



# DEPARTMENT OF MENTAL HEALTH

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## DMH Legislative Report for the Mental Health Commission – September 23, 2024

DMH continues to monitor the status of priority bills introduced in this legislative session that impact our operations and the public mental health safety net. This report includes an update on Prop 1 Implementation (AB 531 and SB 326), the current status of legislation the Department has been tracking that has now moved to the Governor, and legislation that failed to move forward this legislative session.

### Updated Information Regarding Prop 1 Implementation (AB 531 and SB 326)

#### **Update on Prop 1 Bond Funds (previously known as AB 531)**

The State's Department of Health Care Services (DHCS) released a RFA in August for the first round of funding, up to \$3.3 B total, that will be made available under Proposition 1 for capital funding to support the development of MH/SUD treatment facilities. As explained on the state's website, "eligible applicants for Bond BHCIP Round 1: Launch Ready grants include counties, cities, tribal entities (including 638s and urban clinics), nonprofit organizations, and for-profit organizations whose projects reflect the state's priorities and serve the targeted population. The deadline for applications is December 13, 2024.

On August 21, 2024, DMH hosted a webinar for stakeholders, including potential applicants, to share information about the RFA. DMH has also offered to engage in conversations with local cities who may be interested in pursuing joint applications with the County. DMH is currently preparing applications for several projects that the County will be submitting in the coming months.

In late September, the State's Department of Housing and Community Development also released more information about the forthcoming Project Homekey+ program. This program is the mechanism through which the State will release up to \$2.2B in Prop 1 Bond funds to support the development of permanent supportive housing for veterans and those experiencing behavioral health challenges. NOFAs for this funding will be released in November, 2024.

### Legislation That Has Moved To The Governor

- **SB 26 Mental Health Professions: CARE Scholarship Program (Umberg)**, would, upon appropriation, establish the Community Assistance, Recovery, and Empowerment (CARE) Scholarship Program. The bill would require the department to administer the annual scholarship for purposes of increasing the number of culturally competent marriage and family therapists, clinical social workers, professional clinical counselors, and psychologists, as specified. The bill would require scholarship recipients to agree to work for county behavioral health agencies in meeting their needs and obligations to implement the CARE Act for a minimum of 3 years upon degree completion. The bill would require the department to post information related to the scholarship on its internet website.

**DMH Analysis as of July 22, 2024:** SB 26 would create the Community Assistance, Recovery, and Empowerment (CARE) Scholarship Program. The CARE Act program serves one of the most vulnerable and underserved populations in need of holistic wrap-around intensive mental health services. Efforts to strengthen and bolster the workforce to provide these essential services are much needed. SB 26 could create an opportunity to help counties recruit qualified workforce to enhance the program. However, as currently drafted, SB 26 would offer scholarships to a limited portion of the workforce that is needed to implement the CARE Act. The Los Angeles County Department of Mental Health (DMH) believes that SB 26 could be improved if it was expanded to support the expansion of the workforce even further. DMH recommended to CEO and the Board of Supervisors that the County adopt a “support if amended” position on the bill. DMH recommended that the County seek amendments that would make it easier for a broader range of CARE Act service team members to receive educational scholarships, offer scholarships to recipients who work for agencies that contract with counties to provide CARE Act services, and allow scholarship recipients to start earning work credit towards their CARE Act service commitment after they receive their educational degree (as opposed to their professional license).

**DMH Updated Analysis:** SB 26 was amended on August 19, 2024, and includes DMH's recommendations that the scholarship should also be offered to eligible students pursuing bachelor's degrees and that a three-year work commitment should be upon completion of a degree rather than licensure. Given that the author accepted our requested amendments, DMH recommended to CEO LAIR that the County change to a full support position. The County changed its position to a full support position in late August, 2024.

**Update since last report:** September 4, 2024: To Governor.

**County Position:** Support

**CBHDA Position:** Support if amended.

- **AB 1907** California Child and Family Service Review System (Pellerin), require the California Child and Family Service Review System to include data from the Child and Adolescent Needs and Strengths (CANS) assessment tool.

