California Behavioral Health Planning Council

Legislation Committee Agenda

Tuesday, July 28, 2020
1:00 pm to 2:30 pm
WebEx
Meeting Link: https://dhcs.webex.com/dhcs/j.php?MTID=m844fabf2860e6e9a7683131602477a76
Meeting Number: 145 622 0091
Password: CBHPC
Join by Phone: (415) 655-0001 **Access Code:** 145 622 0091

1:00 pm	**Welcome and Introductions** *Gerald White, Chairperson*	
1:05 pm	**Legislative Update** *Naomi Ramirez, CBHPC Legislative Coordinator*	**Tab 1**
1:15 pm	**Public Comment**	
1:20 pm	**Legislation Committee Position List Review** *Naomi Ramirez, CBHPC Legislative Coordinator and All Members*	**Tab 2**
2:20 pm	**Wrap Up/Next Steps**	
2:25 pm	**Public Comment on Matters Not on the Agenda**	
3:00 pm	**Adjourn**	

The scheduled times on the agenda are estimates and subject to change.

Legislation Committee Members

Gerald White, Chairperson
Tony Vartan, Chair-Elect

Catherine Moore	Barbara Mitchell	Daphne Shaw	Marina Rangel
Deborah Starkey	Darlene Prettyman	Susan Wilson	Karen Baylor
Monica Caffey	Noel O'Neill	Veronica Kelley	Hector Ramirez
Iris Mojica de Tatum			

If reasonable accommodations are required, please contact the Council at (916) 750-1865 not less than 5 working days prior to the meeting date.

TAB 1

California Behavioral Health Planning Council
Legislation Committee
Tuesday, July 28, 2020

Agenda Item: Legislation Committee Position List Review

Enclosures: 2020 Legislation Committee Position List-**Decided**
CBHDA Final Fiscal Year 20-21 Budget Summary

How This Agenda Item Relates to Council Mission
The CBHPC evaluates the behavioral health system for accessible and effective care. It advocates for an accountable system of responsive services that are strength-based, recovery-oriented, culturally and linguistically competent, and cost-effective. To achieve these ends, the Council educates the public, the behavioral health constituency, and legislators.

The Council's 2020 Legislation Position List documents the Council's effort to advocate for an adequate behavioral health system and assist in educating the public, behavioral health constituency, and legislators on issues that impact individuals with Serious Mental Illness (SMI) and Serious Emotional Disturbances (SED).

Background/Description:

The *Legislative Positions-Decided List* has been updated to reflect the positions the Council has taken in 2020.

Naomi Ramirez, CBHPC Legislative Coordinator, will provide a brief update on the Council's legislative activities since the June meeting and the current status of the bills we have taken positions on.

2020 Legislative Positions-Decided

AB 8 (**Chu** D) **Pupil health: mental health professionals.**

Current Text: Amended: 5/16/2019 html pdf

Status: 7/8/2019-In committee: Hearing postponed by committee.

Location: 6/12/2019-Senate Health

Summary: Would require, on or before December 31, 2024, a school of a school district or county office of education and a charter school to have at least one mental health professional, as defined, for every 600 pupils generally accessible to pupils on campus during school hours. The bill would require, on or before December 31, 2024, a school of a school district or county office of education and a charter school with fewer than 600 pupils to have at least one mental health professional generally accessible to pupils on campus during school hours, to employ at least one mental health professional to serve multiple schools, or to enter into a memorandum of understanding with a county agency or community.

Position: Oppose unless amended (funding)

AB 1766 (**Bloom** D) **Licensed adult residential facilities and residential care facilities for the elderly: data collection: residents with a serious mental disorder.**

Current Text: Amended: 7/8/2020 html pdf

Status: 7/8/2020-From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on HUMAN S.

Location: 7/8/2020-Senate Human Services

Summary: Would require the State Department of Social Services to report to each county's department of mental health or behavioral health, beginning January 1, 2021, and quarterly thereafter, data regarding licensed adult residential facilities, as specified, including all licensed adult residential facilities for residents with a serious mental disorder, as defined, and the number of licensed beds at each facility. The bill would require the department, beginning May 1, 2021, and quarterly thereafter, to publicly report data regarding licensed adult residential facilities and residential care facilities for the elderly that closed permanently in the prior quarter, as specified.

Position: Support

AB 1938 (**Eggman** D) **Mental Health Services Act: inpatient treatment funding.**

Current Text: Amended: 5/4/2020

Status: Amended to Prescription drugs: 340B discount drug purchasing program (Low). Re-referred to Com. on APPR.

Location: 6/5/2020-A. DEAD

Summary: This bill would specify, to the extent MHSA funds are otherwise available for use pursuant to the act, those funds may be used to provide inpatient treatment, including involuntary treatment of a patient who is a danger to self or others or gravely disabled, in specified settings, including an acute psychiatric hospital, an institution for mental disease, and a mental health rehabilitation center, as defined. The bill would state that this change is declaratory of existing law.

