



## California Behavioral Health Planning Council

ADVOCACY • EVALUATION • INCLUSION

### 2023 Year-End Legislative Report

#### [AB 33](#) ([Bains D](#)) **Fentanyl Misuse and Overdose Prevention Task Force.**

**Current Text:** Chaptered: 10/13/2023

**Status:** 10/13/2023-Signed by the Governor. Chaptered by Secretary of State - Chapter 887, Statutes of 2023.

**Summary:** Would, subject to an appropriation, establish the Fentanyl Misuse and Overdose Prevention Task Force to undertake various duties relating to fentanyl misuse, including, among others, collecting and organizing data on the nature and extent of fentanyl misuse in California and evaluating approaches to increase public awareness of fentanyl misuse. The bill would require the task force to be cochaired by the Attorney General and the State Public Health Officer, or their designees, and would specify the membership of the task force.

**Position:** Support

#### [AB 283](#) ([Patterson, Jim R](#)) **Mental Health Services Oversight and Accountability Commission.**

**Current Text:** Introduced: 1/24/2023

**Status:** 9/14/2023-Failed Deadline pursuant to Rule 61(a)(14). (Last location was INACTIVE FILE on 9/7/2023)(May be acted upon Jan 2024)

**Summary:** The Mental Health Services Act (MHSA), an initiative measure enacted by the voters as Proposition 63 at the November 2, 2004, statewide general election, establishes the Mental Health Oversight and Accountability Commission to oversee the implementation of the MHSA. Current law specifies the composition of the 16-member commission, including the Attorney General or their designee, the Superintendent of Public Instruction or their designee, specified members of the Legislature, and 12 members appointed by the Governor, as prescribed. Current law authorizes the MHSA to be amended by a 2/3 vote of the Legislature if the amendments are consistent with, and further the purposes of, the MHSA, or by a majority vote to clarify procedures and terms. This bill would urge the Governor, in making appointments, to consider ensuring geographic representation among the 10 regions of California defined by the 2020 census.

**Position:** Watch

**AB 289 (Holden D) Mental health services: representation.**

**Current Text:** Chaptered: 10/9/2023

**Status:** 10/8/2023-Signed by the Governor. Chaptered by Secretary of State - Chapter 518, Statutes of 2023.

**Summary:** The Bronzan-McCorquodale Act may be amended by the Legislature only by a 2/3 vote of both houses and only so long as the amendment is consistent with and furthers the intent of the act. The Legislature may clarify procedures and terms of the act by majority vote. Current law establishes the Mental Health Services Oversight and Accountability Commission and requires counties to prepare and submit a 3-year program and expenditure plan, and annual updates, as specified, to the commission and the State Department of Health Care Services. Current law requires the plan to be developed with specified local stakeholders, along with other important interests. This bill would require stakeholders to include sufficient participation of individuals representing diverse viewpoints, including representatives from youth from historically marginalized communities, representatives from organizations specializing in working with underserved racially and ethnically diverse communities, and representatives from LGBTQ+ communities.

**Position:** Support

**AB 349 (Ramos D) Patton State Hospital: lease: housing and mental health services for homeless individuals.**

**Current Text:** Chaptered: 10/9/2023

**Status:** 10/7/2023-Signed by the Governor. Chaptered by Secretary of State - Chapter 325, Statutes of 2023.

**Summary:** Existing law authorizes the Department of General Services to perform various duties relating to state real property, including by authorizing the Director of General Services to let a building located at Patton State Hospital to a nonprofit corporation or local government, for a period not to exceed 20 years, for the purpose of providing services to elderly persons. This bill would delete the 20-year lease maximum and would additionally authorize the Director of General Services to lease the building described above for the purposes of providing housing to homeless individuals and providing mental health services to those individuals. This bill contains other related provisions and other existing laws.