**Update since last report:** September 12, 2024: To Governor.

**County Position:** Watch

**CBHDA Position:** No position taken yet

- **AB 2561**, Local Public Employees: Vacant Positions (McKinnor), would require a public agency to present the status of vacancies and recruitment and retention efforts at a public hearing at least once per fiscal year, and would entitle the recognized employee organization to present at the hearing. If the number of job vacancies within a single bargaining unit meets or exceeds 20% of the total number of authorized full-time positions, the bill would require the public agency, upon request of the recognized employee organization, to include specified information during the public hearing. By imposing new duties on local public agencies, the bill would impose a state-mandated local program. The bill would also include related legislative findings.

**DMH's Analysis:** AB 2561 would create a significant amount of workload for the Department without clear benefit to our workforce, our labor partners, or our overall ability to deliver the care that our residents need. As directed by the Board of Supervisors through several motions, DMH has been engaging on this issue in a focused manner for several years. DMH has issued several reports to the Board about the status of the Department's vacancies, the Department's new and ongoing recruitment and retention initiatives, and the Department's efforts to expand the behavioral health workforce pipeline. DMH believes that there is more work to be done in filling the Department's vacancies and will continue to endeavor to fill vacant positions as needed in order to meet service and programmatic demand. However, the Department does not believe that this bill would help DMH accomplish this goal. AB 2561 would infringe upon the Department's priority-setting and decision-making authority and threaten the Department's fiscal stability by presuming that the Department has sufficient revenue and need to fill all of its vacancies.

**Update since last report:** Signed by the Governor

**DMH Comments:** Expressing concerns

**County Position:** Watching

**CBHDA Position:** Oppose

- **SB 1238** Lanterman-Petris-Short Act: designated facilities (Eggman). This bill provides that under the Lanterman-Petris-Short Act, when a person, as a result of a mental health disorder, is a danger to others or to themselves, or gravely disabled, as defined, the person may, upon probable cause, be taken into custody for a specified period for assessment, evaluation, and crisis intervention, or placement for evaluation and treatment in a facility designated by the county for evaluation and treatment and approved by the State Department of Health Care Services.

**Update since last report:** September 4, 2024: To Governor.

**DMH Comments:** DMH is not recommending a position on this bill. DMH does not have concerns with the impact of the bill. However, DMH does not believe that this bill will address some of the unresolved issues that the County is facing as it prepares to implement SB 43 (Eggman). For example,

the bill does not address the lack of program/service models or evidence-based practices that providers can use to guide the development of local involuntary substance use treatment programs and facilities. SB 1238 (Eggman) will help to clarify some of the regulatory and administrative concerns regarding implementation of SB 43, but it will not address the lack of appropriate service models or facility models needed to properly implement SB 43.

**County Position:** No position taken yet

**CBHDA Position:** Oppose unless amended

- **SB 1400, Criminal Procedure: Competence to Stand Trial (Stern)**, provides that existing law requires the court, if a doubt is raised as to the mental competence of a defendant, to hold a hearing to determine mental competence. Allows an evaluation of the defendant by a certain number of licensed psychologists or psychiatrists and requires them to submit a report to the court. Requires the court to make a determination regarding the defendant's capacity to make decisions regarding the administration of antipsychotic medication. Requires a hearing to determine competence.

Late breaking amendments:

The Administration, working with the Judicial Council, added several significant late amendments to the bill. These amendments added elements to the bill that would expand the data to be compiled and reported to the Judicial Council in the annual CARE program reports to include the total number of CARE plans ordered and CARE agreements approved. The bill would also expand the information compiled from county behavioral health departments to include information on all active and former participants for a period of time after the conclusion of CARE program services, to be determined by the State Department of Health Care Services, in consultation with county behavioral health agencies and courts. The bill would also expand the information collected by county behavioral health departments and courts to include outreach and engagement activities provided by county behavioral health agencies, the number of days between a petition and its disposition, and, in consultation with the department and county behavioral health departments, the number, rates, and trends of contacts made to a county behavioral health agency about individuals eligible or likely to be eligible for the CARE process, among others.