Position: Oppose

AB 1976 (**Eggman** D) **Mental health services: assisted outpatient treatment.**

Current Text: Amended: 5/4/2020 html pdf

Status: 7/1/2020-Referred to Com. on HEALTH.

Location: 7/1/2020-Senate Health

Summary: The Assisted Outpatient Treatment Demonstration Project Act of 2002, known as Laura's Law, until January 1, 2022, authorizes each county to elect to offer specified mental health programs either through a resolution adopted by the county board of supervisors or through the county budget process if the county board of supervisors makes a finding that specified mental health programs will not be reduced as a result of

participating. Current law authorizes participating counties to pay for the services provided from moneys distributed to the counties from various continuously appropriated funds, including the Mental Health Services Fund, when included in a county plan, as specified. This bill would instead require a county or group of counties to offer those mental health programs unless a county opts out by a resolution passed by the governing body stating the reasons for opting out and any facts or circumstances relied on in making that decision.

Position: Oppose

AB 2015 (**Eggman** D) **Certification for intensive treatment: review hearing.**

Current Text: Amended: 5/20/2020 html pdf

Status: 6/23/2020-Referred to Com. on JUD.

Location: 6/23/2020-Senate Judiciary

Summary: Current law authorizes a peace officer or a professional designated by the county to take a person into custody for a period of up to 72 hours for assessment, evaluation, and crisis intervention, or placement for evaluation and treatment, when the person is a danger to self or others, or is gravely disabled, as a result of a mental health disorder. Current law also authorizes a court to order the evaluation of a person who is alleged to be a danger to self or others as a result of a mental disorder, or the evaluation of a criminal defendant who appears to be a danger to self or others, or to be gravely disabled, as a result of chronic alcoholism or the use of narcotics or restricted dangerous drugs. Current law requires that a certification review hearing be held, as specified, and governs the procedure for presenting evidence at the hearing. This bill would authorize the evidence presented in support of the certification decision to include information regarding the person’s medical condition and how that condition bears on certifying the person as a danger to themselves or to others or as gravely disabled. The bill would require the hearing officer to consider the information in the determination of probable cause.

Position: Oppose

AB 2112 (**Ramos** D) **Suicide prevention.**

Current Text: Amended: 7/15/2020 html pdf

Status: 7/15/2020-From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on HEALTH.

Location: 7/1/2020-Senate Health

Summary: Would authorize the State Department of Public Health to establish the Office of Suicide Prevention within the department, would require the office to perform specified

duties, including providing strategic guidance to statewide and regional partners regarding best practices on suicide prevention and reporting to the Legislature on progress to reduce rates of suicide, and authorize the office to apply for and use federal grants. The bill would require the office to consult with the Mental Health Services Oversight and Accountability Commission to implement suicide prevention efforts and would require the commission to transfer its suicide prevention contracts to the office, as prescribed.

Position: Support

SB 665 (**Umberg** D) **Mental Health Services Fund: county jails.**

Current Text: Amended: 8/30/2019 html pdf

Status: 6/18/2020-Referred to Com. on HEALTH.

Location: 6/18/2020-Assembly Health

Summary: Current law prohibits Mental Health Services Act (MHSA) funds from being used to pay for persons incarcerated in state prison or parolees from state prisons. The 2011 Realignment Legislation addressing public safety and related statutes, requires that certain specified felonies be punished by a term of imprisonment in a county jail, rather than the state prison, and provides for mandatory supervision, a period of suspended execution of a concluding portion of the sentence that is supervised by the county probation officer. This bill would, until January 1, 2023, authorize a county to use MHSA funds, if that use is included in the county plan, to provide services to persons who are incarcerated in a county jail or subject to mandatory supervision, except persons who are incarcerated in a county jail for a conviction of a felony unless for purposes of facilitating discharge.

Position: Oppose

SB 803 (**Beall** D) **Mental health services: peer support specialist certification.**

Current Text: Amended: 6/18/2020 html pdf

Status: 6/29/2020-Referred to Com. on HEALTH.

Location: 6/29/2020-Assembly Health

Summary: Current law establishes the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income persons receive health care benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Current law establishes a schedule of benefits under the Medi-Cal program and provides for various services, including behavioral and mental

health services that are rendered by Medi-Cal enrolled providers. This bill would establish a peer support specialist certification program administered by the department.

Position: Support

SB 1254 (**Moorlach** R) **Guardians ad litem: mental illnesses.**

Current Text: Amended: 5/6/2020 html pdf

Status: 5/29/2020-Failed Deadline pursuant to Rule 61(b)(5). (Last location was JUD. on 5/11/2020)

Location: 5/29/2020-Senate DEAD

Summary: Would establish an additional procedure for the appointment of a guardian ad litem for a person who lacks the capacity to make rational informed decisions regarding medical care, mental health care, safety, hygiene, shelter, food, or clothing with a rational thought process due to a mental illness, defect, or deficiency. The bill would authorize certain persons to petition the court for the appointment of a guardian ad litem under these provisions, and would establish the procedures that would govern the filing of a petition, its notice provisions, and court procedures. Under certain circumstances, the bill would require the court to appoint the public defender or private counsel to represent a person who is the subject of a petition.

