



FESIA A. DAVENPORT  
Chief Executive Officer

## County of Los Angeles Health and Mental Health Services

**DATE:** Wednesday, April 6, 2022  
**TIME:** 10:30 a.m.

**THIS MEETING WILL CONTINUE TO BE CONDUCTED VIRTUALLY TO ENSURE THE SAFETY OF MEMBERS OF THE PUBLIC AND EMPLOYEES AS PERMITTED UNDER STATE LAW.**

**TO PARTICIPATE IN THE MEETING, PLEASE CALL AS FOLLOWS:**

**DIAL-IN NUMBER: 1 (323) 776-6996**

**CONFERENCE ID: 322130288#**

**[MS Teams link](#) (Ctrl+Click to Follow Link)**

### **AGENDA**

Members of the Public may address the Health and Mental Health Services Meeting on any agenda item. Two (2) minutes are allowed for each item.

**THIS TELECONFERENCE WILL BE MUTED FOR ALL CALLERS. PLEASE DIAL \*6 TO UNMUTE YOUR PHONE WHEN IT IS YOUR TIME TO SPEAK.**

- I. Call to order
- II. **Information Item(s)** (Any Information Item is subject to discussion and/or presentation at the request of two or more Board offices):
  - a. **DPH:** Approval of an Agreement with the City of Los Angeles for Public Health and Safety Inspection and Enforcement Services of Licensed Cannabis Facilities (#06289)
- III. **Presentation Item(s):**
  - a. **DPH:** Approval to Execute Amendments to the Drug Medi-Cal Organized Delivery System Treatment Contracts for Various Cost Settlement Structures (#06194)
- IV. **Discussion Item(s):**
  - a. **DMH:** Office of Public Guardian Briefing

- V. Items Continued from a Previous Meeting of the Board of Supervisors or from the Previous Agenda Review Meeting
- VI. Items not on the posted agenda for matters requiring immediate action because of an emergency situation, or where the need to take immediate action came to the attention of the Department subsequent to the posting of the agenda
- VII. Public Comment
- VIII. Adjournment

**BOARD LETTER/MEMO  
CLUSTER FACT SHEET**

**DRAFT**

☒ Board Letter

☐ Board Memo

☐ Other

<b>CLUSTER AGENDA REVIEW DATE</b>	4/6/2022	
<b>BOARD MEETING DATE</b>	4/19/2022	
<b>SUPERVISORIAL DISTRICT AFFECTED</b>	<input checked="" type="checkbox"/> All <input type="checkbox"/> 1 <sup>st</sup> <input type="checkbox"/> 2 <sup>nd</sup> <input type="checkbox"/> 3 <sup>rd</sup> <input type="checkbox"/> 4 <sup>th</sup> <input type="checkbox"/> 5 <sup>th</sup>	
<b>DEPARTMENT(S)</b>	Public Health	
<b>SUBJECT</b>	APPROVAL OF AN AGREEMENT WITH THE CITY OF LOS ANGELES FOR PUBLIC HEALTH AND SAFETY INSPECTION AND ENFORCEMENT SERVICES OF LICENSED CANNABIS FACILITIES	
<b>PROGRAM</b>	Environmental Health	
<b>AUTHORIZES DELEGATED AUTHORITY TO DEPT</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
<b>SOLE SOURCE CONTRACT</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, please explain why:	
<b>DEADLINES/ TIME CONSTRAINTS</b>	None	
<b>COST &amp; FUNDING</b>	Total cost: \$0	Funding source: Revenue Generating: Costs associated in providing services will be covered by Environmental Health Trust Fund and recouped by fees charged to the licensed commercial cannabis facilities within the territorial limits of the City.
	TERMS (if applicable): Date of Execution through June 30, 202X with an option to extend thereafter for 5 additional one-year terms through June 30, 202X.	
	Explanation:	
<b>PURPOSE OF REQUEST</b>	Request approval to allow Public Health to: 1) enter into an agreement with the City of Los Angeles to conduct Public Health and Safety Inspection and Enforcement Services to enforce County Code or State laws related to licensed commercial cannabis facilities within Los Angeles city limits; 2) execute future agreements with other incorporated cities that request Public Health and Safety Inspection and Enforcement Services for their respective cannabis facilities, without undue delay, thereby allowing Public Health to commence services promptly; and 3) execute amendments to Public Health and Safety Inspection and Enforcement Services agreements.	
<b>BACKGROUND (include internal/external issues that may exist including any related motions)</b>	In 2017, the Board adopted the Cannabis Facilities ordinance, which created public health regulatory requirements to ensure that licensed commercial cannabis activities are conducted in a manner that protects the health and safety of the consumer and the public. The ordinance created a local public health regulatory framework and permitting fee structure that will allow for the uniform inspection of licensed commercial cannabis facilities located within cities that adopt the County's ordinance into their municipal code and contract with the County for Public Health and Safety Inspection and Enforcement Services.	

