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DEPARTMENT OF MENTAL HEALTH
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LISA H. WONG, Psy.D.
Director

Curley L. Bonds, M.D.
Chief Medical Officer

Connie D. Draxler, M.P.A.
Acting Chief Deputy Director

November 22, 2023

TO: Supervisor Janice Hahn, Chair
Supervisor Hilda L. Solis
Supervisor Holly J. Mitchell
Supervisor Lindsey P. Horvath
Supervisor Kathryn Barger

FROM: Lisa H. Wong, Psy.D.
Director, Mental Health

Barbara Ferrer, Ph.D., M.P.H., M.Ed.
Director, Public Health
MUNTU DAVIS ON BEHALF OF DR. FERRER

SUBJECT: **REPORT RESPONSE ON IMPLEMENTING LANTERMAN-PETRIS-SHORT ACT REFORM (ITEM NO. 66A, AGENDA OF OCTOBER 17, 2023)**

On October 17, 2023, your Board directed the Department of Mental Health (DMH), in collaboration with Departments of Public Health (DPH) and Health Services (DHS), to convene an operational workgroup to assess local implementation needs for implementing Lanterman-Petris-Short (LPS) reform; to report back with a timeline to implement changes pursuant to Senate Bill 43 (SB 43); and directed the Chief Executive Office's (CEO) Legislative Affairs and Intergovernmental Relations (LAIR) Branch to send a five-signature letter to emphasize the need for expanded LPS bed capacity and in support of the State applying for the federal Medicaid Institutions of Mental Disease (IMD) Waiver. This report addresses the directive to provide a timeline to implement changes pursuant to SB 43.

SB 43 makes several significant changes to the State's involuntary detention and conservatorship laws under the LPS Act by:

- Expanding the State's gravely disabled criteria to allow for involuntary detention and conservatorship on the basis of a standalone "severe" substance use disorder (SUD), including individuals with 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 as 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;
- Modifying hearsay evidentiary standards for conservatorship hearings in order to expand the array of testimony that can be submitted into conservatorship proceedings without requiring in-person cross examination; and
- Requiring that counties consider less restrictive alternatives such as Assisted Outpatient Treatment (AOT) and Community Assistance, Recovery and Empowerment (CARE) Court in conducting conservatorship investigations.

These changes represent the most significant and expansive changes to the definition of grave disability since the inception of the LPS Act in 1967.

DMH and DPH's Bureau of Substance Abuse Prevention and Control (DPH-SAPC) recommend that the Board adopt a resolution to delay implementation of SB 43 to at least January 1, 2025. This request is based, in part, on the expansive changes to the definition of grave disability, as well as the significant operational areas indicated below that must be addressed to plan for and successfully implement SB 43, which in turn will reduce potential harms from its inappropriate application.

1. **Designation and Training:**
   DMH is responsible for training and designating individuals to initiate involuntary holds in accordance with Welfare and Institutions Code Section 5150 ("5150 holds" or "5150s"). DMH currently designates over 4,200 individuals to initiate 5150s. DMH is also responsible for training and designating Acute Psychiatric Hospitals (APHs) and General Acute Care Hospitals (GACHs) to involuntarily admit individuals into their inpatient units. There are over 40 such designated hospitals in Los Angeles County. Additionally, DMH receives and manages grievances related to patient rights violations for individuals who are involuntarily detained at the designated facilities.

   DMH will need to update policies, procedures, and training materials related to the new definition of grave disability. Designated individuals and hospitals will need to receive the training and be re-designated to ensure grave disability is used consistently and appropriately.

   The Office of the Public Guardian (OPG) is the County Conservatorship Investigator, with responsibilities for investigating referrals for LPS conservatorship and making recommendations to Superior Court regarding the need for conservatorship. The OPG also conducts annual reappointment investigations to determine if a conservatorship should be renewed. OPG is represented by County

Counsel in all conservatorship hearings. The County Counsel attorneys and Deputy Public Guardians will need to be trained as to the new definition of grave disability.

Superior Court provides hearing officers for certification hearings held at designated facilities to determine if individuals should continue to be involuntarily detained in an inpatient hospital. Superior Court has requested their hearing officers receive training on the new definition of grave disability.

To effectively train on the new definition, DMH, DPH-SAPC and their partners, including hospitals and designated clinicians, and County Counsel will need to establish parameters that illustrate and define severe substance use disorder, personal safety and necessary medical care. While it may appear on its surface to be easily defined, this is a legal statute so the practical use of the language must be based not only on legal interpretation but clinical parameters. Due to the complexity of this endeavor, DMH anticipates it will need at least one year to develop the parameters, write new policies, develop new training and testing materials and redesignate individuals and hospitals.