Position: Oppose

REVISED July 16, 2020

To: CBHDA Members
From: CBHDA Staff
Subject: Summary of the Final Fiscal Year (FY) 20-21 State Budget

The following is a summary of the Final FY 20-21 State Budget deal and associated trailer bills.

The final budget withdraws many of the reductions proposed by the Governor in the May Revise, including some proposed reductions of concern to CBHDA. The final budget also includes some important investments that have been the focus of CBHDA's advocacy. In summary form, the final budget includes:

- A $1 billion Realignment backfill with $750 million in state General Fund and $250 million tied to the receipt of new flexible federal funds;
- Relief for counties from some Mental Health Services Act rules and requirements that have been difficult to meet under the current pandemic;
- Realigns the Division of Juvenile Justice to counties with a higher per youth payment level than originally proposed and defers without prejudice the proposal to eliminate Parole Outpatient Clinics;
- Significant investments to support Californians experiencing homelessness; and
- Preserves funding to implement the Family Urgent Response System (FURS).

Overall Budget Approach: Federal Trigger Cuts
Final FY 20-21 State Budget
The final negotiated budget adopts a modified federal trigger for various cuts. The Legislature had proposed that the state assume federal financial relief would be received and delay significant reductions until October. However, under the trigger adopted in the final budget reflected the Administration's proposal to implement cuts effective July 1, 2020 and restore those cuts if California receives more than $14 billion of flexible federal funding by October 15, 2020. The trigger reductions will impact higher education, the judiciary branch, housing production, K-12 education, and will be restored with one-time federal funds should additional federal relief materialize. In addition, if the $14 billion in federal funds are received, counties will receive an additional $250 million toward a realignment "backfill" of county losses from realignment sales tax revenue. The final budget includes $750 million in state General Fund (GF), not tied to the trigger, to backfill realignment, discussed in more detail below. If the

federal funding is more than $2 billion but less than the anticipated $14 billion, funding will be proportionally allocated to the items included in the trigger.

Priority Behavioral Health Budget Issues

1991 and 2011 Realignment – Realignment revenues are projected to decline by 13% from 2018-19 to 2019-20 and remain at this lower level in the foreseeable future. This decline represents a loss of approximately $710 million to behavioral health in the current and budget year. Because Realignment resources are often leveraged to draw down federal funds, CBHDA estimates counties would lose approximately $1 billion in Realignment funds absent any additional allocations.

Final FY 20-21 State Budget: The budget includes $750 million in state GF to backfill revenue losses for all realigned programs, across health and human services. Budget bill language specifies that "in utilizing these funds, counties shall *prioritize support for health and human services,* *entitlement programs*, and programs that serve vulnerable populations." An additional $250 million would be available for this purpose if additional federal funds are secured, as discussed above.

As directed by the budget bill (AB 89/SB 121), the Department of Finance, in consultation with the California State Association of Counties, developed a countywide allocation schedule to distribute the funding. County behavioral health agencies will receive approximately 23 percent of these funds, $173.5 million out of the $750 million state GF. If California secures the additional requested federal relief funds, county behavioral health agencies will receive an additional $57.5 million.

Receipt of the backfill is conditioned on compliance with public health conditions and monthly attestations, including the following three general elements.

1. Meeting the contact tracing staffing level that is currently required for a county variance to the state public health order.
2. Meeting the currently required commitment to actively participate in the State's County Data Monitoring Program.
3. Not adopting any ordinances/resolutions or taking any actions that are inconsistent with the state's stay-at-home order.

Mental Health Services Act (MHSA) – Because of the economic downturn, CBHDA is projecting a 19% decrease in realignment from the MHSA funding level in FY 18-19 to FY 22-23. To support county behavioral health in maximizing the effectiveness of MHSA, a coalition of behavioral health stakeholders asked the Legislature and the Administration to allow temporary flexibility in specific MHSA requirements in response to the COVID-19 related circumstances, including allowing immediate access to prudent reserves, extending deadlines for submissions of three year plans and allowing funds subject to reversion to be used to fill funding gaps.

Final FY 20-21 State Budget: The final budget recognized the COVID-19 disruptions that put MHSA resources in jeopardy at a time when county behavioral health agencies desperately need these funds to address rising mental health needs. The MHSA budget trailer bill allows counties to access prudent reserves in FY 20-21. In addition to providing timely access to prudent reserves to help offset losses, the MHSA budget trailer bill (AB 81), safeguards MHSA resources by retaining mental health funds subject to reversion on July 1, 2019 and July 1, 2020. These funds will be safeguarded until July 1, 2021. The bill extends mandatory deadlines for MHSA Three-Year plan approvals and updates interrupted by shelter-in-place orders and mandates prohibiting convenings. These plans and updates will now be due at the end of the next fiscal year. Finally, AB 81 provides important flexibility in expending MHSA resources across different MHSA programs by allowing flexibility in the amount of Community Services and Support (CSS) funds allocated to Full Service Partnerships to ensure counties can more easily respond to the rising mental health pandemic.

