **ACTION** (Roll Call)
- V. Welcome and Introductions
- VI. Public Comments (3 minutes per speaker)
- VII. Behavioral Health Advisory Board Bylaws, LPS Reform Workgroup Report & Other Policy Issues – Discussion – Barry Zimmerman, Health Care Agency Chief Deputy Director (20 min.)
- VIII. Chair Comments and Announcements (3 min.)
- IX. Director’s Updates – Dr. Sevet Johnson (10 min.)
- X. Executive Committee Member Comments and Announcements (10 min.)
- XI. Secretary’s Report – Mary Haffner (5 min.)
- XII. Old Business
 - A. Lanterman, Petris, Short (LPS) Reform Workgroup – Letter to Members of the Board of Supervisors and Revised LPS Report – Jerry Harris – **ACTION** (Roll Call) (10 min.)
 - B. Amended Bylaws Status – Dr. Sevet Johnson (5 min.)
 - C. New Member Orientation Update – Janis Gardner (5 min.)
- XIII. New Business
 - A. Evaluate September General Board Meeting to Identify Need for Improvement (10 min.)
 - B. Outcome of Discussion on Policy Issues – Discussion (15 min.)
 - C. Spanish Translation Requirements for All BHAB Documents – Update – Dr. Sevet Johnson (5 min.)
 - D. 2020 Data Notebook – Formation of Workgroup (5 min.)
 - E. Recommendation on “Going Dark” in December – **ACTION** (Roll Call) (3 min.)

Members of the public making oral presentations to the Board in connection with one or more agenda or non-agenda items at a single meeting are limited to a cumulative total time not to exceed (5) minutes for all of their oral presentations at such meeting unless otherwise provided. Public comments on agenda items must be made prior to board member deliberations of agenda items. The entire public comment period is limited to no more than (20) minutes total for all speakers. NOTE: The Chair may limit the number or duration of speakers on a matter. In compliance with the Americans With Disabilities Act, if you need special assistance to participate in this meeting, please contact Behavioral Health Administration at (805) 981-6830. Reasonable advance notification of the need for accommodation prior to the meeting (48 hours advance notice is preferable) will enable us to make reasonable arrangements to ensure accessibility to this meeting.

XIV. Develop Agenda for Virtual General Meeting scheduled on October 19, 2020 at 1:00 PM

1. *New Business*

1. *Legislative Bills Overview – Dr. Sevet Johnson (10 min.)*
2. *Update on Newly Approved Behavioral Health Bills – Ratan Bhavnani (5 min.)*
3. *Proposed Process to Identify Gaps in Services – ACTION (Roll Call) (15 min.)*
4. *Review Objectives – Discussion – ACTION (Roll Call) (10 min.)*
5. *Ombudsman / Peer Advocate for Assistance with Access or Services Issues – ACTION (Roll Call) (15 min.)*
6. *Develop Preliminary Plan for Fiscal Year 2019-20 Annual Report Preparation – Discussion – ACTION (Roll Call) (15 min.)*
7. *Update on the Mental Health Services Oversight & Accountability Commission’s Client and Family Leadership Committee Teleconference of October 16 – Elizabeth R. Stone (10 min.)*
8. *2020 Data Notebook – Formation of Workgroup (5 min.)*
9. *Statement for Expressing Personal Opinions – Michael Rodriguez (5 min.)*
10. *Recommendation on “Going Dark” in December – ACTION (Roll Call) (3 min.)*

2. *Old Business*

1. *Lanterman, Petris, Short (LPS) Reform Workgroup – Letter to Members of the Board of Supervisors and Revised LPS Report – Jerry Harris ACTION (Roll Call) (10 min.)*
2. *Amended Bylaws Status – Dr. Sevet Johnson (5 min.)*
3. *New Member Orientation Update – Janis Gardner (5 min.)*

XV. Adjourn

Next Meeting: November 9, 2020

Zoom Participation Information – continued

Please note the following important information related to supporting your participation in the upcoming meeting:

1. Zoom will initially start with a “waiting room”—you will be “admitted” into the meeting room when the meeting starts.
2. The meeting is recorded.
3. All participants are muted upon entry to minimize any unintended disruption of background sounds. Please keep yourself on mute unless you are speaking.
4. Note the following regarding the public comments portion of the agenda:
 - a. Public comments are made by “raising your hand” in one of the following ways:
 - i. If you are joining the meeting via video/audio, you join the comment queue by clicking on the participant window at the bottom of the Zoom screen and then click on the “raise hand” feature in that participant window. *Your raised hand will appear in the order it was received.*
 - ii. If you are joining the meeting by telephone only, you can join the comment queue by pressing *9. When it is your turn to make your comment, press *6 to unmute and then again to mute yourself.
 - b. Comments are taken in the order they are received in the queue/participant window.
 - c. When it is your turn to make a comment, you will be asked to unmute yourself.
 - d. Public comments may be up to 3 minutes during the public comment period, or before an agenda item, with a cumulative total time not to exceed 5 minutes.
 - e. The assigned timekeeper will track each public comment time as well as the total time per speaker. When your time is up, the timekeeper will interrupt to let you know that you have reached the 3-minute maximum as well as when you have reached your total allotted time.
 - f. At the end of the three minutes and/or allotted time, the mic will be opened to the next person in the comment queue.

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Each Supervisor (Letters are to be individually addressed to each Supervisor)

Dear (Name of Supervisor),

We would like to take this opportunity to thank your Board and the County management team for the commendable job that has been done to protect the citizens of our county from COVID-19. Please express our appreciation to all that have been involved.

Attached you will find a report on the need to reform provisions of the Lanterman-Petrus-Short (LPS) Act along with recommendations for your consideration. The members of the Workgroup spent seven months reviewing a number of documents and relating stories of situations that have occurred in Ventura County. Our board believes you should have an opportunity to see the report to understand some of the problematic provisions of the LPS Act that create difficulties for consumers and families in Ventura County. Most of the members on the Workgroup were consumers and family members that have personally experienced the frustration associated with being confronted by these issues.

Background

In early 2019, the Behavioral Health Advisory Board (BHAB) received and reviewed the LPS Reform Task Force II Report (March 2012) that was developed by an independent group in Los Angeles. The BHAB approved the creation of an LPS Reform Workgroup since many of the areas of concern in the 2012 Report also were being experienced by clients and families in Ventura County. The BHAB Workgroup met from July 2012 through January 2020. A report was prepared and adopted by the full BHAB at its regular in March 2020 meeting with the intent that the report be sent to the Board of Supervisors (BOS) by the Ventura County Behavioral Health Department (VCBH) immediately thereafter. That, however, was not done. It is understandable that business as usual was no longer possible due to COVID-19, however, the BHAB report was not sent to County Counsel for review until September 2020 at my insistence. We believe this delay was excessive and we are currently working with management to make sure that this kind of delay does not occur again.

It was County Counsel's opinion that the Welfare and Institutions Code (WIC) does not give the BHAB authority to engage in legislative matters or to advocate in support of legislation. Based on that opinion, we were asked to revise our report to eliminate anything relating to legislation. Our board does not agree with County Counsel's opinion for many reasons. We asked to meet with County Counsel to get a better understand as to why our report needed to be revised prior to being placed on the BOS Agenda and more specifically understand why the BHAB does not have the authority to address legislative issues or to support specific pieces of legislation directly dealing with behavioral health matters. Our request ,however, was denied. We are aware of, and clearly understand the provisions of the County's Legislative Coordination and Advocacy Policy (Policy No. Chapter 11-7). It has always been our intent to strictly adhere to this policy.

We do not agree with County Counsel's opinion for the following reasons:

- Although Section 5604.2 does not specifically give Behavioral Health Boards and Commissions the authority to address legislative matters, it does not specifically state that they do not have this authority. The BHAB Bylaws states, "The purpose of the BHAB, provided in the Welfare and Institutions Code Section 5604.2, includes, but is not limited to..." A. through J. as contained in the BHAB Bylaws.
- The County's Administrative Policy on Legislative and Advocacy provides guidelines for Boards to make recommendation to the BOS relative to supporting or not supporting legislation. So, on the one hand County Counsel says that the BHAB does not possess this authority, County Policy clearly states that the BHAB does have this authority so long as it complies with the County's Policy on legislative matters.
- Item number 8 in the Welfare and Institutions Code, Section 5604.2(a) states, "Nothing in this part shall be construed to limit the ability of the governing body to transfer additional duties or authority to a mental health board."