2. **Treatment Capacity Planning:**
SB 43 will result in an increase in the number of individuals detained for involuntary care and may result in an increase in the number of LPS conservatorships referred to the OPG who are then subsequently conserved. There is currently a shortage of beds along the continuum of care, but particularly at secure levels of care (e.g., acute psychiatric hospitals and subacute (IMD) facilities). DMH, along with its Fee for Service, Short Doyle, and County Hospitals will need to strategize as to how to manage the increases in involuntary detentions so that psychiatric emergency rooms and inpatient units are used appropriately, and individuals are not discharged without receiving appropriate follow-up care and supervision.

There are very few treatment settings that have capacity to serve individuals with complex co-occurring medical, SUD, and mental health treatment needs. By adding physical health conditions to the basis of a conservatorship, the County will be required to develop a new set of medical services to not only evaluate and assess physical health risks, but also provide ongoing services to decrease the need for necessary medical care for worsening conditions that could otherwise be treated more cost-effectively.

There are no locked facilities specific to treating SUDs (SUD-only involuntary treatment settings). The current locked subacute settings, while providing SUD education, are not prepared to provide involuntary SUD treatment such as Medications for Addiction Treatment (MAT) for populations that have become newly eligible for involuntary treatment under SB 43. Either new treatment settings will need to be developed or current providers will be required to add new services.

Funding for these new treatment services will need to be identified as SB 43 did not provide any additional funding for these new mandated services.

Amending contracts to expand or add services may take months to complete, but if new providers must be added or new facilities built to meet the demands of increased involuntary detentions and conservatorships, the time to solicit and/or build new facilities will take several years.

3. **Managing people who may be referred under SB 43, but don't meet grave disability criteria, yet still have issues that must be addressed:**
Similar to CARE Court implementation, there will be individuals who will not meet the new criteria for grave disability but who need outreach, engagement, and other treatment options. DMH and DPH-SAPC will need time to plan for appropriate services and workflows to address this need and to work out how these activities and services will be reimbursed.

4. **Court Petitions and Court Orders:**
Conservatorship petitions, court reports, conservatorship recommendations, and conservatorship powers and orders will require changes for the courts, County Counsel and OPG. It is not known at this time if the Judicial Council will initiate new court forms or if local courts will develop their own forms and change local court rules related to the new grave disability definition.

   DMH and DPH-SAPC will need to collaborate with Justice Partners involved in conservatorship hearings to organize and operationalize services and placements that will be made available to ensure appropriate conservatorship orders are made and that DMH and DPH-SAPC can adhere to these court orders and avoid sanctions, writs or other negative legal outcomes.

5. **Community Education and Collaboration:**
By all accounts, the operationalization of SB 43 is significantly more expansive and complex than the implementation of CARE Court. However, similar to CARE Court implementation, it will be essential to educate the community, cities, fee-for-service and legal entity providers, and families of individuals suffering from serious mental illness and severe SUD of the criteria for the new grave disability definition.

6. **Staffing:**
DMH and DPH-SAPC will need to evaluate the need for additional staffing to ensure SB 43 is properly implemented, including but not limited to training staff, patients' rights advocates, clinical staff, public guardians, legal representation, and contract management staff.

With the likely increase in use of acute and subacute facilities and DMH's mandated responsibilities for concurrent review, 24/7 bed management and placement facilitation, the Treatment Authorization Unit and Intensive Care Division will need to be expanded.

While hiring has improved, the continuing challenges associated with workforce shortages could impact DMH and DPH-SAPC's ability to successfully implement SB 43.

7. **Managed Care Plans:**
   Supporting individuals who meet this new criteria may require additional coordination between the Medi-Cal Managed Care Plans (MCPs) and the County as the Local Mental Health Plan to ensure coordination of care for shared beneficiaries. With Medi-Cal expansion and mandatory enrollments into Medi-Cal Managed Care, the need to coordinate care between health systems is increasingly important. Both DPH-SAPC and DMH are currently in negotiations with the Medi-Cal MCPs in order to develop terms that meet the new State requirements to coordinate specialty and non-specialty mental health and SUD services. There are a large number of new State requirements that are requiring time across all department resources as well as high touch coordination with the Medi-Cal MCPs to negotiate and develop these contracts. Furthermore, the contracts must be executed in 2024. If people can be conserved on the basis of medical conditions, then we will need to work with the MCPs to add this to our Memorandum of Understanding and work out the necessary workflows. They would be the payor for the care related to a physical health condition so we would need to plan with them. Since any impact to these agreements from SB 43 will need to be handled as an addendum, it is best for all parties that this new process launch no sooner than January 1, 2025.