CBHDA will advocate for the remaining requests for relief (agreed to by the coalition of behavioral health stakeholders) if the Legislature and the Administration revisit the budget. The relief not provided in the bills referenced above include: the ability to use Innovations funds and any funds subject to reversion that were safeguarded, as discussed above, to fund CSS and/or Prevention and Early Intervention programs.

CalAIM – In October 2019, the Department of Health Care Services (DHCS) released a broad set of Medi-Cal reform proposals that now are collectively referred to as CalAIM (California Advancing and Innovating Medi-Cal). CalAIM is intended to provide more comprehensive benefits and services to high-risk and high-cost populations and streamline and standardize Medi-Cal benefits and administration. The CalAIM proposal also addresses the upcoming expiration of the state's 1115 and 1915(b) waivers. The Governor's May Revision proposed to delay implementation of the CalAIM initiative, resulting in a decrease of $695 million ($347.5 million GF) in 2020-21. In addition, the May Revision removes $45.1 million GF in 2020-21 and $42 million GF in 2021-22 in associated funding for the Behavioral Health Quality Improvement Program.

Final FY 20-21 State Budget: Adopts Governor's May Revision proposal to delay CalAIM**.**

Medi-Cal: Reimbursement to the Federal Government for Claiming – DHCS has discovered that it has been inappropriately claiming federal funds (FF) for ineligible beneficiaries across all Medi-Cal programs. California provides full-scope Medi-Cal services to qualified immigrants and other immigrant groups ineligible for federal matching funds for non-emergency services. For decades, DHCS claiming systems have mistakenly secured federal match for these populations. The state is required to return the federal funding to the federal government and is seeking to collect these federal funds for a certain number of years. DHCS has estimated the amount of funding that must be returned, the portion that is the responsibility of the counties, the portion that is the responsibility of the state. The Administration proposes for FY 2020-21, both state and counties' portions of the federal reimbursement will be paid with $148.5 million GF. In DHCS' budget estimate document, it states that counties are expected to reimburse the GF for their portion of the retroactive and

ongoing claims adjustments beginning in FY 2021-22, but the budget does not address future years.

Final FY 20-21 State Budget: Adopts Governor's May Revision proposal to pay for both state and county portions in 2020-21 with state GF.

Medi-Cal: Behavioral Health Rates - The May Revision includes the waiver of the interim rate setting methodology for Specialty Mental Health, Drug Medi-Cal (DMC) and DMC-Organized Delivery System to temporarily allow interim rates to be revised. Due to COVID-19, counties initially experienced a significant decrease in utilization with certain outpatient services, resulting in increased costs per unit of service. To account for the higher cost per unit of service and to help counties, DHCS is allowing for increases in interim reimbursement rates for these services. The Administration proposes an increase of $135.3 million ($13 million GF and $122 million FF) in 2019-20 and $77.7 million ($7.7 million GF and $70 million FF) in 2020-21 to reimburse at the higher rates.

Final FY 20-21 State Budget: Adopts Governor's May Revision proposal.

Medi-Cal: Postpartum Mental Health Expansion – The 2019 Budget Act included an extension of the pregnancy-only Medi-Cal coverage for up to 12 months after delivery for patients diagnosed with a maternal mental health condition. The May Revision proposed to eliminate the Postpartum Mental Health Expansion in Medi-Cal for a $45.8 million GF savings.

Final FY 20-21 State Budget: Restores $34.3 million General Fund to implement the extension of pregnancy-only Medi-Cal coverage for up to 12 months after delivery for patients diagnosed with a maternal mental health condition, as approved through the 2019 budget.

Medi-Cal: Proposition 56 – Proposition 56, tobacco tax revenue, currently funds supplemental payments to various Medi-Cal providers including payments for physician services, dental services, women's health services, family planning, and developmental screenings. It also funds physician and dentist loan repayment, the Behavioral Health Integration Program, Pediatric Hospital Payments and the Value-Based Payment program. The May Revision proposed to eliminate nearly all supplemental payments to Medi-Cal providers supported by Proposition 56.

Final FY 20-21 State Budget: Rejects the May Revise proposal to eliminate $1.2 billion in Proposition 56-funded supplemental payments to various Medi-Cal providers, but suspends these payments (with the exception of women's health services) on July 1, 2021 unless specified state fiscal conditions exist.