Members of the BHAB strongly believe that behavioral health legislation is an integral part of addressing and resolving the needs of the behavioral health system of care in Ventura County. This is particularly important in today's environment as State Legislators are receptive to the unmet needs of people with mental health challenges. Adopted legislation has recently included enhancements to behavioral health delivery and support services which, is in desperate need of financial support. To this extent, we are asking that the BOS consider giving the BHAB the authority to review legislation that directly impacts behavioral health services in Ventura County and report our findings to your Board.

Summary and Conclusion

We are providing each BOS member with a copy of our LPS Reform Workgroup Report for your information. We hope you find the content of the report to be enlightening. The report has been revised to comply as best we can with County Counsel's recent opinion on this matter. In so doing, we have substantially modified our recommendations since the six-month delay in providing the report to you has made some of our recommendations no longer valid following the release of the State Auditor's report on the LPS Act. Despite the fact that the conclusion of the State Audit team was that the LPS Act does not need to be changed, many counties throughout the state do not concur with this conclusion.

Should you have any questions or require additional information, please let me know.

Jerry M. Harris, Chair

C: Michael Powers, County CEO

COUNTY OF VENTURA
BEHAVIORAL HEALTH ADVISORY BOARD

Lanterman Petris Short (LPS) Reform Workgroup
Report and Recommendations
March 12, 2020

Background

The LPS Workgroup was established by the Ventura County Behavioral Health Advisory Board at its regular meeting held in June 2019. The Workgroup began meeting in July 2019 and met on a monthly basis through January 2020. The initial task of the workgroup members was to develop a mission statement which is as follows:

The mission of the LPS Reform Workgroup is to review the recommendations contained in the “LPS Reform Task Force II Report (March 2012)” in order to identify which recommendations specifically apply to Ventura County. Based on the Workgroup’s findings, a draft report containing recommendations will be developed for the Behavioral Health Advisory Board’s (BHAB) review and approval. Following approval, the recommendations contained in the BHAB final report will be sent to the Ventura County Board of Supervisors for adoption. ~~BHAB members will also be asked to support the recommendations with the ultimate goal of starting a statewide initiative to reform the provisions of the Lanterman Petris Short Act (LPS) as contained in the Welfare and Institutions Code (WIC), which was signed into law in 1967.~~

The LPS Reform Task Force II Report (March 2012) was developed over a period of 30 months and is as valid today as it was in 2012. A copy of the report is included as Attachment I. The report’s primary finding was that inpatient psychiatric beds have been significantly reduced since the closure of the State Hospitals and that the community hospital emergency rooms are now the primary focal point of individuals experiencing a mental health crisis who are in need of treatment. It further concluded that a person who is severely mentally ill is four times more likely to be incarcerated than provided with a psychiatric hospital bed. Finally, the LPS Act, signed into law in 1967 and took effect in 1969, was designed to govern involuntary civil commitment to psychiatric hospitals in California. The Act, however, was based on then current political, legal and social ideas of the 1960s. This is despite the fact that our society and science have drastically changed and the treatment modalities and approach have also greatly evolved since the 1960s.

The original purpose and expectations of the LPS Act when it was enacted was to:

- End inappropriate, indefinite, involuntary commitment;

- Provide prompt evaluation and treatment;
- Safeguard individual rights;
- Protect mentally ill individuals from criminal acts;
- And, guarantee and protect public interests

Looking at what is currently taking place in our communities, it is unfortunate that not all of these expectations have been achieved, leaving the vast majority of the severely mentally ill population in dire need of services and supports. The result of which has been that this vulnerable population is subject to incarceration, suicide, homelessness, victimization, acts of violence, and death to a degree that is much higher than the general population.

Given the above, the State's counties currently find themselves in a crisis when it comes to meeting the treatment needs of the people who are severely mentally ill who are most vulnerable in terms of lacking the ability or being well enough to respond to treatment in a voluntary behavioral health system of care within our communities.

~~The entire paragraph originally located in this part of the report was removed as it is no longer timely and relevant as a result of the extremely long delay in getting the report through Department and County Counsel review. Although there is hope that LPS Reform may be on the horizon at the State level, California's Counties must aggressively support the need for reform. Currently, the LPS Act is being reviewed by California's Joint Legislative Audit Committee to determine if updates, clarification or improvements are needed. Hopefully, reports such as this one and action to support the need for changes to the LPS Act by the Ventura County Board of Supervisors can be used as evidence supporting the need for reform by the Joint Legislative Audit Committee.~~

Results of Review

Following the review of the LPS Reform Task Force II Report, Workgroup members concluded that the following recommendations contained in the report specifically applied to Ventura County:

Recommendation #1: Define "Grave Disability" to address the individual's capacity to make informed consent to treatment and assess their ability to care for their health and safety.