**Position:** Oppose

**AB 459 (Kalra D) Contracts against public policy: personal or professional services: digital replicas.**

**Current Text:** Amended: 9/13/2023

**Status:** 9/14/2023-Withdrawn from committee. Re-referred to Com. on RLS.

**Summary:** Current law prohibits an employer from requiring an employee or applicant for employment to agree, in writing, to any term or condition that is known by the employer to be illegal. Current law provides that certain contractual agreements between an employer and employee are against public policy, including specified provisions affecting an employee's membership in a labor organization and the protection of state law in employment. This bill would provide that a provision in an agreement between an individual and any other person for the performance of personal or professional services is contrary to public policy and deemed unconscionable if the provision meets specified conditions relating to the use of a digital replica of the voice or likeness of an individual in lieu of the work of the

individual or to train a generative artificial intelligence system. The bill would provide that it shall apply retroactively. The bill would require any person who is currently under, or has entered into, an agreement with an individual performing personal or professional services containing such a provision, by February 1, 2024, to notify that individual in writing that the provision is unenforceable.

**Position:** Watch

**AB 512 (Waldron R) Mental health and substance use disorders: database of facilities.**

**Current Text:** Amended: 3/20/2023

**Status:** 5/19/2023-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 3/29/2023)(May be acted upon Jan 2024)

**Summary:** Would require that, by July 1, 2024, the California Health and Human Services Agency, either on its own or through the Behavioral Health Task Force established by the Governor, create an ad hoc committee to study how to develop a real-time, internet-based system, usable by hospitals, clinics, law enforcement, paramedics and emergency medical technicians (EMTs), and other health care providers as deemed appropriate, to display information about available beds in inpatient psychiatric facilities, crisis stabilization units, residential community mental health facilities, and residential alcoholism or substance abuse treatment facilities in order to facilitate the identification and designation of available facilities for the transfer to, and temporary treatment of, individuals in mental health or substance use disorder crisis. The ad hoc committee shall submit a report of its findings to the Legislature no later than July 1, 2025.

**Position:** Watch

**AB 665 (Carrillo, Wendy D) Minors: consent to mental health services.**

**Current Text:** Chaptered: 10/7/2023

**Status:** 10/7/2023-Signed by the Governor. Chaptered by Secretary of State - Chapter 338, Statutes of 2023.

**Summary:** Current law, for some purposes, authorizes a minor who is 12 years of age or older to consent to mental health treatment or counseling on an outpatient basis, or to residential shelter services, if the minor is mature enough to participate intelligently in the outpatient services or residential shelter services, as specified, and either the minor would present a danger of serious physical or mental harm to themselves or to others or if the minor is the alleged victim of incest or child abuse. For other purposes, current law authorizes a minor who is 12 years of age or older to consent to mental health treatment or counseling services if the minor is mature enough to participate intelligently in the outpatient services or counseling services. This bill would align the existing laws by removing the additional requirement that, in order to consent to mental health treatment or counseling on an outpatient basis, or to residential shelter services, the minor must present a danger of serious physical or mental harm to themselves or to others, or be the alleged victim of incest or child abuse.

**Position:** Support

**AB 839 (Addis D) Residential care facilities for the elderly: financing.**

**Current Text:** Chaptered: 10/10/2023

**Status:** 10/10/2023-Signed by the Governor. Chaptered by Secretary of State - Chapter 667, Statutes of 2023.

**Summary:** Under current law, the California Health Facilities Financing Authority Act, the California Health Facilities Financing Authority is authorized to make and fund loans through the issuance of revenue bonds, and award grants, to finance or refinance projects by participating health institutions, as defined. Under the act, projects include construction, expansion, remodeling, renovation, furnishing, or equipping, or funding, financing, or refinancing of a health facility, as defined, or acquisition of a health facility to be financed or refinanced with funds provided in whole or in part pursuant to the act. Under the act, the California Health Facilities Financing Authority Fund is created, with moneys in the fund continuously appropriated to the authority for carrying out the purposes of the act. This bill would expand the above-described program to include residential care facilities for the elderly (RCFEs) by adding an RCFE to the definition of “health facility” under the program. The bill would make conforming changes to related provisions. The bill would clarify that other provisions under existing law relating to health facilities would not be affected by the expanded definition, as specified.