	<p>The City of Los Angeles desires to enter into an agreement with the County of Los Angeles to perform inspection services on its licensed commercial cannabis facilities. The City will require its licensed commercial cannabis facilities to apply for and obtain a County public health permit to offset the cost of the County's regulatory inspections and enforcement. These licensed commercial cannabis facilities will be inspected for compliance with the requirements of LACC Title 8 and Title 11.37 and with and current or future state public health laws and regulations.</p> <p>On December 19, 2017, the Board authorized Public Health to execute agreements with incorporated cities located within the County to provide Public Health and Safety Inspection and Enforcement services within the territorial limits of the city. An agreement was never executed with the City of Los Angeles as the City would not accept the indemnification language in the agreement, which would require the City to indemnify the County.</p> <p>We are returning to your Board now that the County is in a period of post-pandemic surge, the City of Los Angeles has reengaged with Public Health and requested that it provide Public Health and Safety Inspection and Enforcement Services of licensed commercial cannabis facilities within the territorial limits of the City. Environmental health inspection of licensed commercial cannabis facilities is a critical activity to protect the health of the public. Additionally, the agreement has been revised to include mutual indemnification.</p>
<b>EQUITY INDEX OR LENS WAS UTILIZED</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, please explain how:
<b>SUPPORTS ONE OF THE NINE BOARD PRIORITIES</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, please state which one(s) and explain how:
<b>DEPARTMENTAL CONTACTS</b>	<p><b>Program Contact:</b>          Robert Ragland          Health Program Manager III          Phone: 212-288-7107          Email: rragland@ph.lacounty.gov</p> <p><b>County Counsel:</b>          William Birnie          Senior Deputy County Counsel          Phone: 213-418-5668          Email: wbirnie@counsel.lacounty.gov</p>



**BARBARA FERRER, Ph.D., M.P.H., M.Ed.**  
Director

**MUNTU DAVIS, M.D., M.P.H.**  
County Health Officer

**MEGAN McCLAIRE, M.S.P.H.**  
Chief Deputy Director

313 North Figueroa Street, Suite 806  
Los Angeles, CA 90012  
TEL (213) 288-8117 • FAX (213) 975-1273

[www.publichealth.lacounty.gov](http://www.publichealth.lacounty.gov)

**DRAFT**

**BOARD OF SUPERVISORS**

**Hilda L. Solis**  
First District

**Holly J. Mitchell**  
Second District

**Sheila Kuehl**  
Third District

**Janice Hahn**  
Fourth District

**Kathryn Barger**  
Fifth District

April 19, 2022

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

Dear Supervisors:

**APPROVAL OF AN AGREEMENT WITH THE CITY OF LOS ANGELES FOR  
PUBLIC HEALTH AND SAFETY INSPECTION AND ENFORCEMENT  
SERVICES OF LICENSED CANNABIS FACILITIES  
(ALL SUPERVISORIAL DISTRICTS) (3 VOTES)**

**SUBJECT:**

Request approval to execute an agreement with the City of Los Angeles for Public Health and Safety Inspection and Enforcement Services of licensed commercial cannabis facilities located within the City of Los Angeles.

**IT IS RECOMMENDED THAT FOLLOWING THE PUBLIC HEARING THE BOARD:**

1. Approve and instruct the Director of the Department of Public Health (Public Health), or designee, to execute an agreement, substantially similar to Exhibit I, with the City of Los Angeles, which includes mutual indemnification, to provide Public Health and Safety Inspection and Enforcement Services of licensed commercial cannabis facilities located within the territorial limits of the City of Los Angeles, effective date of execution through June 30, 2027 with an option to extend thereafter for five additional one-year terms through June 30, 2032, exercised through written notification from the Director of Public Health, or designee, to the City of Los Angeles prior to the end of the agreement term.

2. Delegate authority to the Director of Public Health, or her designee, to execute future agreements, substantially similar to Exhibit I, with additional cities within Los Angeles County for Public Health and Safety Inspection and Enforcement Services of commercial cannabis facilities, to be effective upon date of execution through June 30, 2027, with an option to extend for five additional one-year terms through June 30, 2032, exercised through written notification from the Director of Public Health, or designee, to the contracted city prior to the end of the agreement term, subject to review and approval by County Counsel and Chief Executive Office (CEO) Risk Management, as needed, and two weeks advance written notification to your Board and the CEO.
3. Delegate authority to the Director of Public Health, or designee, to execute amendments to the agreements referenced in Recommendations 1 and 2 or existing Public Health and Safety Inspection and Enforcement Services of commercial cannabis facilities that: 1) reflect non-material and/or ministerial revisions, including, needed operational changes; or other agreement terms and conditions; 2) revise contractual terms in order to comply with State or local law and regulations, and 3) add or revise indemnification language of existing agreements that allows for mutual indemnification; subject to review and approval by County Counsel, and CEO Risk Management, as needed, and notification to your Board and the CEO.

#### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

In 2017, the Board adopted the Cannabis Facilities ordinance, which created public health regulatory requirements to ensure that licensed commercial cannabis activities are conducted in a manner that protects the health and safety of the consumer and the public. Over the past two years, Public Health Division of Environmental Health (EH) entered into agreements with five cities within Los Angeles County. The agreements outline the permitting and inspection services that will be provided by Public Health. These inspections are conducted in a similar manner to the public health inspections that Public Health EH conducts for restaurants and other businesses that require a public health permit to operate. To date, 32 commercial cannabis facilities within the contracted cities have been issued public health permits and have received an inspection. No issues have been encountered with the permitting and inspection process to date.

The City of Los Angeles (City) desires to enter into an agreement with the County of Los Angeles to perform these inspection services on its licensed commercial cannabis facilities. The City will require its licensed commercial cannabis facilities to apply for and obtain a County public health permit to offset the cost of the County's regulatory inspections and enforcement. These licensed commercial cannabis facilities will be inspected for compliance with the requirements of LACC Title 8 and Title 11.37 and with current or future state public health laws and regulations. The ordinance created a local public health regulatory framework and permitting fee structure that will allow for the uniform inspection of licensed commercial cannabis facilities located within cities that adopt the County's ordinance into their municipal code and contract with the County for Public Health and Safety Inspection and Enforcement Services.

Now that the County is in a period of post-pandemic surge, the City of Los Angeles has reengaged with Public Health and requested that it provide Public Health and Safety Inspection and Enforcement Services of licensed commercial cannabis facilities within the territorial limits of the City. Public Health anticipates future similar requests from other cities that license commercial cannabis activities within their jurisdictions to perform Public Health and Safety Inspection and Enforcement Services. The County requires a new agreement with each participating city because State law prohibits a city from using its already existing health officer agreement with a county to require the county to perform public health inspections of commercial cannabis activities within the city's jurisdiction. Environmental health inspection of licensed commercial cannabis facilities is a critical activity to protect the health of the public.

Approval of Recommendation 1 will allow Public Health to enter into an agreement with the City of Los Angeles to conduct Public Health and Safety Inspection and Enforcement Services to enforce County Code or State laws related to licensed commercial cannabis facilities within Los Angeles city limits. The City of Los Angeles currently possesses an inventory of approximately 1,000 licensed commercial cannabis facilities.

Approval of Recommendation 2 will allow Public Health to execute future agreements with other incorporated cities that request Public Health and Safety Inspection and Enforcement Services for their respective cannabis facilities, without undue delay, thereby allowing Public Health to commence services promptly.

Approval of Recommendation 3 will allow Public Health, to execute amendments to Public Health and Safety Inspection and Enforcement Services agreements.

### **Implementation of Strategic Plan Goals**

The recommended actions support Strategy II.2, Support the Wellness of Our Communities, and Strategy III.3, Pursue Operational Effectiveness, Fiscal Responsibility and Accountability, of the County's Strategic Plan.

### **FISCAL IMPACT/FINANCING**

Contracting with the City of Los Angeles will enable the Cannabis Compliance and Enforcement Program to be fully offset by the Environmental Health Trust Fund. Public health permit and service fees will be deposited into the Environmental Health Trust Fund. There is no net County cost for these agreements.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

Public Health EH is empowered with regulatory authority relating to public health with which it performs mandated services including, but not limited to, inspections and investigations related to food, housing, drinking water, water pollution, land use, solid waste, and vector management. State and local health and safety codes provide Public Health with the authority to carry out statutory and regulatory activities to protect public health and safety. These regulatory activities are principally offset by the collection of fees for permits, licenses, and services.

The passage of the Medical Cannabis Regulation and Safety Act (MCRSA) in 2015 created a licensing and regulatory framework for medical cannabis activities. In 2016, the voters passed Proposition 64, the Adult Use of Marijuana Act (AUMA) that created a State licensing system for non-medical commercial cannabis activities. Subsequently, the passage of SB 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) in June 2017, consolidated MCRSA and AUMA to create one licensing structure within a single regulatory framework governing both commercial medicinal and adult-use recreational cannabis activities, with some limited exceptions. To effectuate the terms of MAUCRSA, the State began issuing various licenses in January 2018. MAUCRSA also allows local jurisdictions to enact appropriate regulations to govern the licensing and citing of cannabis cultivation, distribution, manufacturing, microbusiness, and retail sales.

MAUCRSA provides that cities have the full power and authority to enforce State cannabis laws and regulations for cannabis facilities that are issued a state license and are located within the incorporated area of a city. Further, cities assume complete responsibility for any regulatory function within the city limits that would otherwise be performed by the county or any county officer or employee, including the county health officer, which would have incurred liability, cost, or expense to the County.