Federal Matching Assistance Percentage (FMAP) - The federal Families First Coronavirus Response Act (FFCRA) increases the FMAP on regular Medicaid 50-percent expenditures by 6.2 percentage points and the Children's Health Insurance Program (CHIP) FMAP by 4.34

percentage points beginning in January 2020 through the last day of the calendar quarter in which the national public health emergency ends. The Administration proposed a decrease of $4.9 billion General Fund (on a cash basis), associated with the assumed receipt of an enhanced Federal Medical Assistance Percentage (FMAP) from January 1, 2020 through June 30, 2021.
Final FY 20-21 State Budget: Adopts Governor's May Revision proposal.
Mental Health Services Oversight and Accountability Commission
Final FY 20-21 State Budget: Authorizes up to $4.02 million to the Mental Health Services Oversight and Accountability Commission to encumber or spend by June 30, 2022. Allocates $2 million to support suicide prevention efforts consistent with the Commission's Suicide Prevention Strategic Plan, "Striving for Zero," and in consultation and coordination with the Department of Public Health and DHCS. The remaining $2.02 million is available to support innovative approaches, in partnership with counties and other entities, to address mental health needs resulting from the COVID-19 pandemic.
Other Behavioral Health Issues
Counselors in Emergency Departments - The 2019 Budget Act included funding for behavioral health counselors in emergency departments. The Administration proposed to revert and reduce funding for the counselors for a savings of $20 million GF.
Final FY 20-21 State Budget: Rejects the Administration's proposal to revert the funds.
Screening, Brief Intervention, and Referral to Treatment (SBIRT) for Opioids and Other Drugs - The 2019 Budget Act included funding for SBIRT for Opioids and other drugs. The Administration proposed to eliminate funding for SBIRT for opioids and other drugs, adopted in the 2019 Budget Act for a savings of $466,000
Final FY 20-21 State Budget: Rejects the May Revise proposal to eliminate $466,000 General Fund for SBIRT for opioids and other drugs, as adopted in the 2019 Budget Act.
Family Mosaic Project - This program manages children diagnosed with emotional disturbance who are at risk for out-of-home placement, it is state-funded and based in San Francisco. The Administration proposes to eliminate funding for the Family Mosaic Project, for a GF savings of $1.1 million.

Final FY 20-21 State Budget: Rejects the May Revise proposal to eliminate $1.1 million General Fund for the Family Mosaic Project.
Medication Assisted Treatment – The Administration proposed trailer bill language to provide statewide reimbursement to all State Plan Drug Medi-Cal certified providers for the provision of Medication Assisted Treatment services to treat opioid use disorders. Currently, reimbursement is only allowed for methadone and naltrexone. This language would allow reimbursement for all FDA-approved medication for the treatment of opioid use disorders, as well as counseling services and behavioral therapy pursuant to the requirements of the federal SUPPORT for Patients and Communities Act.
Final FY 20-21 State Budget: Adopts Governor's proposed trailer bill language.
Criminal Justice
Integrated Services for Mentally Ill Parolees (ISMIP) – The ISMIP program provides wrap around full service partnership level of care to parolees living with a serious mental illness in 8 counties.
Final FY 20-21 State Budget: Eliminates the Integrated Services for Mentally Ill Parolee Program and proposes to adjust policies to connect individuals with community resources, resulting in $8.1 million GF savings in FY 20-21 and $16.3 million ongoing GF.
Parole Outpatient Clinics (POC) – These clinics provide specialty clinical case management and medication management to parolees living in the community.
Final FY 20-21 State Budget: Defers without prejudice the proposal to eliminate Parole Outpatient Clinics.
Division of Juvenile Justice Realignment
Final FY 20-21 State Budget: Sets aside $9.6 million in FY 20-21, $24.7 million in FY 21-22, $22.9 million in FY 22-23, and $12.1 million in FY 23-24 to support the realignment of the Division of Juvenile Justice. Funding per youth increased to $250,000 per youth and defers the beginning of the Realignment until July 1, 2021.
Parole Sentence Length

Final FY 20-21 State Budget: Persons released from state prison on or after July 1, 2020 would serve a parole term of two years for a determinate sentence and a parole term of three years for a life term. The budget also requires a person released on parole to be reviewed by the Division of Adult Parole Operations for possible discharge from parole 12 months after release from incarceration. The budget exempts those convicted of sex offenses and those whose parole term was less than two years based on the convicted offense.

Homelessness Funding

Project Roomkey - CARES Act Funding

Final FY 20-21 State Budget:

- Approves $550 million through the Department of Housing and Community Development for acquisition or acquisition and rehabilitation of motels, hotels, or hostels; master leasing of properties; acquisition of other sites and assets; conversion of units from nonresidential to residential in a structure with a certificate of occupancy as a motel, hotel, or hostel; purchase of affordability covenants and restrictions for units; and the relocation costs for individuals who are being displaced as a result of rehabilitation of existing units. Adopts placeholder trailer bill to implement project room key. Requires funding to be in compliance with Housing First Principles.

- Provides $50 million for Project Room Key for acquisition and operating subsidies.