Impacts from Surrounding Counties

It appears that counties surrounding Los Angeles intend to request delays in their implementation until January 1, 2026. If Los Angeles is the only county in the Southern California region implementing early, hospitals and other impacted entities could see an influx of individuals seeking access to treatment under the new grave disability definition. Hospitals and OPG frequently experience individuals with residency in another county seeking service in LA County now so it would likely increase and further impact treatment capacity for the actual residents of LA County.

Conclusion

DMH and DPH understand the importance of SB 43 and the need to implement as soon as it is feasible to do so. The departments seek to implement in a thoughtful and complete manner to ensure implementation is successful. Given the complexity and operational issues that need to be addressed to implement these sweeping reforms to the definition of grave disability, DMH and DPH recommend the Board adopt a resolution to delay implementation of SB 43 to at least January 1, 2025. We look forward to updating you on the operational workgroup's efforts on implementation needs on a quarterly basis.

If there are any questions related to this report, please contact me or staff may contact, Acting Chief Deputy Director, Connie D. Draxler, at (213) 738-4926 or at cdraxler@dmh.lacounty.gov.

LHW:BF:CDD:GT:lm

c: Executive Office, Board of Supervisors
Chief Executive Office
County Counsel
Department of Public Health

DEPARTMENT OF MENTAL HEALTH
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LISA H. WONG, Psy.D.
Director

Curley L. Bonds, M.D.
Chief Medical Officer

Connie D. Draxler, M.P.A.
Acting Chief Deputy Director

February 21, 2024

TO: Supervisor Lindsey P. Horvath, Chair
Supervisor Hilda L. Solis
Supervisor Holly J. Mitchell
Supervisor Janice Hahn
Supervisor Kathryn Barger

FROM: Lisa H. Wong, Psy.D. Connie D. Draxler
Director

SUBJECT: **REPORT RESPONSE ON IMPLEMENTING LANTERMAN-PETRIS-SHORT ACT REFORM (ITEM 66-A, AGENDA OF OCTOBER 17, 2023)**

On October 10, 2023, Senate Bill 43 (SB 43) was signed into law, significantly updating California's conservatorship laws and specifically expanding the definition of grave disability.

On October 17, 2023, your Board directed the Department of Mental Health (DMH) in collaboration with the Departments of Public Health (DPH) and Health Services (DHS) to convene an operational workgroup, including engagement from service provider representatives, to assess local implementation needs, including: staffing, training, program changes, capacity considerations, funding needs, etc., and report back to the Board in 120 days and biannually thereafter on the implementation of the Lanterman-Petris-Short (LPS) Act Reform.

On December 19, 2023, your Board adopted a resolution to delay implementation of SB 43 until January 1, 2026.

DMH has established the SB 43 Steering Committee that meets monthly to monitor the progress of the operational workgroups established to implement SB 43. This Steering Committee consists of executives from DMH and DPH's Bureau of Substance Abuse Prevention and Control (DPH-SAPC).

DMH and DPH-SAPC determined multiple workgroups were necessary to address the operational issues related to SB 43. The identified workgroups are:

- Client Flow, System Mapping, and System Guidelines
- Designation and Training
- Treatment and Care Planning
- Management of Individuals Ineligible for New Criteria
- Court Processes/Adherence to Court Orders
- Community Education and Collaboration
- Staffing and Budgetary
- Managed Care Plan Coordination

Naturally, some of these workgroups will start before others. For example, client flow and system mapping needs to be developed first in order to determine what training, treatment, and care planning expansion is necessary, which will subsequently drive staffing and budgetary needs.

The Client Flow, System Mapping, and System Guidelines Workgroup consists of three co-leads (one from each health department) and a body of departmental participants who run key divisions or are subject matter experts. To prepare for implementation of SB 43, DMH, with its partners, has created this workgroup which will work on four core objectives. The workgroup will 1) establish parameters that illustrate and define severe substance use disorder; 2) establish parameters that illustrate and define "personal safety" and "necessary medical care"; 3) develop policies regarding client flow and explaining where clients are intended to be taken upon a determination of grave disability by front line providers and law enforcement; and 4) determine workflows and service delivery models for clients who are referred under SB 43, have behavioral health service needs but do not meet grave disability criteria.

