



CHAIRPERSON
Lorraine Flores

EXECUTIVE OFFICER
Jane Adcock

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

To: All Council Members
From: Legislation Committee
Date: October 2020

Re: 2020 Year-End Legislative Report

The attached report is intended to inform all California Behavioral Health Planning Council members of the Legislation Committee's activities during the second year of the 2019-2020 legislative session. The report includes a summary of the bills reviewed this year, the Council's position and the outcome.

At the January 2020 meeting the Legislation Committee approved the Council's updated Policy Platform, which defines the Council's values in key policy areas and guides our work. One of the overarching behavioral health principles outlined is preserving the Mental Health Services Act (MHSA), which the committee committed to focusing advocacy efforts on this year. While the legislative deadlines and legislation able to move forward were greatly impacted during the 2020 session due to COVID-19, the Committee was able to review and take positions on 15 bills. The positions are outlined below:

- Support- 5
- Support if Amended- 1
- Oppose- 7
- Watch/Neutral- 2

The Council sent position letters at various stages of the legislative cycle, worked with the author's offices, key sponsors, the Department of Health Care Services and the Governor's office to voice our position and advocate for the legislation the committee took positions on. A key piece of legislation the Council focused tremendous advocacy efforts on was SB 803 which provides certification for peer support specialists. In addition to staff's advocacy efforts, Council Members John Black, Vera Calloway and Walter Shwe created videos urging the Governor's signature, which were shared on the Council's social media platform, as well as with coalition members. SB 803 was ultimately signed by the Governor resulting in a huge victory for so many that have long advocated for peer certification. The Council also partnered with coalition members and focused a great amount of effort to advocate against SB 665, which would have allowed for the use of MHSA funds in county jails from moving forward in the legislative process, which we were ultimately victorious in.

In addition to advocating on bills related to the MHSA, the Council wrote a letter to Governor Newsom, Secretary Ghaly (Health and Human Services Agency) and Director Gilbert (Department of Health Care Services) to provide input and recommendations in response to letters they received from other

organizations requesting the ability to temporarily alter some of the MHSA rules due to COVID-19. The letters resulted in a joint meeting the Council assisted with facilitating to reach a common ground. The Council also signed onto a coalition letter outlining the MHSA Guiding Principles to be utilized as an advocacy tool. Lastly, the Council participated in a meeting with the Chair and Vice-Chair of the Mental Health Services Act Oversight and Accountability (MHSOAC) to voice concerns about the new proposed Rules of Procedure, which propose to double the Executive Director's authority to enter contracts and expand the Executive Director's authority to advocate on legislation without input from the full commission.

While COVID-19 limited the legislation able to move forward this year, it also created new areas for advocacy. The Council sent letters to our local members of Congress requesting emergency assistance from the Federal government to: (1) ensure mental health/substance use disorders providers have immediate access to at least \$38.5 billion in emergency funding to save the existing treatment infrastructure, (2) implement and fully fund the 9-8-8 National Mental Health and Suicide Prevention Hotline, (3) provide at least \$10 billion in immediate emergency funding to expand community mental health/substance use disorder services for COVID-19 response, (4) guarantee all Americans access to telehealth coverage. The Council also signed onto coalition letters requesting the Legislature to convene a special hearing dedicated to the impacts of COVID-19 on the public behavioral health delivery system and urging support for \$100 million in emergency relief funding under SB 89 to stabilize critical public behavioral health safety net infrastructure. Lastly, the Council signed on to a letter supporting County Behavioral Health Directors Association and Steinberg Institute's request to the Department of Health Care Services asking them to urgently submit a COVID-19 Public Health Emergency 1115(a) Waiver proposal to CMS.



2020 Year-End Legislative Report

[AB 8](#) **(Chu D) Pupil health: mental health professionals.**

Status: 8/31/2020-Failed Deadline pursuant to Rule 61(b)(18). Last location was Senate Health Committee on 6/12/2019.