- Requires funds from the Coronavirus Relief Fund to provide housing for individuals and families who are experiencing homelessness or who are at risk of homelessness be disbursed in accordance with the Multifamily Housing Program (commonly known as Project Key), including grants to cities, counties, and other local public entities for the following:
    - Acquisition or rehabilitation of motels, hotels, or hostels.
    - Master leasing of properties.
    - Acquisition of other sites and assets, including purchase of apartments or homes, *adult residential facilities, residential care facilities for the elderly*, manufactured housing, and other buildings with existing residential uses that could be converted to permanent or interim housing.
    - Conversion of units from nonresidential to residential in a structure with a certificate of occupancy as a motel, hotel, or hostel.
    - The purchase of affordability covenant and restrictions for units.
    - Relocation costs for individuals who are being displaced as a result of rehabilitation of existing units.
    - Capitalized operating subsidies for units purchased, converted, or altered with funds provided by this section.

- Provides a CEQA exemption for Project Room Key projects if all of the following requirements, if applicable, are satisfied:
    - No units were acquired by eminent domain.
    - The units will be in decent, safe, and sanitary condition at the time of their occupancy.

- The project proponent shall require all contractors and subcontractors performing work on the project to pay prevailing wages for any rehabilitation, construction, or alternations.
- The project proponent obtains an enforceable commitment that all contractors and subcontractor performing work on the project will use a skilled and trained workforce for any rehabilitation, construction, or alterations.
- The project proponent submits to the lead agency a letter of support from a county, city, or other local public entity for any rehabilitation, construction, or alteration work.
- Any acquisition is paid for exclusively by public funds.
- The project provides housing units for individuals and families who are experiencing homelessness or who are at risk of homelessness.
- Long term covenants and restriction require the units to be restricted to persons experiencing homelessness or who are at risk of homelessness, which may include lower income, and very low income households, for no fewer than 55 years.
- The project does not increase the original footprint of the project structure or structures by more than 10 percent. Any increase to the footprint of the original project structure or structures shall be exclusively to support the conversion to housing for the designated population.
- Provides permitting and streamlining for Project Room Key

CARES Act Funding for Counties

Final FY 20-21 State Budget: $1.289 billion to counties to be used for homelessness, public health, public safety, and other services to combat COVID-19 pandemic.

- Allocated based on the share of each county's population relative to the total population of the state while considering prior direct allocation of funding from Federal CARES Act.
- Budget control language includes behavioral health as an eligible use.

Homelessness Funding

Final FY 20-21 State Budget: Adopts an additional $300 million for Round 2 of the Homeless Housing Assistance Prevention (HHAP) program as follows:

- $90 million to Continuums of Care (CoC)
- $130 million to each city, or city that is also a county that has a population of 300,000 or more as of January 1, 2020.
- $80 million to counties

Includes a more robust application process for Round 2 of the HHAP program as well as additional reporting requirements.

Adult Residential Facility Closure Requirements

Final FY 20-21 State Budget: A licensee of an adult residential facility or a residential care facility for the elderly shall inform the city and county in which the facility is located of a proposed closure, including whether the licensee intends to sell the property or business, no later than 180 days before its proposed closure, or as soon as practicably possible.

Children/Youth and Behavioral Health

California Department of Social Services - The May Revision includes $32.1 billion ($13 billion GF) for CDSS programs in 2020-21. Child Welfare Services include family support and maltreatment prevention services, child protective services, foster care services, and permanency programs. California's child welfare system provides a continuum of services for children who are either at risk of, or have suffered, abuse, neglect, or exploitation.

Final FY 20-21 State Budget: Family Urgent Response System (FURS) - Rejects the Governor's May Revision proposal to eliminate the Family Urgent Response System (FURS), that would have resulted in a cut of $30 million GF for FY 20-21 and approves trailer bill language in an effort to expedite implementation. Reverts $15 million GF for FY 19-20, which does not have a material effect on the FY 20-21 expected implementation.

The statewide hotline may operate sooner than January 1, 2021, or prior to the date that each county has created a county mobile response system, upon notification from each county to the Department of Social Services that the county either has established a county mobile response system pursuant to FURS or has an alternative method to accept and respond to referrals from the statewide hotline pending the establishment of the county mobile response system. Permits county-based mobile response systems to be temporarily adapted to address circumstances associated with COVID-19, consistent with the Governor's Proclamation of a State of Emergency, issued on March 4, 2020. Permits a county to establish a mobile response system, or an alternative method to accept and respond to referrals from the statewide hotline, pending the establishment of the county mobile response system, prior to January 1, 2021, in order to facilitate the early operation of the statewide hotline. Implementation of this program will be suspended on December 31, 2021, subject to the terms of the suspension policy as specified in statute.