**DMH's Analysis:** SB 1400 removes the option for a court to dismiss a criminal case and compels the court to choose to either make a treatment plan with a provider, refer the client to AOT, refer the client to the conservatorship process, or refer the client to CARE Court. These four choices (all of which exist today), all require the voluntary participation of the client, except for the conservatorship process. It is important to note that based upon the Department's experiences with this client population, DMH is not confident that additional attempts to offer the clients voluntary services or treatment will result in a higher uptake of treatment or services. Furthermore, a court referral to one of the programs offered to MIST clients does not automatically result in the MIST client accepting or being eligible to receive services in these programs. The Department believes that this measure would result in more referrals, hearings, and other procedural activities that only obligate the providers to spend more time in court hearings but are not likely to result in higher client service uptake.

**DMH's Updated Analysis:** DMH shared concerns with CEO that the late amendments requiring counties to provide new data sets to the State utilize vague and imprecise language that would be difficult for counties to interpret, and therefore, difficult for counties to implement. The CEO sent a letter to our State delegates in late August sharing these concerns with several recommendations for how the Legislature could address these concerns.

**Update since last report:** September 11, 2024: To Governor.

**County Position:** Expressing concerns

**CBHDA Position:** Expressing concerns

### **Federal Bill of Interest**

**H. R. 8575 Medicaid Mental Health Facility Definition (Goldman)**, amends title XIX of the Social Security Act to revise the definition of institution for mental diseases under the Medicaid program to exclude from such definition institutions having 36 beds or less if such institutions meet certain standards.

**DMH Analysis:** HR 8575 will help to alleviate the problems to our system caused by the IMD exclusion by allowing facilities with 36 or fewer beds to receive Federal Medicaid reimbursement for care. Furthermore, the bill also would require IMD facilities to adhere to nationally recognized, evidence-based standards of care. This would be a new requirement that DMH believes can enhance the quality of care provided in our IMD facilities and increase the efficacy of the treatment offered in these facilities. In June, DMH recommended to the Board of Supervisors and CEO that the County adopt a support position on the bill.

#### **County Position: Support**

At its June 25, 2024, meeting, the Board of Supervisors voted to support H.R. 8575 (Goldman) on a motion authored by Supervisor Barger.

### **Legislation That Failed To Move Forward This Legislative Cycle**

- **SB 402 Involuntary Commitment (Wahab)**. This bill would authorize a licensed mental health professional, who is designated by the county, to place an individual on an involuntary hold. The bill defines “licensed mental health professional” as a psychiatrist, psychologist, licensed clinical social worker, licensed marriage and family therapist, or a licensed professional clinical counselor who has completed all required supervised clinical experience. The bill specifies that a licensed mental health professional does not need to be direct staff of, or contracted by, the county.

**DMH Analysis:** *Pending (the bill was most recently amended on June 20, 2024)*

**Update since last report:** August 14, 2024: Held in Assembly Appropriations Committee.

**County Position:** Watch

**CBHDA Position:** Oppose

- **AB 1588 Communications: fees: lifeline service; broadband (Wilson)**. Provides that existing law requires the Public Utilities Commission to require interconnected Voice over Internet Protocol (VoIP) service providers to collect and remit surcharges on their California intrastate revenues in support of specified public purpose program funds. Requires the commission to also determine a fee annually to be paid by every interconnected VoIP service provider for specified purposes. Renames the Moore Universal Telephone Service Act as the Moore Universal Communications Service Act.