Incorporated cities that do not have their own health department lack the public health infrastructure and expertise to conduct the inspections of licensed commercial cannabis facilities. As such, these incorporated cities may desire County Public Health to inspect their licensed commercial cannabis facilities. To obtain this service from Public Health, the incorporated city must adopt the County's Cannabis Facilities ordinance into its municipal code. Once adopted the city must enter into an agreement with Public Health for Public Health and Safety Inspection and Enforcement Services within the incorporated city. Once the agreement is executed, County Public Health may begin to accept applications for public health permits from licensed commercial cannabis facility applicants whose facilities are located within the territorial limits of the incorporated city, and inspectors may begin to enforce State and local public health laws and regulations pertaining to commercial cannabis activities within the jurisdiction of the incorporated city.

The agreement contains a mutual indemnification provision. The mutual indemnification requires each party to indemnify and hold the other harmless from losses or liability for injury or damage, actual or alleged, to person or property arising out of or resulting from the indemnifying party's acts or omissions in the performance of this Agreement.

County Counsel has reviewed and approved Exhibit I as to form.

#### **IMPACT ON CURRENT SERVICES FOR PROJECT(S)**

With the identification of 15 staff to implement the Cannabis Compliance and Enforcement Program, there is no anticipated impact on current services as a result of this action. Based on the expected commercial cannabis facility inventory within the City of Los Angeles, the program has sufficient allocated positions to perform the additional services.



The Honorable Board of Supervisors

April 19, 2022

Page 5

If adopted, the agreement will allow Public Health to conduct contracted public health and safety inspections of cannabis facilities licensed by and operating within the City of Los Angeles.

Respectfully submitted,

Barbara Ferrer, Ph.D., M.P.H., M.Ed.  
Director

BF:bf  
#06289

Enclosures

c: Chief Executive Officer  
County Counsel  
Executive Officer, Board of Supervisors

**BOARD LETTER/MEMO  
CLUSTER FACT SHEET**

**DRAFT**

☒ Board Letter

☐ Board Memo

☐ Other

<b>CLUSTER AGENDA REVIEW DATE</b>	4/6/2022							
<b>BOARD MEETING DATE</b>	4/19/2022							
<b>SUPERVISORIAL DISTRICT AFFECTED</b>	<input checked="" type="checkbox"/> All <input type="checkbox"/> 1 <sup>st</sup> <input type="checkbox"/> 2 <sup>nd</sup> <input type="checkbox"/> 3 <sup>rd</sup> <input type="checkbox"/> 4 <sup>th</sup> <input type="checkbox"/> 5 <sup>th</sup>							
<b>DEPARTMENT(S)</b>	Department of Public Health (Public Health)							
<b>SUBJECT</b>	APPROVAL TO EXECUTE AMENDMENTS TO THE DRUG MEDI-CAL ORGANIZED DELIVERY SYSTEM (DMC-ODS) TREATMENT CONTRACTS FOR VARIOUS TYPE OF COST SETTLEMENT STRUCTURES							
<b>PROGRAM</b>	Substance Abuse Prevention and Control (SAPC)							
<b>AUTHORIZES DELEGATED AUTHORITY TO DEPT</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No							
<b>SOLE SOURCE CONTRACT</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, please explain why:							
<b>DEADLINES/ TIME CONSTRAINTS</b>	N/A							
<b>COST &amp; FUNDING</b>	<table border="1"> <tr> <td>Total cost: Determined at end of fiscal year</td><td>Funding source: Drug Medi-Cal Organized Delivery System (DMC-ODS)</td></tr> <tr> <td colspan="2">TERMS (if applicable): N/A</td></tr> <tr> <td colspan="2">           Explanation:             The DMC-ODS waiver provides substantial financial support for expanded Substance Use Disorder (SUD) services. Under the financing available through the Affordable Care Act (ACA), the federal share of costs for Medi-Cal beneficiaries who became newly eligible through the ACA in 2014 is 90 percent and 50 percent for beneficiaries who were eligible prior to ACA expansion. Non-federal SUD funding streams are used to draw down the maximum federal Medi-Cal matching funds to support the expanded SUD services available to all Medi-Cal beneficiaries under the DMC-ODS waiver.         </td></tr> </table>		Total cost: Determined at end of fiscal year	Funding source: Drug Medi-Cal Organized Delivery System (DMC-ODS)	TERMS (if applicable): N/A		Explanation:  The DMC-ODS waiver provides substantial financial support for expanded Substance Use Disorder (SUD) services. Under the financing available through the Affordable Care Act (ACA), the federal share of costs for Medi-Cal beneficiaries who became newly eligible through the ACA in 2014 is 90 percent and 50 percent for beneficiaries who were eligible prior to ACA expansion. Non-federal SUD funding streams are used to draw down the maximum federal Medi-Cal matching funds to support the expanded SUD services available to all Medi-Cal beneficiaries under the DMC-ODS waiver.	
Total cost: Determined at end of fiscal year	Funding source: Drug Medi-Cal Organized Delivery System (DMC-ODS)							
TERMS (if applicable): N/A								
Explanation:  The DMC-ODS waiver provides substantial financial support for expanded Substance Use Disorder (SUD) services. Under the financing available through the Affordable Care Act (ACA), the federal share of costs for Medi-Cal beneficiaries who became newly eligible through the ACA in 2014 is 90 percent and 50 percent for beneficiaries who were eligible prior to ACA expansion. Non-federal SUD funding streams are used to draw down the maximum federal Medi-Cal matching funds to support the expanded SUD services available to all Medi-Cal beneficiaries under the DMC-ODS waiver.								
<b>PURPOSE OF REQUEST</b>	Will allow Public Health to settle under the most appropriate structure to limit liabilities for the County and to ensure providers are sustained in order to continue to provide key services to the community. This may include delayed payments until such time that the California DHCS issues final payment.							
<b>BACKGROUND (include internal/external issues that may exist including any related motions)</b>	On July 1, 2017, the Public Health Division of Substance Abuse Prevention and Control (SAPC) expanded substance use disorder (SUD) treatment services under the Medi-Cal program with participation in the DMC-ODS waiver. This transformed SAPC from a contract administration program, to a specialty managed care plan, with additional requirements related to how contracts are ultimately settled, and how services are reimbursed. The SUD system is now required to use specific evidence-based practices, provide timely access to care, (e.g., less than 10-days from first contact for outpatient services), ensure accurate documentation and establishment of treatment need; enhance care coordination with other service delivery systems, including physical, mental health, and social services; and increase local control and accountability to improve standards, quality of care, and outcomes across the entire SUD specialty delivery system.							