**Position:** Support

**AB 845 (Alvarez D) Behavioral health: older adults.**

**Current Text:** Amended: 4/13/2023

**Status:** 5/18/2023-Joint Rule 62(a), file notice suspended. In committee: Held under submission.

**Summary:** Would establish within the State Department of Health Care Services an Older Adult Behavioral Health Services Administrator to oversee behavioral health services for older adults. The bill would require that position to be funded with administrative funds from the Mental Health Services Fund. The bill would prescribe the functions of the administrator and their responsibilities, including, but not limited to, developing outcome and related indicators for older adults for the purpose of assessing the status of behavioral health services for older adults, monitoring the quality of programs for those adults, and guiding decision making on how to improve those services. The bill would require the administrator to receive data from other state agencies and departments to implement these provisions, subject to existing state or federal confidentiality requirements. The bill would require the administrator to report to the entities that administer the MHSA on those outcome and related indicators by July 1, 2024, and would require the report to be posted on the department’s internet website.

**Position:** Support

**AB 1437 (Irwin D) Medi-Cal: serious mental illness.**

**Current Text:** Vetoed: 10/9/2023

**Status:** 10/8/2023-Vetoed by Governor.

**Summary:** Current law sets forth a schedule of benefits under the Medi-Cal program, including specialty and nonspecialty mental health services through different delivery systems, in certain cases subject to utilization controls, such as prior authorization. Under current law, prior authorization is approval of a specified service in advance of the rendering of that service based upon a determination of medical necessity. Current law sets forth various provisions relating to processing, or appealing the decision of, treatment authorization requests, and provisions relating to certain services requiring or not requiring a treatment authorization request. After a determination of cost benefit, current law requires

the Director of Health Care Services to modify or eliminate the requirement of prior authorization as a control for treatment, supplies, or equipment that costs less than \$100, except for prescribed drugs, as specified. Under this bill, a prescription refill for a drug for serious mental illness would automatically be approved for a period of 365 days after the initial prescription is dispensed. The bill would condition the above-described provisions on the prescription being for a person 18 years of age or over, and on the person not being within the transition jurisdiction of the juvenile court, as specified.

**Position:** Support

**SB 43** (**Eggman D**) **Behavioral health.**

**Current Text:** Chaptered: 10/10/2023

**Status:** 10/10/2023-Signed by the Governor. Chaptered by Secretary of State. Chapter 637, Statutes of 2023.

**Summary:** 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. Current law, for purposes of involuntary commitment, defines “gravely disabled” as either a condition in which a person, as a result of a mental health disorder, is unable to provide for their basic personal needs for food, clothing, or shelter or has been found mentally incompetent, as specified. This bill expands the definition of “gravely disabled” to also include a condition in which a person, as a result of a severe substance use disorder, or a co-occurring mental health disorder and a severe substance use disorder, is, in addition to the basic personal needs described above, unable to provide for their personal safety or necessary medical care, as defined.

**Position:** Oppose

**SB 232** (**Niello R**) **Mental health services: gravely disabled.**

**Current Text:** Introduced: 1/24/2023

**Status:** 4/28/2023-Failed Deadline pursuant to Rule 61(a)(2). (Last location was HEALTH on 2/1/2023)(May be acted upon Jan 2024)

**Summary:** 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. The act also provides for a conservator of the person or estate to be appointed for a person who is gravely disabled. Other law exempts specified licensed general acute care hospitals, licensed acute psychiatric hospitals, licensed professional staff of those hospitals, or a physician and surgeon, providing emergency medical services in any department of those hospitals, from civil or criminal liability for detaining a person if certain conditions exist, including that the person cannot be safely released from the hospital because the person, as a result of a mental health disorder, presents a danger to themselves or others or is gravely disabled. Current law, for the purposes of these provisions, defines “gravely disabled,” 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. This bill would change the definition of “gravely disabled” for these purposes to read, in part, a condition in which a person, as a result of a mental health disorder, is incapable of making informed decisions about, or providing for, their 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.