To organize around this large task, DMH has established the core workgroups, developed a draft workgroup charter, and created a case scenario template that other workgroup members will populate in advance of the first combined workgroup meeting on February 21, 2024. DMH has assigned a dedicated project manager to facilitate, organize, and track the work of this workgroup and to ensure information is shared with other workgroups to facilitate planning.

DMH Legal Entity providers, many of whom have staff designated to involuntarily detain patients using 5150 powers have been notified of the workgroup, and volunteers from the organizations are being solicited to join our implementation efforts. Similarly, DPH-SAPC has provided training and technical assistance to its contracted provider network around SB 43, as many are unfamiliar with both laws related to the LPS Act as well as SB 43, and also invited them to participate in SB 43 implementation efforts.

The Designation and Training Workgroup has identified co-leads from DMH, DPH-SAPC, and DHS. As criteria and mapping is developed, this workgroup will form to update involuntary detention forms, update training materials, and develop plans for training individuals and hospitals on the new definition. Additionally, this workgroup will reach out to our law enforcement partners to educate and train them on the new definition.

The Managed Care Plan Coordination meeting has identified DMH and DPH-SAPC co-leads. The Departments are both regularly meeting with the Managed Care Plans and will establish a joint meeting time with the Plans for SB 43 planning.

In addition to the County operational workgroups, DMH, including Office of the Public Guardian, and DPH-SAPC are members of workgroups established by the County Behavioral Health Directors Association (CBHDA) and the California Association of Public Administrators, Public Guardians and Public Conservators (CAPAPGPC) on SB 43 implementation to ensure reasonable consistency of implementation across the State.

DMH will report back biannually on the progress of SB 43 implementation. If you have any questions regarding this interim report back, please contact me, or staff may contact Connie D. Draxler, Acting Chief Deputy Director, at (213) 738-4926 or Cdraxler@dmh.lacounty.gov.

LHW:CDD:lm

c: Executive Office, Board of Supervisors
Chief Executive Office
County Counsel
Department of Public Health
Department of Health Services

DEPARTMENT OF MENTAL HEALTH

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LISA H. WONG, Psy.D.
Director

Curley L. Bonds, M.D.
Chief Medical Officer

Rimmi Hundal, M.A.
Chief Deputy Director

August 6, 2024

TO: Supervisor Lindsey P. Horvath, Chair
Supervisor Hilda L. Solis
Supervisor Holly J. Mitchell
Supervisor Janice Hahn
Supervisor Kathryn Barger

FROM: Lisa H. Wong, Psy.D.
Director

SUBJECT: **REPORT RESPONSE ON IMPLEMENTING LANTERMAN-PETRIS-SHORT ACT REFORM (ITEM 66-A, AGENDA OF OCTOBER 17, 2023)**

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DMH has established the SB 43 Steering Committee that meets monthly to monitor the progress of the operational workgroups established to implement SB 43. This Steering Committee consists of executives from DMH and DPH's Bureau of Substance Abuse Prevention and Control (DPH-SAPC).

DMH and DPH-SAPC determined multiple workgroups were necessary to address the operational issues related to SB 43. The identified workgroups are:

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On June 10, 2024, DMH and DPH-SAPC hosted the first stakeholder engagement meeting to review implementation progress to date, solicit feedback and seek volunteers to participate in the operational workgroups. The stakeholder event was successful in bringing a spectrum of entities, such as the Hospital Association of Southern California (HASC), Los Angeles Superior Court Mental Health Court administration, Los Angeles Superior Court, California Psychiatrist's Association, Countywide Criminal Justice Coordination Committee (CCJCC), National Alliance for the Mentally Ill (NAMI), Disability Rights California, California Association of Alcohol and Drug Program Executives (CAADPE), and Association of Community Human Service Agencies (ACHSA).

The stakeholders consistently identified the need to address capacity across the continuum of care, increased coordination with managed care plans, linkages to aftercare, training of all impacted stakeholders and development of a multi-sector communication strategy. The identified workgroups were launched at the engagement meeting, where stakeholders were invited to sign up for the workgroups relevant to their interest and expertise.