Final FY 20-21 State Budget: Foster Family Agency Rates - Rejects the Governor's May Revision proposal to eliminate the Foster Family Agency social worker rate increases in FY 20-21, which would have resulted in a cut of $4.8 million GF, with trailer bill language that allows for this cost to be backfilled by federal funds resulting from a time study that will produce additional federal financial participation

Final FY 20-21 State Budget: STRTP Provider Rates - Rejects the Governor's May Revision proposal to cut rates by five percent for Continuum of Care Reform (CCR) short-term residential treatment program providers and assume a suspension of additional level of care rates 2 through 4, which would have together resulted in a cut of $28.8 million GF in FY 20-21. Rejects associated trailer bill proposals.

Final FY 20-21 State Budget: Child and Family Teams - Approves the Governor's May Revision proposal to provide $2.6 million GF to reflect Continuum of Care Reform true-up related to county Child and Family Teams actual expenditures for FYs 16-17 and 17-18. Additionally approves $80 million GF for Resource Family Approval county costs as a true-up.

Department of Developmental Services

Final FY 20-21 State Budget: Treatment Training - Approves a delay during FY 20-21 of the Systemic, Therapeutic, Assessment, Resources and Treatment Training for services to individuals with co-occurring developmental disabilities and mental health needs that was proposed in the Governor's January Budget, for a savings of $2.6 million GF in FY 20-21 only.

K – 12 Education

Final FY 20-21 State Budget: The final budget Allocates $5.53 billion in discretionary federal funds and GF for one-time COVID closure impacts on schools and children. This includes $1.5 billion to all local education agency (LEA), based on special education enrollment for learning loss; $980 million based on local control funding formula (LCFF) for learning loss to all LEAs; $112.2 million for LEA school meal reimbursements during summer and COVID closures, $45 million for existing Community School models.

Defines distance learning requirements on a LEA-wide or schoolwide basis for pupils who are medically fragile, at-risk from in-person instruction, or quarantining due to exposure to COVID-19. Instructional requirements are defined for vulnerable student populations such as, students in foster care, English language learners, those experiencing homelessness *or in need of mental health support*.

Allows Special Education Local Plan Area state funding for education-related mental health services to provide the following services:
(1) Out-of-home residential services for emotionally disturbed pupils.
(2) Counseling and guidance services, including counseling, personal counseling, and parental counseling and training.
(3) Psychological services.
(4) Social work services.
(5) Behavioral interventions.
(6) Any other mental health-related service not necessarily required by the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

Appropriates $200,000 for the Young People's Taskforce, under the leadership of the State Superintendent, to address mental health and public safety culture on school campuses.

Higher Education

Final FY 20-21 State Budget: Provides $120 million one-time Proposition 98 GF and federal funding to support a basic needs/learning loss/COVID 19 response block grant to colleges to support mental health services, housing and food insecurity, re-engagement for students who left college in Spring 2020.

Other Major Medi-Cal Proposals

Full-Scope Medi-Cal for Undocumented Seniors – In his Administration's January budget proposal, Governor Newsom proposed expanding full-scope Medi-Cal coverage to all low-income seniors regardless of immigration status.

Final FY 20-21 State Budget: Adopts trailer bill that requires that undocumented seniors be prioritized for inclusion as eligible for full scope Medi-Cal in the budget for the upcoming fiscal year, if the Department of Finance projects a positive ending balance in the Special Fund for Economic Uncertainties, for the upcoming fiscal year, and if other requirements are met.

Medi-Cal Coverage for Low-Income Seniors – Under the Affordable Care Act (ACA), most uninsured adults under age 65 with incomes up to 138 percent federal poverty level (FPL) became Medi-Cal eligible, but the ACA Medicaid expansion does not cover adults 65 and over. In California, the Aged and Disabled Medi-Cal program provides low-income seniors and persons with a disability access to comprehensive Medi-Cal coverage. The Aged and Disabled Medi-Cal program covers seniors and persons with a disability with incomes up to approximately 124 percent FPL ($15,613 annual income for an individual). Above this income level, seniors pay a monthly out-of-pocket amount (share of cost), similar to a health insurance deductible, before Medi-Cal coverage begins. Whereas similarly situated non-seniors can access Medi-Cal at no cost. This is known as the "senior penalty." Last year's budget extended no-cost Medi-Cal eligibility to an estimated 27,000 seniors up to 138 percent FPL, removing the senior penalty.

Final FY 20-21 State Budget: In the May Revise, the Administration proposed reinstating the senior penalty. This proposal is rejected in the final budget.

Medi-Cal Optional Benefits for Adults – The following services are some of the Medi-Cal benefits that a state can choose to cover and receive federal match to provide: audiology, incontinence creams and washes, speech therapy, podiatry, optical lab/optician services, acupuncture, optometry, nurse anesthetists, occupational therapy, and physical therapy.

Final FY 20-21 State Budget: The Administration proposed eliminating various optional benefits in the May Revise. The final budget rejects this proposal and restores the funding for all Medi-Cal optional benefits.

