



DEPARTMENT OF MENTAL HEALTH

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DMH Legislative Report for the September 28, 2023 Mental Health Commission Meeting

This report includes the current status of bills/proposals impacting the Department of Mental Health (DMH) and other legislation of interest as of the close of this year's legislative session. The most impactful bills, SB 43, SB 326, and AB 531, await the Governor's approval. DMH will begin planning to implement new legislation as the Governor signs bills and they become law.

Overall, during this legislative session we saw several major shifts in behavioral health policy:

1. With the passage of SB 43, AB 531 and SB 326, we are seeing the State Legislature and Administration putting a greater focus on changing policy, regulations, and funding streams to make it easier to get people experiencing serious mental illness off the street and into housing and treatment. SB 43 will make it easier to put people on involuntary holds, while AB 531 (if passed by voters) will create a new funding stream to support the expansion of residential treatment and supportive housing capacity, and SB 326 (if passed by voters) will force counties to spend 30% of their MHSA funding on housing interventions.
2. With the passage of these same bills, the State Legislature and Administration are also compelling counties to provide more services to the population experiencing Substance Use Disorders without co-occurring mental illness. SB 43 has expanded the definition of grave disability to people with severe SUDs without co-occurring mental illness. And SB 326 will force counties to provide new types of services to people with SUDs without co-occurring mental illness.

These shifts represent major changes in state-wide policy and will result in significant changes to how the County provides behavioral health services.

Priority Bills

- SB 43 Gravely Disabled (Eggman) would expand the definition of “gravely disabled” to also include a condition in which a person, as a result of a severe substance use disorder, or a co-occurring mental health disorder and a severe substance use disorder, is unable to provide for their personal safety or necessary medical care, as defined. The bill would also expand the definition of “gravely disabled,” to include the inability for a person to provide for their personal safety or necessary medical care as a result of chronic alcoholism. The bill would authorize counties to defer implementation of these provisions to January 1, 2026, as specified.

Update since last report: SB 43 has passed both legislative houses and is pending the Governor's signature.

County position – Watch, but expressing concerns.

- Governor's MHSA reform proposal announced on March 19, 2023, would focus on treatment and services for mental illness, substance use disorder (SUD), and homelessness. The proposal includes the issuance of a general obligation bond (\$6.7B) that would pay for thousands of residential mental health treatment beds and supportive housing units. The proposal was amended at the end of the legislative session to add in the ability for the bond proceeds to be used to fund locked acute and

subacute beds as well. The Governor’s proposal also would make significant changes to how counties can allocate MHSA funds, including a new requirement for counties to spend 30% of their MHSA funds on housing (but not supportive behavioral health services). The two bills were combined late in the legislative session and will now appear as a single proposition on the March 2024 ballot for approval by the voters.

Update since last report: AB 531 and SB 326 have passed both legislative houses and are pending the Governor’s signature.

- AB 531 The Behavioral Health Infrastructure Bond Act of 2023 (Irwin) would enact the housing bond measure, which if approved by the voters, would authorize the issuance of \$6.68 billion in bonds for the acquisition of capital assets for, and the construction and rehabilitation of, community-based treatment settings and residential care settings. At the end of the legislative session, the bill was amended to add in the ability for the bond proceeds to be used to fund locked acute and subacute beds as well. The late amendments also increased the overall size of the proposed bond measure and added funds for supportive housing units.

Update since last report: AB 531 has passed both legislative houses and is pending the Governor’s signature.

DMH Position – Support
County Position – Support

- SB 326 The Behavioral Health Services Act (Eggman) would reform the Mental Health Services Act (MHSA) by: expanding services to include treatment for those with SUDs; revising the MHSA funding distribution categories; and establishing new and increased expenditure outcomes and behavioral service plan reporting and process requirements for the counties. Specifically, the bill would:
 - Rename the MHSA the Behavioral Health Services Act (BHSA).
 - Update local funding buckets, effective July 1, 2026, to allocate:
 - 90 percent of the funding to counties; 10 percent to the state;
 - For counties:
 - 30 percent for housing interventions, of which no more than 25 percent can be used for capital outlay, and at least 50 percent shall be used for housing interventions including but not limited to, rental subsidies, operating subsidies, capital investments, and nonfederal share for transitional rent for the chronically homeless;
 - 35 percent for Full-Service Partnerships (FSPs);
 - 30 percent for Behavioral Health Services and Supports, of which at least half of it (15%) shall be used for early intervention, and the rest on child, adult, and older adult efforts, as well as capital facilities and technology needs, workforce education and training, and innovative pilots; and
 - Establishes a process that would allow counties to request approval from the state to shift up to 7 percent of funding from any of the three categories described above to another category, for a total shift of up to 14 percent overall.
 - For the state: Allow the state to retain 3 percent of all revenues for statewide behavioral health workforce initiatives, 3 percent of all revenues to cover the

state's administration costs, and 4 percent of all revenues to establish a state-administered behavioral health prevention program.