The Client Flow, System Mapping, and System Guidelines Workgroup consists of three co-leads (one from each health department) and a body of departmental participants who run key divisions or are subject matter experts. A workgroup charter has been created, and the four core objectives have been identified: 1) establish parameters that illustrate and define “severe” substance use disorder; 2) establish parameters that illustrate and define “personal safety” and “necessary medical care”; 3) develop policies regarding client flow and explaining where clients are intended to be taken upon a determination of grave disability by front line providers and law enforcement; and 4) determine workflows and service delivery models for clients who are referred under SB 43 and have behavioral health service needs, but do not meet grave disability criteria.

To operationalize SB 43, the definitions of severe substance use, personal safety and necessary medical care have been confirmed. Potential examples of grave disability based on these new definitions have been identified. See Attachment A: SB 43 Definitions.

The Designation and Training Workgroup has identified co-leads from DMH, DPH-SAPC, and DHS. As criteria and mapping is developed, this workgroup will update training materials and develop plans for training individuals, hospitals and law enforcement on the new definition and criteria for assessment and evaluation.

The Managed Care Plan Coordination meeting has identified co-leads from DMH and DPH-SAPC. The departments are both regularly meeting with the managed care plans and are working to identify representatives to participate in the various workgroups.

In addition to the County operational workgroups, DPH-SAPC co-chairs, DMH and the DMH Office of the Public Guardian, participate in the workgroup established by the County Behavioral Health Directors Association (CBHDA) and the California Association of Public Administrators, Public Guardians and Public Conservators (CAPAPGPC) focused on SB 43 implementation to ensure reasonable consistency of implementation across the State.

DMH's next steps include: starting the operational workgroups in July and continuing to outreach for additional stakeholder involvement, identifying ways to expand capacity such as Behavioral Health Infrastructure Bond Act of 2024: Behavioral Health Continuum Infrastructure Program (BHCIP) Round 1 (2024): Launch Ready, retraining of designated individuals and hospitals, working with CCJCC to connect with local law enforcement agencies for training on the new definitions, training Deputy Public Guardians and coordinating with the Mental Health Court and Patients' Rights Office on involuntary hold certification hearings and conservatorship hearings.

DMH will report back biannually on the progress of SB 43 implementation. If you have any questions regarding this interim report back, please contact me, or staff may contact Connie D. Draxler, DMH Senior Deputy Director (cdraxler@dmh.lacounty.gov) or Dr. Gary Tsai, Director of DPH-SAPC (gtsai@ph.lacounty.gov).

LHW:CDD:lm

Attachment

c: Executive Office, Board of Supervisors
Chief Executive Office
County Counsel
Department of Public Health
Department of Health Services

ATTACHMENT A

SB 43 – Grave Disability Definitions

- Current grave disability definition:
  - A condition in which a person, as a result of a mental health disorder, is unable to provide for his or her basic personal needs for food, clothing, or shelter.
- New grave disability definition under SB 43:
  - A condition in which a person, as result of a mental health disorder, severe substance use disorder or a co-occurring mental health disorder and **severe substance use disorder**, is unable to provide for their basic needs of food, clothing, shelter, **personal safety** or **necessary medical care.**

Confirmed Definitions

ATTACHMENT A

- **Severe substance use disorder** means a diagnoses substance related disorder that meets the diagnostic criteria of "severe" as defined in the most current version of the Diagnostic and Statistical Manual (DSM).
- **Personal safety** means the ability of one to survive safely in the community without involuntary detention or treatment.
- **Necessary medical care** means care that a licensed health care practitioner, while operating within their scope of practice, determines to be necessary to prevent serious deterioration of an existing physical medical condition which, if left untreated, is likely to result in serious bodily injury.

ATTACHMENT A

"Severe" SUD Criteria

- **SB 43 allows adults to be placed on 5150's and other involuntary holds based on their "severe" SUD.**
  - "Severe" SUD is defined as a diagnosed substance-related disorder that meets the diagnosis criteria of "severe" according to the most current version of Diagnostic and Statistical Manual of Mental Disorders (DSM-5 currently).