**Position:** Oppose

**SB 282 (Eggman D) Medi-Cal: federally qualified health centers and rural health clinics.**

**Current Text:** Amended: 3/13/2023

**Status:** 9/1/2023-Failed Deadline pursuant to Rule 61(a)(11). (Last location was APPR. SUSPENSE FILE on 8/16/2023)(May be acted upon Jan 2024)

**Summary:** Under current law of the Medi-Cal program, to the extent that federal financial participation is available, federally qualified health center (FQHC) and rural health clinic (RHC) services are reimbursed on a per-visit basis, as specified. "Visit" is defined as a face-to-face encounter between a patient of an FQHC or RHC and a physician or other specified health care professionals. Under existing law, "visit" also includes an encounter using video or audio-only synchronous interaction or an asynchronous store and forward modality, as specified. This bill would authorize reimbursement for a maximum of 2 visits that take place on the same day at a single site, whether through a face-to-face or telehealth-based encounter, if after the first visit the patient suffers illness or injury that requires additional diagnosis or treatment, or if the patient has a medical visit and either a mental health visit or a dental visit, as defined. The bill would require the department, by July 1, 2024, to submit a state plan amendment to the federal Centers for Medicare and Medicaid Services reflecting those provisions. The bill would include a licensed acupuncturist within those health care professionals covered under the definition of a "visit." The bill would also make a change to the provision relating to physicians and would make other technical changes.

**Position:** Support

**SB 873 (Bradford D) Prescription drugs: cost sharing.**

**Current Text:** Introduced: 2/17/2023

**Status:** 9/1/2023-Failed Deadline pursuant to Rule 61(a)(11). (Last location was APPR. SUSPENSE FILE on 8/23/2023)(May be acted upon Jan 2024)

**Summary:** This bill, commencing no later than January 1, 2025, would require an enrollee's or insured's defined cost sharing for each prescription drug to be calculated at the point of sale based on a price that is reduced by an amount equal to 90% of all rebates received, or to be received, in connection with the dispensing or administration of the drug. The bill would require a health care service plan or health insurer to, among other things, pass through to each enrollee or insured at the point of sale a good faith estimate of the enrollee's or insured's decrease in cost sharing. The bill would require a health care service plan or health insurer to calculate an enrollee's or insured's defined cost sharing and provide that information to the dispensing pharmacy, as specified. The bill would require the department and the commissioner to submit an annual report on the impact of these provisions to the appropriate policy committees of the Legislature, as specified. The bill would make these provisions inoperative on January 1, 2027. This bill contains other related provisions and other existing laws.

**Position:** Support



**AB 1360 (McCarty D) Hope California: Secured Residential Treatment Pilot Program.**

**Current Text:** Chaptered: 10/10/2023

**Status:** 10/10/2023-Approved by the Governor. Chaptered by Secretary of State - Chapter 685, Statutes of 2023.

**Location:** 10/10/2023-A. CHAPTERED

**Summary:** Would, until July 1, 2029, authorize the Counties of Sacramento and Yolo to offer secured residential treatment pilot programs, known as Hope California, for individuals suffering from substance use disorders (SUDs) who have been convicted of qualifying drug-motivated felony crimes, as specified. The bill would require the program to meet certain conditions relating to, among other things, a risk, needs, and biopsychosocial assessment, a comprehensive curriculum, a determination by a judge of the length of treatment, data collection, licensing and monitoring of the facility by the State Department of Health Care Services, and reporting to the department and the Legislature.

**Position:** Oppose







## OFFICE OF THE GOVERNOR

OCT 08 2023

To the Members of the California State Assembly:

I am returning Assembly Bill 1437 without my signature.

This bill would require the Medi-Cal program to automatically approve any prescription refill for serious mental illness (SMI) for a period of 365 days after the initial prescription is dispensed for a beneficiary 18 years or older.

I appreciate the author's intent to increase Medi-Cal beneficiaries' access and adherence to SMI drugs. However, this approach does not address the underlying obstacles with medication adherence and would remove clinical safeguards. Currently most medications used for an SMI are covered without prior authorization, and if prior authorization is needed, DHCS provides a response within 24 hours and allows emergency coverage of a drug up to 14 days. In instances where prior authorization is required, it is in place for patient safety. Maintaining utilization control is important to contain health care costs, protect patients, and ensure medically necessary care.

For these reasons, I cannot sign this bill.

Sincerely,

Gavin Newsom