- Include details about what constitutes an FSP, including mental health and substance use disorder services, Assertive Community Treatment and Forensic Community Treatment, housing interventions, and supportive services. It would also establish an FSP standard of care with levels based on an individual's acuity and criteria for step-down.
- Require that counties make a good faith effort to contract with commercial health plans.
- Authorize counties to spend up to 2 percent for administrative resources to assist with improving plan operations, quality outcomes, reporting fiscal and programmatic data and monitoring subcontractor compliance.
- Establish a new Integrated Plan for Behavioral Health Services and Outcomes, which would require detailed reporting to the state and an extensive local planning process with stakeholders, including:
 - Requiring counties to work with Medi-Cal managed care plans in the development of their population needs assessment and with local health jurisdictions in the development of their community health improvement plans and to ensure strategic alignment.
 - Specifying that counties collaborate with cities, managed care plans, and others to outline responsibilities and coordination of services related to Housing Interventions.
 - Requiring plans be approved by boards of supervisors by June 30 prior to the year of implementation.
- Establish the County Behavioral Health Outcomes, Accountability and Transparency Report, with detailed reporting of BHSA revenues, realignment revenues, federal funds, block grants and other fund sources, as well as outcome reporting.
- Establish new requirements on county mental health plans and Drug Medi-Cal Organized Delivery Systems (DMC-ODS) to conform to the same requirements as Medi-Cal managed care plan contract requirements, such as organization and administration of the plan, financial information, information systems, provider compensation arrangements, and provider oversight and monitoring.
- Include a very broad penalty structure that would allow the State to withhold funds from counties.

Update since last report: SB 326 has passed both legislative houses and is pending the Governor's signature.

DMH Position – Concerns
County Position – Concerns

- SB 525 Minimum Wages: Health Care Workers (Durazo) would establish a specified number of separate minimum wage schedules for covered health care employees. Requires, for any hospital that is a hospital with a high governmental payor mix, an independent hospital with an elevated governmental payor mix, a rural independent covered health care facility, or a covered health care facility that is owned, affiliated, or operated by a county with a certain population, the minimum wage for covered health care employees to be a specified rate.

Update since last report: SB 525 has passed both legislative houses and is pending the Governor's signature.

County Position - Watch

Bills of Interest

- SB 551 Mental Health Boards (Portantino) would require at least 20 percent of the total membership of a mental health board (MHB) to be public school employees and at least 20 percent to be individuals who are 25 years of age or younger (i.e., children or transition-aged youth) in counties with a population of 500,000 or more. DMH supports the efforts to prevent conflict of interest on the MHB and representation of youth on the MHB. However, DMH is concerned that if passed, SB 551 would create an over-representation of these groups on the MHB, negatively impacting the equitable representation of other stakeholder groups in the County.

Updates since last report: SB 551 is in the Assembly Appropriations Committee's Inactive File.

- AB 289 Mental Health Services Representation (Holden) would require a county that is developing a three-year plan and annual updates under the Mental Health Services Act (MHSA) to include among the stakeholders in its development efforts youth or youth mental health organizations and individuals representing diverse viewpoints. DMH supports this bill and the efforts to increase youth participation, especially youth from historically marginalized, underserved, racially and ethnically diverse communities, and representatives from LGBTQ+ communities, in the MHSA community planning process.

Update since last report: The bill has passed both houses and is pending the Governor's signature.

- SB 11 California State University: mental health counseling (Menjivar) would require the California State University system to have one full-time mental health counselor for every 1,500 students. The bill would also establish the CSU Mental Health Professionals Act, contingent upon an appropriation of one-time funds, which would provide financial incentives for CSU students to become mental health counselors in the state. DMH supports efforts to expand the pipeline of students into the public mental health system, and therefore is watching how SB 11 proceeds through the legislature.

Updates since last report: SB 11 was re-referred to the Assembly Appropriation Committee and did not pass out of committee before the close of session.

Additional Resources

- Master bill list of bills DMH is tracking (attached).