DSM-5 TR Criteria for SUDs

***Mild**: 2-3 symptoms*
***Moderate**: 4-5 symptoms*
Severe: 6+ symptoms

1. Taking the substance in larger amounts or for longer than you're meant to
2. Wanting to cut down or stop using the substance but not managing to
3. Spending a lot of time getting, using, or recovering from use of the substance
4. Cravings and urges to use the substance
5. Not managing to do what you should at work, home, or school because of substance use
6. Continuing to use, even when it causes problems in relationships
7. Giving up important social, occupational, or recreational activities because of substance use
8. Using substances again and again, even when it puts you in danger
9. Continuing to use, even when you know you have a physical or psychological problem that could have been caused or made worse by the substance
10. Needing more of the substance to get the effect you want (tolerance)
11. Development of withdrawal symptoms, which can be relieved by taking more of the substance

Personal Safety Criteria

ATTACHMENT A

- **Grave disability based on <u>personal safety</u> considerations is defined as the inability to survive safely in the community without involuntary detention or treatment *<u>due to</u>* a MH disorder, severe SUD, or a co-occurring MH and severe SUD. The eligible behavioral health condition must be the reason for the inability to provide for personal safety.**

Potential Examples of Grave Disability based on <u>Personal Safety</u> Considerations*

- Person is moving unsafely in and out of traffic, placing themselves in immediate danger.
- Person is being assaulted, physically abused, exploited in a way that creates an immediate safety concern.
- Living conditions, including those that are unhoused, that are so unhygienic, unsafe or uninhabitable that they present an immediate safety concern (fire, physical safety).
- An individual demonstrating a level of poor judgement so substantial that their decision-making places them at serious risk of severe injury, illness or death.

**This is not intended to be an exhaustive list of all possible examples, behaviors, impairments, or situations when someone may be considered gravely disabled as a result of personal safety considerations.*

Necessary Medical Care Criteria

ATTACHMENT A

- **Grave disability based on <u>necessary medical care</u> considerations is defined as when a person, as a result of a MH disorder, a severe SUD, or a co-occurring MH and severe SUD, requires medical care as determined by a professional operating within their scope of practice to prevent serious deterioration of an existing physical medical condition which, if left untreated, is likely to result in serious bodily injury as evidenced in Section 15610.67 of the Welfare and Institutions Code.**

Potential Examples of Grave Disability based on <u>Necessary Medical Care</u> Considerations*

- A person is experiencing wound care and infection issues that are likely to lead to loss of a limb or life if not immediately treated.
- Unwillingness to eat when food is provided**.
- Irrational belief about food that is available (i.e., it is poisoned)**.
- A person with untreated comorbidities such as HIV, diabetes, cancer, liver or kidney disease that is life-threatening if not immediately treated.
  - May result in multiple hospitalizations where person discharges themselves against medical advice or does not follow up on medical treatment.

**This is not intended to be an exhaustive list of all possible examples, behaviors, impairments, or situations when someone may be considered gravely disabled as a result of necessary medical care considerations.*
***Also qualifies under grave disability as inability to provide or avail themselves of food provided/available.*

DEPARTMENT OF MENTAL HEALTH

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Director

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Chief Medical Officer

Rimmi Hundal, M.A.
Chief Deputy Director

February 25, 2025

TO: Supervisor Kathryn Barger, Chair
Supervisor Hilda L. Solis
Supervisor Holly J. Mitchell
Supervisor Lindsey P. Horvath
Supervisor Janice Hahn

FROM: Lisa H. Wong, Psy.D. RHundal
Director

SUBJECT: **REPORT RESPONSE ON IMPLEMENTING LANTERMAN-PETRIS-SHORT ACT REFORM (ITEM 66-A, AGENDA OF OCTOBER 17, 2023)**

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On December 19, 2023, your Board adopted a resolution to delay implementation of SB 43 until January 1, 2026, to allow for necessary planning activities.

DMH has established the SB 43 Steering Committee that meets monthly to monitor the progress of the operational workgroups established to implement SB 43. This Steering Committee consists of executives from DMH and DPH's Bureau of Substance Abuse Prevention and Control (DPH-SAPC).

DMH and DPH-SAPC established multiple workgroups to address the operational issues related to SB 43 implementation. The identified workgroups are:

- Client Flow, System Mapping, System Guidelines, and Evaluation
- LPS Designation and Training
- Treatment and Care Planning
- Management of Individuals Ineligible for New Criteria
- Court Processes/Adherence to Court Orders
- Community Education and Collaboration
- Staffing and Budget
- Managed Care Plan Coordination

After developing this comprehensive suite of SB 43 workgroups, it was determined that the Management of Individuals Ineligible for New Criteria Workgroup should be addressed within other workgroups including the Client Flow, System Mapping, System Guidelines, and Evaluation Workgroup and the Treatment and Care Planning Workgroup and would no longer require a separate workgroup.

Similarly, the Staffing and Budget Workgroup will be absorbed into the other workgroups as implementation plans are developed.