	Public Health must implement a final fiscal year cost settlement to be compliant with local and state guidelines. Public Health can execute these cost settlements via different approaches including through cost reconciliation where the final settlement is issued at the lower of actual allowable costs or charges. As the next iteration of the waiver is implemented, Public Health will incorporate the most appropriate method of settling contracts that are in accordance with relevant requirements and guidelines, but also mitigate County fiscal risk.
<b>EQUITY INDEX OR LENS WAS UTILIZED</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, please explain how:
<b>SUPPORTS ONE OF THE NINE BOARD PRIORITIES</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes, please state which one(s) and explain how:  Sustainability: This action will allow Public Health to settle under the most appropriate structure to limit liabilities for the County and to ensure providers are sustained in order to continue to provide key services to the community. This may include delayed payments until such time that the California DHCS issues final payment.
<b>DEPARTMENTAL CONTACTS</b>	Name, Title, Phone # & Email:  Daniel Deniz Branch Chief Finance and Contracts (626) 299-4532 <a href="mailto:ddeniz@ph.lacounty.gov">ddeniz@ph.lacounty.gov</a>



DRAFT



**BARBARA FERRER, Ph.D., M.P.H., M.Ed.**  
Director

**MUNTU DAVIS, M.D., M.P.H.**  
County Health Officer

**MEGAN McCLAIRE, M.S.P.H.**  
Chief Deputy Director

313 North Figueroa Street, Suite 806  
Los Angeles, CA 90012  
TEL (213) 288-8117 • FAX (213) 975-1273

[www.publichealth.lacounty.gov](http://www.publichealth.lacounty.gov)

**BOARD OF SUPERVISORS**

**Hilda L. Solis**  
First District

**Holly J. Mitchell**  
Second District

**Sheila Kuehl**  
Third District

**Janice Hahn**  
Fourth District

**Kathryn Barger**  
Fifth District

April 19, 2022

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

Dear Supervisors:

**APPROVAL TO EXECUTE AMENDMENTS TO THE DRUG MEDI-CAL ORGANIZED  
DELIVERY SYSTEM (DMC-ODS) TREATMENT CONTRACTS FOR VARIOUS TYPE  
OF COST SETTLEMENT STRUCTURES  
(ALL SUPERVISORIAL DISTRICTS) (3 VOTES)**

**SUBJECT**

Request approval to execute amendments to the Drug Medi-Cal Organized System (DMC-ODS) treatment contracts for various types of cost settlement structures.

**IT IS RECOMMENDED THAT THE BOARD:**

1. Delegate authority to the Director of Department of Public Health (Public Health), or her designee, to execute amendments limited exclusively to cost settlements and reporting for DMC-ODS treatment contracts that allow for contracts to be settled at cost, cost reconciliation or another method consistent with the provisions of the DMC-ODS or as amended by the California Department of Health Care Services (DHCS) under California Advancing and Innovating Medi-Cal (CalAIM) and behavioral health payment reform, as necessary, subject to review and approval by County Counsel, and notification to your Board and the Chief Executive Office (CEO).