Summary: Would require, on or before December 31, 2024, a school of a school district or county office of education and a charter school to have at least one mental health professional, as defined, for every 600 pupils generally accessible to pupils on campus during school hours. The bill would require, on or before December 31, 2024, a school of a school district or county office of education and a charter school with fewer than 600 pupils to have at least one mental health professional generally accessible to pupils on campus during school hours, to employ at least one mental health professional to serve multiple schools, or to enter into a memorandum of understanding with a county agency or community.

Position: Oppose

[AB 890](#) **(Wood D) Nurse practitioners: scope of practice: practice without standardized procedures.**

Status: 9/29/2020-Signed by the Governor. Chaptered by Secretary of State - Chapter 265, Statutes of 2020.

Summary: Would establish the Nurse Practitioner Advisory Committee to advise and give recommendations to the Board of Registered Nursing on matters relating to nurse practitioners. The bill would require the committee to provide recommendations or guidance to the board when the board is considering disciplinary action against a nurse practitioner. The bill would require the board, by regulation, to define minimum standards for a nurse practitioner to transition to practice independently. The bill would authorize a nurse practitioner who meets certain education, experience, and certification requirements to perform, in certain settings or organizations, specified functions without standardized procedures, including ordering, performing, and interpreting diagnostic procedures, certifying disability, and prescribing, administering, dispensing, and furnishing controlled substances.

Position: Support if Amended

[AB 1766](#) ([Bloom D](#)) Licensed adult residential facilities and residential care facilities for the elderly: data collection: residents with a serious mental disorder.

Status: 9/25/2020-Signed by the Governor. Chaptered by Secretary of State - Chapter 139, Statutes of 2020.

Summary: Would require the State Department of Social Services to collect information and send a report to each county's department of mental health or behavioral health, beginning May 1, 2021, and annually thereafter, of all licensed adult residential facilities and residential care facilities for the elderly, as described, that accept a specified federal rate and accept residents with a serious mental disorder, as defined, and the number of licensed beds at each facility. The bill would require the department, beginning May 1, 2021, and quarterly thereafter, to send to those county departments a report of licensed adult residential facilities and residential care facilities for the elderly that closed permanently in the prior quarter, as specified. The bill would require the department to notify the county mental or behavioral health department within 3 business days upon receiving notice that a licensed adult residential facility or residential care facility for the elderly intends to close permanently.

Position: Support

[AB 1938](#) ([Eggman D](#)) Mental Health Services Act: inpatient treatment funding.

Status: DEAD- Amended to Prescription drugs: 340B discount drug purchasing program (Low). Re-referred to Com. on APPR.

Summary: This bill would specify, to the extent MHA funds are otherwise available for use pursuant to the act, those funds may be used to provide inpatient treatment, including involuntary treatment of a patient who is a danger to self or others or gravely disabled, in specified settings, including an acute psychiatric hospital, an institution for mental disease, and a mental health rehabilitation center, as defined. The bill would state that this change is declaratory of existing law.

Position: Oppose

[AB 1976](#) ([Eggman D](#)) Mental health services: assisted outpatient treatment.

Status: 9/25/2020-Signed by the Governor. Chaptered by Secretary of State - Chapter 140, Statutes of 2020.

Summary: The Assisted Outpatient Treatment Demonstration Project Act of 2002, known as

Laura's Law, until January 1, 2022, authorizes each county to elect to offer specified mental health programs either through a resolution adopted by the county board of supervisors or through the county budget process, if the county board of supervisors makes a finding that specified mental health programs will not be reduced as a result of participating. Current law authorizes participating counties to pay for the services provided from moneys distributed to the counties from various continuously appropriated funds, including the Mental Health Services Fund, when included in a county plan, as specified. This bill, commencing July 1, 2021, would instead require a county or group of counties to offer those mental health programs, unless a county or group of counties opts out by a resolution passed by the governing body stating the reasons for opting out and any facts or circumstances relied on in making that decision.

Position: Oppose

AB 2015 (Eggman D) Certification for intensive treatment: review hearing.

Status: 8/18/2020-Failed Deadline pursuant to Rule 61(b)(13). Last location was Senate Judiciary Committee on 6/23/2020.