Recommendation #3: Conform initial acute care hospital certification periods to 28 days, renewable for 28 days. Consider less restrictive alternatives to hospitalization at each hearing or upon renewal of holds.

Recommendation #4: Establish criteria for an LPS conservatorship to be "grave disability" as defined under Recommendation #1 of the report. Establish conservatorship by clear and convincing evidence. Revise procedures to allow for efficient application and due process for conservatorships applied from community settings.

Recommendation #7: Develop local systems of interagency coordination to ensure timely transportation and placement in facilities appropriate to the person’s needed level of care.

Recommendation #8 Ensure Medi-Cal definitions for voluntary and involuntary hospitalization are consistently defined, monitored and applied. Appeals should be conducted by a neutral third party.

Recommendation #9: Prioritize services to the most seriously disabled adults with a mental illness whether those services are needed on a voluntary or involuntary basis in the community or a hospital setting.

Recommendation # 12: Conform local emergency response capability in each county under a legislative framework that requires standardized training for all designated response entities.

Recommendation # 14: Ensure statewide uniform application of the Lanterman Petris Short Act to achieve equity and equal protection for all consumers statewide.

It is the consensus of the workgroup members that, taken together, reform of the LPS Act, based on the above recommendations, would go a long way to significantly improve service delivery to seriously mentally ill individuals in Ventura County as well as providing needed support to family members and loved ones trying to get help for their significant others. In terms of specific behavioral health system of care areas needing improvement in Ventura County, the workgroup members focused on the following: the significant reduction of inpatient psychiatric beds that has taken place in the past; the need for an adequate number of Crisis Stabilization Units (CSUs) and/or Psychiatric Emergency Services (PESs) slots to meet the needs of the residents of Ventura County; the need to increase the number of inpatient beds in the County based on actual data provided by CSUs/PESs; and, the implementation of an innovative approach to conducting medical clearance for clients on involuntary holds.

With a system that provides for timely medical clearance, the Crisis Residential Treatment facility located on the grounds of the Ventura County Medical Center could potentially serve to avert hospitalizations as well as serving as a step down for patients leaving the IPU requiring further support. This asset has never served been able to demonstrate its full potential and the full purpose for which it was built established. Doing so, would, however, further reduce the pressure occurring in community hospital emergency rooms who must try to serve those having mental health issues. Mental health issues need to be addressed and treated in mental health facilities that have the necessary expertise to assess and treat behavioral health conditions rather than emergency rooms that place a high priority on transferring these individuals to an inpatient psychiatric hospital as quickly as possible in order to make room for those with life threatening medical emergencies. Data suggests that 50 to 65 percent of people experiencing a mental health crisis would not require inpatient psychiatric hospitalization had they been seen in an CSU/PES.

Reduction of Inpatient Psychiatric Beds

In prior years, there were three or four community hospitals that had inpatient psychiatric units. These units have, however, all closed while the population of Ventura County increased and the need for inpatient psychiatric beds dramatically increased. Currently, the only remaining acute care facility which accepts Medi-Cal insurance is the Inpatient Psychiatric Unit (IPU) at the Ventura County Medical Center, which is operating at a capacity of 30 beds. In 2004-5, this unit was operating at a capacity of 60 beds. Attachment II provides a brief history of changes in the inpatient bed capacity at the IPU, the A&R, the PES, OPOS, and the CSU. It is absolutely essential that the IPU, CSU and/or PES, have the ability to conduct medical clearances on site and receive clients on involuntary holds directly from law enforcement. Aurora Vista Del Mar Hospital has reopened following the Thomas Fire, with 38 adult beds, but only for clients with private insurance or Medicare; this hospital serves patients from several counties. The bottom line, however, is that a psychiatric bed crisis currently exists in Ventura County.

The Use of Non-LPS Designated Community Hospital Emergency Rooms to Receive Individuals Experiencing Mental Health Crisis

The critical inpatient psychiatric bed crisis and the lack of a sufficient number of LPS Designated Hospitals in Ventura County has resulted in the use of non-LPS designated community hospital emergency rooms (ERs) to provide medical clearances. The primary mission of emergency rooms is the treatment of life-threatening medical emergencies and not **individuals experiencing a mental health crisis**. This has resulted in these hospitals to ~~placing place~~ a high priority on transferring these individuals out of their ERs to psychiatric inpatient units in distance communities when data indicates that 50 to 60 percent of these individuals more than likely could have returned home with behavioral health linkage and supports had they been seen in a CSU or PES.

