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Implementing Sustainable Solutions to Assist Youth Under LPS Conservatorship

On August 8, 2017, the Board of Supervisors (Board) directed the Department of Mental Health (DMH), in collaboration with the Health Agency and the Chief Executive Officer (CEO) to convene stakeholders including representatives of the Superior Court, mental health experts, consumers and consumer advocates and report back to the Board with recommendations to improve the conservatorship process for Lanterman Petris Short (LPS) adults, LPS Minors, and Probate Adults. On August 6th, 2018, the above agencies filed the Expanding Conservatorship Capacity Report which highlighted nearly 75 recommendations. Twenty-five recommendations were specific to the minor conservatorship population, many of which seek to address the negative outcomes that result from the conservatees traveling to and appearing in Mental Health Court, including the possible expansion of tele-testimony opportunities.

LPS Conservatorship Hearings

The process of establishing an LPS conservatorship in Los Angeles County begins when a person designated to write an LPS hold files an application with the Office of the Public Guardian (OPG) within the Los Angeles County Department of

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Mental Health (DMH). Once an authorized party has submitted an application, an individual may be placed on a Temporary Conservatorship (T-CON), which remains in effect for 30 days and can be extended for a period of up to six months, during which time the OPG can authorize involuntary treatment of the conservatee and investigate the need for a yearlong conservatorship. During the T-Con, a hearing is scheduled in the Los Angeles County Superior Court, and a judgment is made regarding the yearlong conservatorship. At the end of the yearlong conservatorship, the conservatee must again appear in Mental Health Court with their Public Defender if a reappointment petition has been filed.

Tele-testimony

Under the current system, the LPS conserved minor must appear at Mental Health Court on designated hearing dates, even when there is a verified clinical concern that transportation or appearance, including sitting outside of the court in an area not separate from the Adult LPS population, other individuals making court appearances, or the public, will negatively impact the minor's welfare and wellbeing.

Additionally, physicians who recommend an individual for conservatorship or reappointment are required to be available to testify at either court or jury trial. Due to a variety of challenges including transportation, long wait times, and lack of consistency on when cases are heard, many facilities or physicians have contracted the testimony to forensic psychiatrists or evaluators. Use of forensic evaluators has recently become challenging due to a new evidentiary rule as a result of the *People v Sanchez* case. *People v Sanchez* prevents the use of hearsay testimony as the basis for granting a conservatorship. By facilitating the testimony of the treating doctors and other treatment

staff via tele testimony the success rate of conservatorship hearings can be improved.

Expanding the use of Tele-testimony for LPS minors would allow hearings to occur as scheduled, with the minor and physician participating from the facility where they work or reside, thereby reducing the negative impacts and trauma of traveling and waiting for all interested parties to gather and providing flexibility to the treating physicians. The Mental Health Court already accepts tele-testimony from state hospitals and has the technology readily available to expand the use of tele-testimony.

To ensure that conservatees receive due process in the use of tele-testimony the County needs to identify funding for three new staff positions in the Public Defender's Office. Those positions include one psychiatric social worker, and two Public Defenders with the flexibility to travel to the minor on the designated hearing date to ensure due process for the minor conservatee and increase court efficiency.

Although OPG currently has one Senior Deputy (Deputy Public Conservator/Administrator or DPCA) specifically assigned to minors, due to staffing shortages, this Senior Deputy must also take on adult LPS cases. Hiring an additional Senior DPCA to manage LPS adult conservatorships would allow the dedicated minor's deputy to focus solely of these clients, thereby allowing additional time to participate in treatment team meetings and to attend mental health court.

WE, THEREFORE, MOVE that the Board of Supervisors direct the Chief Executive Officer (CEO), the Director of the Department of Mental Health (DMH) and the Public Defender's Office to identify ways to expand resources dedicated to supporting tele-testimony by taking the following actions:

1. Identify the cost of funding the follow four positions:

- A. One Senior Deputy Public Conservator/Administrator (DPCA) to provide increased dedication to LPS minors and focus solely on the minor's conservatorship cases
- B. Two Public Defenders with the flexibility to travel to one of the two locked facilities in the County that serve LPS minor conservatees to represent their clients at their appointed hearing date via the tele-testimony.
- C. One Psychiatric Social Worker to assess the needs of LPS minor conservatees, help facilitate services to meet their needs and ensure that the legal process supports these youth getting assistance.

2. Report back in 60 days with a plan to fund the identified positions.