The previously named Client Flow, System Mapping, and System Guidelines Workgroup was changed to include an evaluation component. The Client Flow, System Mapping, System Guidelines and Evaluation (FMGE) Workgroup consists of leads from DPH-SAPC and DMH and other departmental participants with applicable expertise related to SB 43, as well as external partners such as hospitals and other key stakeholders. A FMGE Workgroup framework was established to focus on five core objectives, including: 1) establishing parameters that illustrate and define “severe” substance use disorders; 2) establishing parameters that illustrate and define “personal safety” and “necessary medical care”; 3) developing policies regarding client flow and explaining where clients are intended to be taken upon a determination of grave disability by front line providers and law enforcement; 4) determining workflows and service delivery models for clients who are referred under SB 43 and have behavioral health service needs, but do not meet grave disability criteria; and 5) developing evaluation criteria to assess program implementation, the need for program modification, and outcomes of SB 43 implementation.

To operationalize SB 43, the definitions of severe substance use, personal safety and necessary medical care have been confirmed and as previously reported examples of grave disability based on these new definitions have been identified (see attachment).

The FMGE Workgroup has organized into subgroup leads for client flow and system mapping to ensure progress on those focus areas. Milestones for the FMGE Workgroup were also developed to outline key high-level deliverables needed to address all the areas of focus under this Workgroup's focus.

The LPS Designation and Training Workgroup has identified co-leads from DMH, DPH-SAPC, and DHS. Several significant steps taken include the creation of a document to operationalize the training and the start of SB 43 training scripts for the online training. This Workgroup continues to work with Countywide Criminal Justice Coordination Committee (CCJCC) to identify next steps for training local law enforcement agencies.

The Communications, Education and Collaboration Workgroup has developed a draft webpage and informational/educational materials. This Workgroup will utilize the well-established stakeholder engagement process within DMH to work with clients, providers and other stakeholders to ensure information is shared and feedback is received from our communities.

The Court Process Workgroup has co-leads from the Office of the Public Guardian and Superior Court and is working on plans for justice partner training, identifying and updating court forms and ensuring collaboration between Superior Court public information and the SB 43 Communications, Education and Collaboration Workgroup to ensure communications and websites consistently provide the same information.

The Managed Care Plan Coordination Workgroup has identified co-leads from DMH and DPH-SAPC. The departments are regularly meeting with the managed care plans (MCP) and identifying the top three concerns for MCPs related to SB 43 implementation. The Workgroup intends to have recommendations regarding these concerns in the first quarter of 2025.

The Treatment and Care Planning Workgroup is working closely with the FMGE Workgroup to take a comprehensive and coordinated approach to identify treatment and care along the continuum of care, including pre-hospital/urgent care setting, after admission to a treatment and evaluation setting, and post treatment or evaluation setting. The Treatment and Care Planning Workgroup is also developing a LPS checklist for involuntary treatment providers to ensure all components of the LPS process are considered throughout the SB 43 process to prioritize the needs of clients and optimize the matching of those needs with community resources.

To organize this work, all SB 43 workgroups are in the process of developing milestones of key high-level deliverables that will feed into a master Gannt chart (a project management tool) to outline the tasks and timelines needed to implement SB 43 by January 1, 2026.

In addition to the County operational workgroups, DPH-SAPC co-chairs, DMH and the DMH Office of the Public Guardian, continue to participate in the workgroup established by the County Behavioral Health Directors Association (CBHDA) and the California Association of Public Administrators, Public Guardians and Public Conservators (CAPAPGPC) focused on SB 43 implementation to ensure reasonable consistency of implementation across the State.

Recently the State released the Prop 1 Bond Money Behavioral Health Continuum Infrastructure Program (BHCIP) Round 1 Request for Applications (RFA). These applications, while exceeding the total allocation for Los Angeles County (and the State), will advance efforts to expand the continuum of care and provide additional resources to meet gaps in our involuntary treatment options. Awards are expected in May 2025 and will be reported out in our next biannual report.

DMH will report back biannually on the progress of SB 43 implementation. If you have any questions regarding this report back, please contact me, or staff may contact Connie D. Draxler, DMH Senior Deputy Director (cdraxler@dmh.lacounty.gov) or Dr. Gary Tsai, Director of DPH-SAPC (gtsai@ph.lacounty.gov).