Non-designated community hospital emergency room staff lack the skills and expertise to provide the necessary assessment and treatment required by voluntary and involuntarily detained mental health patients. These hospitals generally do not have a Psychiatrist on staff and ER staff are not adequately trained to appropriately treat and evaluate patients on 72 Hour Holds. It has been reported that many involuntary holds expire before a psychiatric bed can be located to transfer these patients into. The vast majority of these patients are referred to inpatient psychiatric hospitals in distant counties making it virtually impossible for families to visit them or provide information to the clinical staff. Furthermore, community hospitals do not keep specific workload data or outcome data on the mental health patients they admit to the ERs or their dispositions. This makes it impossible to evaluate the effectiveness of the current system within the Ventura County system of care. To address this need, workgroup members developed data elements required to assess what is actually occurring with individuals in community hospital emergency rooms, the IPU, and the CSU located in the IPU (see Attachment III).

Given the lack of behavioral health resources in community hospital emergency departments, there are several negative consequences that impact the patient care provided to mental health clients in this type of setting. These people are being boarded in ERs waiting for psychiatric inpatient beds in distant communities when inpatient care might not even be needed had an effective appropriate assessment been performed in a CSU/PES. As a direct concomitant to this, appropriate treatment is delayed impacting the length of time required for client recovery. Several families have complained provided testimony to the BHAB that their loved ones are sent off repeatedly from ERs to distant acute care psychiatric hospitals in Los Angeles, Riverside and Kern Counties, making it nearly impossible to provide advocacy and support to help these clients achieve wellness. Attachment IV is an Evidence Brief entitled “Delayed and Deteriorating: Serious Mental Illness and Psychiatric Boarding in Emergency Departments” that describes the impact of delayed treatment and boarding on individuals that are seriously mentally ill and individuals who are experiencing a mental health crisis and their families.

Moreover, law enforcement has reported that their officers are frequently asked to stay in the ERs to provide security for the patients on 72-hour holds that they bring in for evaluation since the community hospitals do not employ or contract with on-site security officers. This has resulted in law enforcement units being taken out of service for up to a full shift or more providing security within the ERs. Removing law enforcement units from their community patrol duties has the potential of negatively impacting community safety.

In a letter dated April 2015, Sheree Kruckenberg, Vice President of Behavioral Health, California Hospital Association stated the following in regard to access to timely Psychiatric Emergency Services (see Attachment V) :

“The increasing dependence on medical/surgical hospital EDs to provide behavioral evaluation and treatment is not appropriate, not safe, and not an efficient use of dwindling community emergency resources. This includes not only hospitals, but emergency transportation providers and law enforcement. More importantly, it impacts the patient, the patient’s family, other patients and their families, and of course the hospital staff.”

This statement holds true today as it did in 2015 and given the fact that the psychiatric inpatient bed crisis has continued, the ER problems is have probably worsened over time. The bottom line is that everyone, even people who are experiencing a mental health crisis, deserves to receive appropriate, high-quality healthcare services specific to their needs.

Crisis Stabilization Units/Psychiatric Emergency Service

There is a critical shortage of Crisis Stabilization Unit slots (CSU) in Ventura County to help reduce the need to take clients on involuntary holds to community hospital ERs.

Crisis Stabilization Units are staffed with mental health professionals who are able to provide the appropriate level of care to evaluate, treat, refer for inpatient care and develop treatment

plans for these clients. The Ventura County Medical Center (VCMC) Psychiatric Hospital has the only CSU within the County. It is currently licensed for 12 chairs but is only staffed for 4, with plans to staff an additional 8 chairs in the near future. Licensing issues do not allow the CSU to perform medical clearance exams or accept individuals on involuntary holds from law enforcement agencies. Furthermore, this has resulted in negatively impacting the Ventura County Medical Center Emergency Room by the need to perform medical clearance exams on a significant number of mental health patients when they- could be done in the IPU.