2. Delegate authority to the Director of Public Health, or her designee, to execute amendments to the DMC-ODS treatment contracts to increase funding allocation in response to final contract settlements, as necessary, with 4 weeks advance notice to your Board for any increase over 35 percent above each term's annual base maximum obligation and subject to review and approval by County Counsel, and notification to your Board and the CEO.

### **PURPOSE / JUSTIFICATION OF RECOMMENDED ACTION**

On July 1, 2017, the Public Health Division of Substance Abuse Prevention and Control (SAPC) expanded substance use disorder (SUD) treatment services under the Medi-Cal program with participation in the DMC-ODS waiver. This transformed SAPC from a contract administration program to a specialty managed care plan with additional requirements related to how contracts are ultimately settled and how services are reimbursed. The SUD system is now required to use specific evidence-based practices, provide timely access to care, (e.g., less than 10 days from first contact for outpatient services), ensure accurate documentation and establishment of treatment need; enhance care coordination with other service delivery systems, including physical, mental health, and social services; and increase local control and accountability to improve standards, quality of care, and outcomes across the entire SUD specialty delivery system.

Public Health must implement a final fiscal year cost settlement to be compliant with local and state guidelines. Public Health can execute these cost settlements via different approaches including through cost reconciliation where the final settlement is issued at the lower of actual allowable costs or charges. As the next iteration of the waiver is implemented, Public Health will incorporate the most appropriate method of settling contracts that are in accordance with relevant requirements and guidelines, but also mitigate County fiscal risk.

Approval of Recommendation 1 will allow Public Health to settle under the most appropriate structure in order to limit liabilities for the County and to ensure providers are sustained in order to continue to provide key services to the community. This may include delayed payments until such time that DHCS issues final payment.

Approval of Recommendation 2 will allow Public Health to execute contract amendments to make funding adjustments to contracts as a result of settlements that exceed the contract allocation.

Approval of Recommendation 1 and 2 will also enable Public Health to amend contracts to allow for the provision of additional units of funded services that are above the service level identified in the current contract and/or the inclusion of unreimbursed eligible costs, based on the availability of grant funds and grant funder approval. Additionally, DHCS may audit prior cost reports (up to 10 years), which may result in contract actions. While the County is under no obligation to pay a contractor beyond what is identified in

the original executed contract, the County may determine that the Contractor has provided evidence of eligible costs for qualifying contracted services, and that it is in the County's best interest to increase the maximum contract obligation as a result of receipt of additional grant funds or a determination that funds should be reallocated. This recommendation has no impact on net County cost.

### **Implementation of Strategic Plan Goals**

The recommended action supports Strategy II.2 – Support Wellness of our Communities; Objective II.2.4 – Promote Active and Healthy Lifestyles, of the County's Strategic Plan.

### **FISCAL IMPACT/FINANCING**

The DMC-ODS waiver provides substantial financial support for expanded SUD services. Under the financing available through the Affordable Care Act (ACA), the federal share of costs for Medi-Cal beneficiaries who became newly eligible through the ACA in 2014 is 90 percent and 50 percent for beneficiaries who were eligible prior to ACA expansion. Non-federal SUD funding streams are used to draw down the maximum federal Medi-Cal matching funds to support the expanded SUD services available to all Medi-Cal beneficiaries under the DMC-ODS waiver.

Public Health continues to anticipate that DMC-ODS services in Los Angeles County will not require additional net County cost, as existing funding streams and the County's ability to draw down the maximum federal Medi-Cal matching funds should be sufficient to provide the full continuum of SUD services.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

On January 22, 2016, Public Health informed your Board of its intent to opt into the DMC-ODS Waiver demonstration project. In that notification, Public Health indicated that there was a critical need for resources to provide technical assistance and training to its provider network to successfully implement required business, clinical, and program changes. Public Health submitted the County's DMC-ODS Implementation Plan to the State on February 11, 2016, and received approval on July 27, 2016. The Fiscal and Rates Plan was submitted on August 11, 2016, and was approved by the State. Expanded services began on July 1, 2017. Public Health continues to support its provider network to build clinical and program operations to successfully meet DMC-ODS Waiver participation requirements. Public Health delivers regular provider technical assistance through deployed consultants and ongoing treatment provider meetings. These resources aim to maximize contractors' abilities to succeed and thrive under the DMC-ODS, and to elevate the quality of care provided to County residents in need of SUD treatment.

By participating in the DMC-ODS demonstration project, SAPC must operate as a federally designated "prepaid inpatient health plan" in compliance with the Code of Federal Regulations Section 42, Part 438 (42 CFR Part 438). This requires SAPC to conduct a

The Honorable Board of Supervisors

April 19, 2022

Page 4

continuous quality assessment and performance improvement program, participate in an external quality review process, and establish a patient appeals and grievance process. With behavioral health payment reform under CalAIM, SAPC will be required to transition its reimbursement process from certified public expenditures to intergovernmental transfers.