Summary: Current law authorizes a peace officer or a professional designated by the county to take a person into custody for a period of up to 72 hours for assessment, evaluation, and crisis intervention, or placement for evaluation and treatment, when the person is a danger to self or others, or is gravely disabled, as a result of a mental health disorder. Current law also authorizes a court to order the evaluation of a person who is alleged to be a danger to self or others as a result of a mental disorder, or the evaluation of a criminal defendant who appears to be a danger to self or others, or to be gravely disabled, as a result of chronic alcoholism or the use of narcotics or restricted dangerous drugs. Current law requires that a certification review hearing be held, as specified, and governs the procedure for presenting evidence at the hearing. This bill would authorize the evidence presented in support of the certification decision to include information regarding the person's medical condition, as defined, and how that condition bears on certifying the person as a danger to themselves or to others or as gravely disabled. The bill would require the hearing officer to consider the information in the determination of probable cause.

Position: Oppose

AB 2112 (Ramos D) Suicide prevention.

Status: 9/25/2020-Signed by the Governor. Chaptered by Secretary of State - Chapter 142, Statutes of 2020.

Summary: Would authorize the State Department of Public Health to establish the Office of Suicide Prevention within the department, would require the office to perform specified duties, including providing information and technical assistance to statewide and regional partners regarding best practices on suicide prevention policies and programs and reporting on progress to reduce rates of

suicide, and authorize the office to apply for and use federal, state, and foundation grants. The bill would require the office to consult with the Mental Health Services Oversight and Accountability Commission to implement suicide prevention efforts. The bill would require that the duties and responsibilities of the office be accomplished with existing staff and resources. The bill would make these provisions operative subject to an appropriation for these purposes in the annual Budget Act or another statute.

Position: Support

[AB 2265](#) ([Quirk-Silva D](#)) **Mental Health Services Act: use of funds for substance use disorder treatment.**

Status: 9/25/2020-Signed by the Governor. Chaptered by Secretary of State - Chapter 144, Statutes of 2020.

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, funds a system of county mental health plans for the provision of mental health services, as specified. The act establishes the Mental Health Services Fund, which is continuously appropriated to, and administered by, the State Department of Health Care Services to fund specified county mental health programs. This bill would authorize the services for adults, older adults, and children, as well as innovative programs and prevention and early intervention programs that are provided by counties as part of the MHSA to include substance use disorder treatment for children, adults, and older adults with co-occurring mental health and substance use disorders who are eligible to receive mental health services pursuant to those programs.

Position: Watch

[AB 2377](#) ([Chiu D](#)) **Residential facilities.**

Status: 9/25/2020-Signed by the Governor. Chaptered by Secretary of State - Chapter 146, Statutes of 2020.

Summary: Would require an applicant or licensee of an adult community care facility or a residential care facility for persons with chronic life-threatening illness to maintain an email address of record with the State Department of Social Services and notify the department in writing of the email address and any change to that address, as specified.

Position: Watch

[AB 2576](#) **(Gloria D) Mental health.**

Status: 8/18/2020-Failed Deadline pursuant to Rule 61(b)(13). Last location was Senate Health Committee on 7/1/2020.

Summary: Under the MHSA, funds are distributed to counties for local assistance, and must be spent for their authorized purpose within 3 years or revert to the state to be deposited into the fund to be reallocated to other counties for the purposes for which the unspent funds were initially allocated to the original county. The MHSA permits amendment by the Legislature by a 2/3 vote of each house if the amendment is consistent with, and furthers the intent of, the MHSA, and also permits the Legislature to clarify procedures and terms of the MHSA by majority vote. This bill would require a county to develop a plan for the utilization of the reallocated funds with the input of specified stakeholders and to conduct a local review process. The bill would require that consideration be given to using the reallocated funds to provide services to individuals with mental illness who are also experiencing homelessness or who are involved in the criminal justice system and to provide early intervention services to youth.

Position: Oppose

[AB 3242](#) **(Irwin D) Mental health: involuntary commitment.**

Status: 9/25/2020-Signed by the Governor. Chaptered by Secretary of State - Chapter 149, Statutes of 2020.