The need in Ventura County for additional CSU chairs is currently much greater than the maximum licensed capacity of 12 chairs at the CSU. There is a potential for a public-private partnership between the Ventura County Medical Center and the community hospitals that could help alleviate many of the current problems being experienced within the County's Behavioral Health System of Care. It is imperative, however, that a public-private partnership be vigorously pursued and that the number of chairs at the IPU be increased to the maximum as quickly as possible to help address the behavioral health inpatient bed crisis. Once a system of effective assessments is in place, a determination of the number of inpatient beds actually needed can be more appropriately determined.

Concurrent with increasing the number of CSU chairs at VCMC, it is also imperative that the number of beds at the IPU be increased to its licensed capacity. The VCMC Psychiatric Hospital is licensed for 45 beds but is only staffed and operating at a capacity of 30 beds. There are plans to increase the bed capacity in the future by an additional 12 beds for a total operating capacity of 42 beds. Should this occur, it will help ease the inpatient psychiatric bed crisis in the county. It is important, however, that this be accomplished as quickly as possible while still pursuing public-private partnerships and increasing the chairs at the CSU. Every possible avenue must be pursued to address the critical psychiatric inpatient bed crisis in Ventura County.

On a related issue, the delivery of timely and effective behavioral health services necessitates that medical screenings and the receipt of individuals on Involuntary Holds be done at the IPU. This is done in other counties within the State and can be accomplished by the State licensing agency granting VCMC a waiver to do these things. It is the understanding of the workgroup members that the local State licensing office has been reluctant to grant such waivers. Given this, the County must begin negotiations on this matter as soon as possible.

Initial Acute Care Hospital Certification Periods

After a 72-hour hold period, certification for treatment should be for 28 days, regardless of the criteria under which the patient was initially certified and renewable for another 28-day period. This addresses the assumptions in the current LPS statute that presumes patients have regained competency when their hold status expires or changes. This assumption may not be the case and negatively affects the success and continuity of patient care creating the-a revolving door to hospitalization or worse, incarceration. It should be clearly understood that even if an individual is certified for an additional amount of time, it is up to the assigned Psychiatrist to determine if the patient can be discharged earlier should their condition improve.

Expand the Definition of Grave Disability to Include Life-threatening Medical Conditions

The Lanterman-Petris-Short Act, provides for the involuntary commitment and treatment of a person who is a danger to themselves or others or who is gravely disabled. Existing law also provides for a conservator of the person or estate to be appointed for a person who is gravely disabled. For the purposes of involuntary commitment and conservatorship, “gravely disabled,” is defined among other things, as a condition in which a person, as a result of a mental health disorder, is unable to provide for the basic personal needs of food, clothing, or shelter.

It is generally believed that a severely mentally ill person can be so sick that he/she is not capable or have the capacity for making a decision regarding the need for medical care when they are faced with a life-threatening medical decision. To this extent, they no longer have the ability to make a decision regarding their medical condition based on the exercise of free will. It has, therefore, been proposed that the definition of “gravely disabled” be defined as “a condition in which a person, as a result of a mental health disorder, is incapable of making informed decisions about, or providing for, the person’s own basic personal needs for food, clothing, shelter, or medical care without significant supervision and assistance from another person and, as a result of being incapable of making these informed decisions, the person is at risk of substantial bodily harm, dangerous worsening of a concomitant serious physical illness, significant psychiatric deterioration, or mismanagement of essential needs that could result in bodily harm.”

LPS should also be amended to incorporate specific criteria such as the probability the person would experience substantial bodily harm, serious illness, significant psychiatric deterioration or debilitation without adequate treatment. Any amendments to the grave disability statute must include an individual’s medical and psychiatric history when making the grave disability determination.

It is understood that making this kind of change to the Lanterman-Petris-Short Act would involve many changes to existing conservatorship authority. Particularly to the application of a probate conservator’s authority on behalf of a conservatee for medical treatment, which would have many challenges and issues to resolve. Given this, however, expanding the definition of “grave disability” as described, would far outweigh the necessity to address the challenges and issues resulting from expanding the definition to include significant medical conditions. Moreover, if one believes and understands the benefits of “whole person care,” there may be significant medical conditions that negatively impact behavioral health conditions. As a result, treating one condition without addressing the other, could potentially greatly complicate the treatment regimen.

Criteria for an LPS Conservatorship

Conservatorships should be established by clear and convincing evidence. Procedures should be revised to allow for efficient application and due process for conservatorships applied from community settings in order to avoid unnecessary hospitalizations. Most importantly, the

judicial order appointing a conservatorship should be recognized by officials in other California counties and apply throughout the state, rather than only in its county of origin.