LHW:CDD:lm

Attachment

c: Executive Office, Board of Supervisors
Chief Executive Office
County Counsel
Department of Public Health
Department of Health Services

SB 43 – Grave Disability Definitions

- Current grave disability definition:
  - A condition in which a person, as a result of a mental health disorder, is unable to provide for his or her basic personal needs for food, clothing, or shelter.
- New grave disability definition under SB 43:
  - A condition in which a person, as result of a mental health disorder, severe substance use disorder or a co-occurring mental health disorder and **severe substance use disorder**, is unable to provide for their basic needs of food, clothing, shelter, **personal safety** or **necessary medical care.**

Confirmed Definitions

ATTACHMENT A

- **Severe substance use disorder** means a diagnoses substance related disorder that meets the diagnostic criteria of “severe” as defined in the most current version of the Diagnostic and Statistical Manual (DSM).
- **Personal safety** means the ability of one to survive safely in the community without involuntary detention or treatment.
- **Necessary medical care** means care that a licensed health care practitioner, while operating within their scope of practice, determines to be necessary to prevent serious deterioration of an existing physical medical condition which, if left untreated, is likely to result in serious bodily injury.

ATTACHMENT A

"Severe" SUD Criteria

- **SB 43 allows adults to be placed on 5150's and other involuntary holds based on their "severe" SUD.**
  - "Severe" SUD is defined as a diagnosed substance-related disorder that meets the diagnosis criteria of "severe" according to the most current version of Diagnostic and Statistical Manual of Mental Disorders (DSM-5 currently).

DSM-5 TR Criteria for SUDs

1. Taking the substance in larger amounts or for longer than you're meant to
2. Wanting to cut down or stop using the substance but not managing to
3. Spending a lot of time getting, using, or recovering from use of the substance
4. Cravings and urges to use the substance
5. Not managing to do what you should at work, home, or school because of substance use
6. Continuing to use, even when it causes problems in relationships
7. Giving up important social, occupational, or recreational activities because of substance use
8. Using substances again and again, even when it puts you in danger
9. Continuing to use, even when you know you have a physical or psychological problem that could have been caused or made worse by the substance
10. Needing more of the substance to get the effect you want (tolerance)
11. Development of withdrawal symptoms, which can be relieved by taking more of the substance

Mild: 2-3 symptoms
Moderate: 4-5 symptoms
Severe: 6+ symptoms

Personal Safety Criteria

ATTACHMENT A

- **Grave disability based on <u>personal safety</u> considerations is defined as the inability to survive safely in the community without involuntary detention or treatment <u>*due to*</u> a MH disorder, severe SUD, or a co-occurring MH and severe SUD. The eligible behavioral health condition must be the reason for the inability to provide for personal safety.**

Potential Examples of Grave Disability based on <u>Personal Safety</u> Considerations*

- Person is moving unsafely in and out of traffic, placing themselves in immediate danger.
- Person is being assaulted, physically abused, exploited in a way that creates an immediate safety concern.
- Living conditions, including those that are unhoused, that are so unhygienic, unsafe or uninhabitable that they present an immediate safety concern (fire, physical safety).
- An individual demonstrating a level of poor judgement so substantial that their decision-making places them at serious risk of severe injury, illness or death.

**This is not intended to be an exhaustive list of all possible examples, behaviors, impairments, or situations when someone may be considered gravely disabled as a result of personal safety considerations.*

Necessary Medical Care Criteria

ATTACHMENT A

- **Grave disability based on <u>necessary medical care</u> considerations is defined as when a person, as a result of a MH disorder, a severe SUD, or a co-occurring MH and severe SUD, requires medical care as determined by a professional operating within their scope of practice to prevent serious deterioration of an existing physical medical condition which, if left untreated, is likely to result in serious bodily injury as evidenced in Section 15610.67 of the Welfare and Institutions Code.**

Potential Examples of Grave Disability based on <u>Necessary Medical Care</u> Considerations*

- A person is experiencing wound care and infection issues that are likely to lead to loss of a limb or life if not immediately treated.
- Unwillingness to eat when food is provided**.
- Irrational belief about food that is available (i.e., it is poisoned)**.
- A person with untreated comorbidities such as HIV, diabetes, cancer, liver or kidney disease that is life-threatening if not immediately treated.
  - May result in multiple hospitalizations where person discharges themselves against medical advice or does not follow up on medical treatment.

**This is not intended to be an exhaustive list of all possible examples, behaviors, impairments, or situations when someone may be considered gravely disabled as a result of necessary medical care considerations.*

***Also qualifies under grave disability as inability to provide or avail themselves of food provided/available.*