Summary: The Lanterman-Petris-Short Act authorizes the involuntary commitment and treatment of persons with specified mental health disorders for the protection of the persons so committed. Under the act, if a person, as a result of a mental health disorder, is a danger to others, or to themselves, or is gravely disabled, the person may, upon probable cause, be taken into custody for a period of up to 72 hours for assessment, evaluation, and crisis intervention, or placement for evaluation and treatment. Current law requires persons providing the evaluation services to be properly qualified professionals, and authorizes those professionals to provide telehealth evaluation services. Current law also provides immunity from civil and criminal liability for similar detention by specified licensed general acute care hospitals, licensed acute psychiatric hospitals, licensed professional staff at those hospitals, or any physician and surgeon providing emergency medical services in any department of those hospitals if various conditions are met. This bill would authorize an examination, assessment, or evaluation specified, required, or authorized by the above-mentioned provisions to be conducted using telehealth.

Position: Support

[SB 665](#) (Umberg D) Mental Health Services Fund: county jails.

Status: 8/31/2020-Failed Deadline pursuant to Rule 61(b)(18). Last location was Assembly Appropriations Committee. Placed on Suspense File on 8/18/2020.

Summary: Would establish the Jail-Based Community Mental Health Innovation Program (JBCMHIP). The program would authorize up to 8 counties, including Orange County, with approval from the Mental Health Services Oversight and Accountability Commission, to use MHSAs funds to establish county JBCMHIPs to introduce innovative approaches to meet the mental health needs of persons in jail, including persons who have been convicted of a felony and sentenced to imprisonment in a county jail. The bill would prohibit a JBCMHIP from exceeding 5 years in duration. The bill would specify the duties of an approved county and would require an approved county to include the program in the county's 3-year MHSAs plan or periodic updates.

Position: Oppose

[SB 803](#) (Beall D) Mental health services: peer support specialist certification.

Status: 9/25/2020-Signed by the Governor. Chaptered by Secretary of State. Chapter 150, Statutes of 2020.

Summary: Current law establishes the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income persons receive health care benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Existing law establishes a schedule of benefits under the Medi-Cal program and provides for various services, including behavioral and mental health services that are rendered by Medi-Cal enrolled providers. This bill would require the department, by July 1, 2022, subject to any necessary federal waivers or approvals, to establish statewide requirements for counties or their representatives to use in developing certification programs for the certification of peer support specialists, who are individuals who self-identify as having lived experience with the process of recovery from mental illness, substance use disorder, or both.

Position: Support

[SB 1254](#) (Moorlach R) Guardians ad litem: mental illnesses.

Status: 5/29/2020-Failed Deadline pursuant to Rule 61(b)(5). Last location was Senate Judiciary Committee on 5/11/2020.

Summary: Would establish an additional procedure for the appointment of a guardian ad litem for a person who lacks the capacity to make rational informed decisions regarding medical care, mental health care, safety, hygiene, shelter, food, or clothing with a rational thought process due to a mental illness, defect, or deficiency. The bill would authorize certain persons to petition the court for the appointment of a guardian ad litem under these provisions, and would establish the

procedures that would govern the filing of a petition, its notice provisions, and court procedures. Under certain circumstances, the bill would require the court to appoint the public defender or private counsel to represent a person who is the subject of a petition.

Position: Oppose

[SB 1259](#) ([Hurtado D](#)) Licensed adult residential facilities and residential care facilities for the elderly: SSI/SSP recipients: report.

Status: 8/21/2020-Failed Deadline pursuant to Rule 61(b)(15). Last location was Assembly Appropriations Committee. Placed on Suspense File on 8/11/2020.

Summary: Would require the State Department of Social Services to establish a task force for the purpose of issuing a report, on or before January 1, 2023, that includes recommendations on how to meet the housing and care needs of recipients of SSI/SSP benefits. The bill would require the task force to, in the report, assess the unmet demand for licensed adult residential facility and residential care facility for the elderly placements for SSI/SSP recipients within each county and recommend how to build capacity of placements to those facilities for SSI/SSP recipients, among other things. The bill would also make related findings and declarations. The bill would require the department to update the Legislature on its progress in developing the report during the 2021–22 and 2022–23 budget process, as specified.

Position: Support