**Update since last report:** August 15, 2024: Held in Senate Appropriations Committee.

**County Position:** No position taken yet on the 06/10/24 version of the bill.

**CBHDA Position:** No position taken yet

- [AB 2489](#), Local Agencies: Contracts for Special Services (Ward), provides that existing law authorizes a county board of supervisors to contract for certain types of special services. This bill would require the board or a representative, at least ten months before beginning a procurement process to contract with persons for special services that are currently, or were previously, performed by employees of the county represented by an employee organization, to notify the exclusive employee representative of the workforce affected by the contract. Furthermore, the contractor or contracted agency must employ staff who meet or exceed the minimum qualifications and standards required of bargaining unit civil service employees who perform or performed the same job functions.

**Update since last report:** May 16, 2024: Held in Senate Committee on Appropriations.

**DMH Comments:** Expressing concerns

**County Position:** Watch

**CBHDA Position:** Oppose

- [AB 2557](#), Local Agencies: Contracts for Special Services (Ortega), provides that existing law authorizes a county board of supervisors to contract for certain types of special services. This bill would require the board or a representative, at least ten months before beginning a procurement process to contract for special services that are currently, or were previously, performed by employees of the county represented by an employee organization, to notify, in writing, the exclusive employee representative of the workforce affected by the contract of its determination. Furthermore, the bill would require all county contractors to provide robust quarterly performance reports which must be monitored by the board. In addition, the bill requires any contract over two years in length to be reviewed by a third-party auditor, and for that independent audit to be reviewed by the county alongside the relevant county employee bargaining unit before the contract is renewed or extended.

**DMH's Analysis:** AB 2557 would create an enormous administrative burden on DMH without any apparent accompanying benefit to the Department or our larger public mental health system. The provisions of the bill are overly restrictive and would limit the Department's ability to swiftly react to changes in our volatile revenue sources, national workforce shortages, and changes in service demand. The bills also contradict the intent of Prop 1, which is to allow the public mental health system to respond quickly to the needs of our most acutely ill clients. By limiting the Department's ability to efficiently contract for care and treatment services, AB 2557 would also impede DMH's efforts to ensure timely access to services. Additionally, this bill is based on the inaccurate assumption that DMH can deliver all contracted services with county staff. That is not possible given our ever-changing financing and workforce shortages. Therefore, DMH recommends that the County take an oppose position on AB 2557.

**Update since last report:** Aug 15, 2024: Held in committee Senate Committee on Appropriations.

**DMH Comments:** Expressing concerns

**County Position:** Oppose

**CBHDA Position:** Oppose

- [AB 2650](#) Licensed adult residential facilities and residential care facilities for the elderly: data collection (Zbur). This bill would require, beginning on the specified date and annually thereafter until the specified date, the Department of Social Services to collect information and send a report to each county's department of mental health or behavioral health of all licensed adult residential facilities

and residential care facilities for the elderly that accept a specified Federal rate and accept residents with a serious mental disorder, and the number of licensed beds at each facility.

**Update since last report:** May 16, 2024: Held in Senate Committee on Appropriations.

*Note: this bill is sponsored by LARCA (Licensed Adult Residential Care Association)*

**County Position:** No position taken yet  
**CBHDA Position:** No position taken yet

- [AB 2700](#), Emergency medical services: alternate destinations (Gabriel), would require the state to survey and analyze the facilities in each county that can serve as an alternate destination facility. The bill would require a local emergency medical services agency to annually report to the Emergency Medical Services Authority regarding the development of triage to alternate destination programs in its jurisdiction, as specified.

**Update since last report:** May 16, 2024: Held in Senate Committee on Appropriations.

**County Position:** No position taken yet  
**CBHDA Position:** No position taken yet

- [SB 1082](#), Augmented Residential Care Facilities (Eggman), Requires the State Department of Health Care Services, jointly with the County Behavioral Health Directors Association of California, to implement a certification program to provide augmented services to adults with serious mental illness in homelike community settings, and requires those settings to be licensed by the State Department of Social Services as a type of enhanced behavioral supports home known as an augmented residential care facility.

**Update since last report:** May 16, 2024: Held in Senate Committee on Appropriations.

**County Position:** No position taken yet  
**CBHDA Position:** No position taken yet

**Additional Resources (attached)**

- DMH Master Bill List