Consistency in the Application of the Provisions of the Lanterman-Petris-Short Act

As it stands, the LPS Act is not being consistently applied by California's counties. This creates problems for behavioral health clients and their families. The primary areas impacted by this lack of consistency include the transfer of clients on involuntary holds to LPS designated psychiatric hospitals from one county to another, issues related to clients on conservatorship in one county and being treated in another, issues relating to ambulance transportation of involuntary clients from one county to another, and issues related to the inconsistent application of 72-hour holds. Furthermore, emergency response to mental health crisis varies throughout the state.

Finally, the definition of "medical necessity" in MediCal statutes and regulations for voluntary and involuntary hospitalizations are not clinically appropriate for acute psychiatric episodes and are not being applied, monitored or defined consistently throughout the state. Mental Health treatment is different and it takes longer for a person to regain wellness. Current definitions create financial incentives for premature discharge of psychiatric patients causing negative outcomes and perpetuating the revolving door through frequent hospitalizations. **It is, therefore, imperative that** ~~Ensure~~ Medi-Cal definitions for voluntary and involuntary hospitalization are consistently defined, monitored and applied. Appeals should be conducted by a neutral third party.

The consistent application of LPS, as it is with any law, requires consistent definition, monitoring application between the state's counties in order to be effective. Without the consistent application of LPS provisions, it is safe to conclude that this will lead to confusion for clients and their families as well as members of the state's behavioral health system of care. This lack of consistency directly impacts behavioral health treatment in Ventura County given the current mental health crisis being experienced.

Medicaid IMD Exclusion Waiver

Although the issue urging the State of California to submit an application for an Institutions of Mental Disease (IMD) Exclusion Waiver to the federal government, does not directly relate to the need for LPS Reform, it does directly impact the County's ability to somewhat relieve the mental health **bed shortage** crisis currently being experienced and provide additional needed services to severely mentally ill County residents. On April 8, 2019, the Ventura County Behavioral Health Advisory Board (BHAB) sent a letter to the Board of Supervisors (Attachment VI) recommending that the Board send a letter to the California Department of Health Care Services requesting that the State of California apply for an IMD Exclusion Waiver to allow Medicaid to pay for in-hospital beds at psychiatric hospitals and facilities having more than a 16 bed capacity that is currently in place. The BHAB continues to view this as an extremely high priority issue that must be pursued with all deliberate speed. Also attached (Attachment VII) is

a County of Santa Barbara draft Board of Supervisors Resolution in support of the Medicaid IMD Exclusion Waiver.

Recommendations

The LPS Reform Workgroup recommends the following:

1. The BHAB formally adopt the LPS Reform Workgroup Report.
2. The BHAB prepare a letter to the Ventura County Board of Supervisors recommending that the ~~Board Supervisors~~ adopt the four recommendations contained in this report. contained in the LPS Reform Workgroup Report II and the BHAB LPS Reform Workgroup cited above and advise the California Joint Legislative Audit Committee on the need for LPS reform incorporating these recommendations.
- ~~3. A copy of the LPS Reform Workgroup Report be forwarded to the California Joint Legislative Audit Committee reviewing the need for LPS reform.~~
3. A copy of the BHAB LPS Reform Workgroup Report be forwarded to the California Association of Local Behavioral Health Boards/Commissions (CALBHB/C) requesting that the association provide copies to all Behavioral Health Boards and Commissions within the State for their information. in order to begin a statewide effort to advocate for LPS reform.
4. To the extent that proposed legislation is inextricably intertwined with behavioral health service delivery, the Board of Supervisors consider transferring an additional duty and responsibility to the BHAB to review and report back to your Board on proposed legislation that directly and significantly impacts the provision of behavioral health services in Ventura County as provided in the Duties and Responsibilities (W & I Code Section 5604.2 number 8). Applicable County Policy will be followed by the BHAB in performing this new responsibility.

(Please Note: The original recommendations contained in this report were modified to comply with the recent County Counsel opinion. In addition, several were removed as they are no longer timely and relevant as a result of the extremely long delay in getting the report through Department and County Counsel review.)

4.