**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

Approval of the recommended actions will allow Public Health to effectively and efficiently manage the DMC-ODS network and ensure beneficiaries receive high quality SUD treatment services throughout the County.

Respectfully submitted,

Barbara Ferrer, Ph.D., M.P.H., M.Ed.  
Director

BF:jt  
BL#06194

Enclosures

c: Chief Executive Officer  
County Counsel  
Executive Officer, Board of Supervisors

# CONSERVATORSHIP 101



**Connie D. Draxler**  
**Sr. Deputy Director**  
**Re-Entry Initiatives**  
**Department of Mental Health**





# Office of the Public Guardian

- The Public Guardian is the designated County Conservatorship Investigator for all **LPS** Conservatorships
  - All referrals for LPS are submitted to OPG and only OPG can submit the initial petition for conservatorship
- The Public Guardian shall investigate and petition for Probate Conservatorships when ordered by the court or if there is no suitable alternative to conservatorship

# What is Conservatorship?

- It is a court proceeding to appoint a legally responsible person for someone who is unable to provide for his/her personal needs or properly manage his/her finances.
- Two Types of Conservatorship
  - Lanterman Petris Short (LPS) – for individuals with mental health disorders who are gravely disabled
    - Inpatient
    - Outpatient
  - Probate – generally for older adults with major neurocognitive disorders, victims of elder abuse or adults who are developmentally disabled

**It is a civil proceeding requiring proof of need and attendance by involved persons.**





# Last Resort

- By statute, conservatorship is a last resort
- All viable alternatives to conservatorship must be investigated and/or tried before OPG can petition or recommend conservatorship
- By statute, Public Guardian is a last resort agency to serve as conservator
- Willing, able and appropriate to serve



# LPS Conservatorships





# LPS Conservatorships

- Average of 80-90 referrals per month to OPG
- Increased referrals for justice involved clients
- Current permanent conservatorship caseload is approximately 2300
- There are approximately 2500 *private* LPS conservatorships (family members serve as conservator)



# **LPS Act Intent and Purpose**

- To end inappropriate, indefinite and involuntary commitment
- To provide prompt evaluation and treatment
- To provide for individualized treatment, supervision, and placement
- To safeguard individual rights through judicial review
- To provide services in the least restrictive setting
- Establishes procedures for involuntary treatment



# **LPS In-Patient Conservatorships**

- For persons with serious mental illnesses who require involuntary treatment and unable or unwilling to accept assistance
- Only designated doctors and facilities can initiate inpatient LPS referrals
- There are 40+ designated facilities in Los Angeles County, including the jail



# LPS In-Patient Conservatorship Process

- Process starts with a client being placed into a designated facility (acute psychiatric facility) on a 72 hour hold for evaluation (W&I 5150)
- If needed, the person can be held for an additional 14 days (W&I 5250)
- If needed, the person can be placed on a 30 day intensive hold (WIC 5270).
- The total amount of days on involuntary hold = 47
- Referrals for LPS Investigation usually sent at the end of the 14 day hold or beginning of 30 day hold
- Establish a temporary conservatorship (t-con)
  - Investigate
  - Limited powers = detention
  - Comprehensive report and recommendation

# **LPS In-Patient Conservatorship**

## **Legal Basis**

- **Gravely Disabled** (WIC 5008 (h)(1) (A)) – is defined as the inability to provide for food, clothing or shelter due to the mental disorder or impairment by chronic alcoholism
  - The person is unwilling or incapable of accepting voluntary treatment

# LPS Outpatient Conservatorship Programs

- DMH Directly Operated Clinics
  - Chronically Gravely Disabled
    - Repeated Hospitalizations
    - Medication Non-Compliance
    - Alternatives Tried but Not Successful (AOT, FSP, Outpatient Clinic/Wellness Centers, Etc.)
  - No T-con
  - 3<sup>rd</sup> Party Assistance May Affect Decision to Petition
  - Concerns about future decompensation is not sufficient to establish conservatorship – must still prove GD
- HOME Team
  - Intensive Outreach and Engagement to Chronically **Homeless** Individuals
  - Chronically Gravely Disabled
  - Unable to Survive Safely in Community
  - Refusing all Services
  - GOAL = No hospitalization unless for stabilization (short term) and placement in the community with FSP services.