Poliquin, Victoria

From: DHCS DataNotebook@DHCS <DataNotebook@cbhpc.dhcs.ca.gov>
Sent: Tuesday, October 6, 2020 11:14 AM
To: DHCS DataNotebook@DHCS
Cc: Boese, Justin (CBHPC)@DHCS; Bayardo, Jenny (CBHPC)@DHCS
Subject: CBHPC 2020 Data Notebook Survey
Attachments: 2020 Data Notebook PREVIEW.pdf; Directors Letter RE 2020 data notebook.pdf

Importance: High

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Sent on behalf of Justin Boese, Council Staff Analyst:

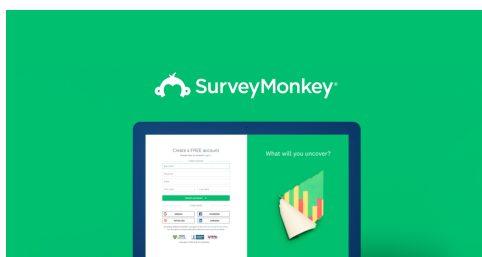
Dear Local Behavioral Health Board/Commission Chairs and Behavioral Health Directors,

On behalf of the California Behavioral Health Planning Council, I am pleased to transmit the 2020 Data Notebook survey for your completion. This Data Notebook focuses on the issue of "Telehealth," which we hope you will find important and timely as California continues to deal with the COVID-19 public health emergency. This year we have moved the Data Notebook survey to an online format utilizing the SurveyMonkey platform. We hope that you will find this platform to be intuitive and accessible.

Attached to this email you will find a letter from Lorraine Flores, our chairperson, as well as a PDF preview of the survey. **The PDF preview is for preparation purposes only;** please use it to review the survey questions and prepare your responses. Once you have gathered the required information, use the SurveyMonkey link (included below as well as in the PDF document) to submit your survey responses. We ask that you please submit your responses by **November 30, 2020.**

2020 Data Notebook Survey Link:

<https://www.surveymonkey.com/r/DQQQDP6>



[CBHPC 2020 Data Notebook for California Behavioral Health Boards and Commissions](https://www.surveymonkey.com/r/DQQQDP6)

Take this survey powered by surveymonkey.com. Create your own surveys for free.

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If you have any questions, please feel free to reach out to me at Justin.Boese@cbhpc.dhcs.ca.gov, or by phone at (916) 750-3760. We greatly appreciate your assistance with the Data Notebook.

Thank you,

Justin Boese

Council Staff Analyst

CA Behavioral Health Planning Council

Justin.Boese@cbhpc.dhcs.ca.gov

Phone: 916-750-3760





October 5, 2020

Dear Director of Behavioral Health and
Chair of Behavioral Health Board/Commission:

CHAIRPERSON
Lorraine Flores
EXECUTIVE OFFICER
Jane Adcock

This letter transmits the Data Notebook 2020 for Local Behavioral Health Boards and Commissions use in reporting to the California Behavioral Health Planning Council (CBHPC). Most local boards will need to partner with the Behavioral Health Department to answer the questions in order to fulfill their legal mandate (W.I.C. 5604.2) to report each year to the CBHPC. We are requesting your cooperation to have the completed Data Notebooks submitted to us by **November 30, 2020**.

- **Advocacy**
- **Evaluation**
- **Inclusion**

This year the Data Notebook addresses the use of “telehealth” technology to deliver behavioral health services. The COVID-19 public health emergency has necessitated swift changes in the organization and delivery of health services across the state to ensure the safety of patients and staff. Time-limited policy changes by the Centers for Medicare and Medicaid Service (CMS) have allowed for more flexibility and freedom in implementing remote technology. Data on the prevalence, benefits, and challenges of telehealth services will help inform practice and policy as California continues through this challenging time.

A substantial change in the format of the Data Notebook this year is that the survey itself has been moved to an online format using SurveyMonkey, which will allow for quicker collection and analysis of your responses. The email you have received includes a link to the online survey, as well as a PDF preview of the survey questions. Please use the PDF document for preparation purposes and gather the information you will need to answer the survey questions. When you are ready to complete the survey, use the SurveyMonkey link to submit your responses online.

If you have any questions please contact Justin Boese by telephone at (916) 750-3760 or via his email Justin.Boese@cbhpc.dhcs.ca.gov.

We greatly appreciate your assistance with the Data Notebook. We hope your group will find the topics to be both important and timely. We thank you in advance for your consideration and attention. Thank you!

Sincerely,

Lorraine Flores, Chairperson

c: Chair, Local Mental Health Board/Commission
c: County MHSA Coordinators