# LPS Outpatient Conservatorship - Gravely Disabled

- WIC 5008 (h)(1)(A) plus
- WIC 5352 – professional person may recommend conservatorship without the person being an inpatient in a facility if both of the following are true:
  - The professional person has examined and evaluated the person and determine he/she is gravely disabled
  - **The professional person has determined that a future examination on an inpatient basis is not necessary for a determination that the person is GD**



# LPS Conservatorship Court Process

- Conservatee is represented by counsel – usually the Public Defender
- Conservatee can request a court trial or a jury trial or can agree to conservatorship
- Psychiatric testimony is needed to establish Grave Disability
- The legal burden of proof is “**Beyond a Reasonable Doubt.**”



# **Public Guardian Conservatorship Case Management**

- Once appointed by the Los Angeles Superior Court as the Conservator over Person and/or the Estate, the Office of the Public Guardian will manage the daily life and/or financial affairs of the Conservatee
  - Surrogate Decision Maker



# LPS Conservatorship Placements

- State Hospitals
- Institutes for Mental Disease (IMD) – Subacute
- Enriched Residential Services (ERS)= board and care with enhanced services
- Skilled Nursing Facilities (SNF) – open or locked
- Residential Care Facilities for the Elderly (RCFE) – assisted living
- Adult Residential Facilities (ARF) – board and care
  
- OPG generally utilizes licensed care facilities for LPS Conservatees
  - Administration of Medications
  - Supervision



# **LPS Conservatorships Placements**

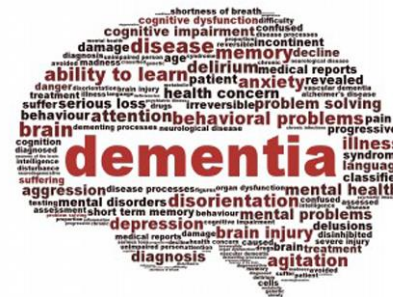
- OPG accesses locked state hospital and IMD beds through DMH's Intensive Care Division (ICD) or VA contracts
- OPG has NO contracts for placement
- OPG also accesses some unlocked contracted beds (ERS) through ICD
- All other placements – individual admission agreements on behalf of conservatee



# Conservatorship Duration

- LPS conservatorships lasts one year but they may be renewed with clinical opinion of grave disability
- Prior to the expiration of the conservatorship, the treating doctor will evaluate for need of reappointment of conservatorship
- If the doctor recommends for the continuation of the Conservatorship, County Counsel will petition for the reappointment
  - Private conservators file petition themselves

# Probate Conservatorship



# Probate Conservatorship

- Average 140 referrals per month
- Current permanent Probate caseload is approximately 550
  - Referrals vs PG petitions for conservatorship = alternatives
- Large portion of probate conservatorships done by private individuals and do not involve OPG
  - No County Conservatorship Investigator



# Probate Conservatorship Intent

- Protect the rights of persons who are placed on conservatorship
- Provide that an assessment of the needs of the person is performed to determine appropriateness and extent of conservatorship
- Provide that the health and psychosocial needs are met
- Provide that community based services are used to the greatest extent to allow conservatee to remain independent
- Provide for periodic review of conservatorship
- Ensure basic needs are met
- Provide for proper management and protection of property.

# Probate Conservatorship

- Referrals from any source: Court, Adult Protective Services, local law enforcement, local government agencies, hospitals and private parties
- Based on cognitive impairments/deficits that render the person incapable of meeting his/her basic needs or managing his/her financial resources
- Conservatorships are permanent and established for the lifetime of the individual
- Petition for Probate can be done by anyone; does not require involvement of OPG

# Probate Conservatorships

- Unique powers specific to Probate
- Need for a capacity declaration and finding by the court that person lacks capacity to make decisions
  - Full Medical Decision Making
    - Upon permanent conservatorship may have authority to make all medical decisions including end of life decisions
  - Major Neurocognitive Disorder Powers aka Dementia Powers
    - Power to authorize the administration of psychotropic medications to address behaviors and symptoms related to NCD
    - Authority to place conservatees in a “dementia facility”
      - Locked Skilled Nursing Facility (SNF)
      - Secure Residential Care Facility for the Elderly (RCFE)



# Probate Conservatorship

- Proposed conservatee is appointed CAC (court appointed counsel)
- It takes months to establish a conservatorship due to investigation time, scheduling a hearing date, settlement conferences and trials
- No statutory timelines like LPS



# Probate Conservatorships Placements

- Skilled Nursing Facilities (SNF)
- Residential Care Facilities for the Elderly (RCFE)
- Residences – limited to those with sufficient assets to hire private caregiving or those with IHSS; or by court order





# Probate Conservatorships - Placements

- No Contracted Facilities
- Individual Admission Agreements for each conservatee/facility
- No placement in a locked psychiatric facility
  - Challenges – younger clients with TBI or substance use related neurocognitive disorders

# LPS vs Probate

LPS	Probate
Adults with Mental Health Disorders	Older Adults with Major Neurocognitive Disorders; Developmentally Disabled
Legal Basis = Grave Disability	Legal Basis = Lacks Capacity to Make Decisions
Focus = Involuntary Mental Health Treatment	Focus = Physical Health Treatment; Major Neurocognitive
Limited to No Medical Authority	Full Medical Authority
Locked Psychiatric Facilities	No Locked Psychiatric Facilities
Duration = 1 Year	Duration = Lifetime