Community-Based Adult Services (CBAS) and Multipurpose Senior Services Program (MSSP)
Final FY 20-21 State Budget: The Administration proposed eliminating CBAS and MSSP in the May Revise. The final budget rejects this proposal and restores the funding for these programs.
Medi-Cal Managed Care Capitation Rates
Final FY 20-21 State Budget: Approves and modifies the Administration's May Revise proposal to adjust managed care capitation payments for the period of July 2019 to December 2020, by lowering the gross medical expense portion of the capitation payments for this period due to anticipated lower costs and utilization related to the pandemic, and to implement other efficiencies, while rejecting proposed policies that would result in reduced funding to hospitals, for total savings of $243.4 million GF.

TAB 2

California Behavioral Health Planning Council
Legislation Committee
Tuesday, July 28, 2020

Agenda Item: Legislation Committee Position List Review

Enclosures: CBHPC Policy Platform
2020 Legislation Committee Position List-**Pending**
AB 2377 Fact Sheet
AB 2576 Fact Sheet
SB 1259 Fact Sheet

How This Agenda Item Relates to Council Mission

The CBHPC evaluates the behavioral health system for accessible and effective care. It advocates for an accountable system of responsive services that are strength-based, recovery-oriented, culturally and linguistically competent, and cost-effective. To achieve these ends, the Council educates the public, the behavioral health constituency, and legislators.

The Council's 2020 Legislation Position List documents the Council's effort to advocate for an adequate behavioral health system and assist in educating the public, behavioral health constituency, and legislators on issues that impact individuals with Serious Mental Illness (SMI) and Serious Emotional Disturbances (SED).

Background/Description:

The Policy Platform is also enclosed for your reference, as requested by members.

Naomi Ramirez, CBHPC Legislative Coordinator, will facilitate the discussion of the bills on the attached *Legislative Positions-Pending List*, which includes up to date information. The bill number in the list is a direct link to the current version of the full bill. Members are encouraged to review the bills and included fact sheets prior to the meeting in an effort to address as many bills as possible.

Requested Action: Discuss and potentially take positions on legislation listed on the Pending List.

Policy Platform

The California Behavioral Health Planning Council (CBHPC) is mandated by federal and state statutes to advocate for children with serious emotional disturbance and their families and for adults and older adults with serious mental illness; to review and report on outcomes for the public mental health system; and to advise the Department of Health Care Services and the Legislature on policies and priorities the state should pursue in developing its mental health and substance use disorder systems.

MISSION

To review, evaluate and advocate for an accessible and effective behavioral health system.

VISION

A behavioral health system that makes it possible for individuals to lead full and purposeful lives.

GUIDING PRINCIPLES

Wellness and Recovery: Wellness and recovery may be achieved through multiple pathways that support an individual to live a fulfilled life and reach their full potential.

Resiliency Across the lifespan: Resilience emerges when individuals of all ages are empowered and supported to cope with life events.

Advocacy and Education: Effective advocacy for policy change statewide starts with educating the public and decision makers on behavioral health issues.

Consumer and Family Voice: Individuals and family members are included in all aspects of policy development and system delivery.

Cultural Humility and Responsiveness: Services must be delivered in a way that is responsive to the needs of California's diverse populations and respects all aspects of an individual's culture.

Parity and System Accountability: A quality public behavioral health system includes stakeholder input, parity and performance measures that improve services and outcomes.

INTRODUCTION

The purpose of the Policy Platform is to outline CBHPC's perspectives on priority issues and legislation to effectively advocate for access to timely and appropriate care to improve the quality of life for persons with serious mental illness/emotional disturbance, including those dually diagnosed with substance use disorders. The Platform is intended to be used by staff to identify legislation of interest to the Council and inform stakeholders of the Council's perspective on priority policy areas. All aspects of the guiding principles are considered in the positions the Council takes.

The perspective of the Council on overarching behavioral health issues, as well as priority policy areas are outlined in the sections below.

OVERARCHING BEHAVIORAL HEALTH PRINCIPLES

1. Reduce and eliminate stigma and discrimination.
2. Augment behavioral health funding, consistent with the principles of least restrictive care and adequate access, and oppose any cuts.
3. Promote the principles of the Mental Health Master Plan.
4. Promote appropriate services to be delivered in the least restrictive setting possible.
5. Support the mission, training and resources for local behavioral health boards and commissions.
6. Encourage the quality of the stakeholder process, improves the participation of consumers and family members, and fully represents the racial/cultural and age demography of the targeted population.
7. Uphold the principles and practices of the Mental Health Services Act.

PRIORITY POLICY AREAS

PATIENT RIGHTS

The Council is mandated to monitor and report on the access, depth, sufficiency, and effectiveness of advocacy services provided to psychiatric patients. Additionally, to advise the directors of CA Department of State Hospitals and CA Department of Health Care Services on policies and practices that affect patients' rights at the county and state-level public mental health system provider sites.

The Patient's Rights committee is currently focused on the rights of psychiatric patients in county jails.

SUPPORT

1. Consistent application of WIC Sections regarding the duties of Patients' Rights Advocates, especially WIC sections 5150, 5151, and 5152.
2. Attaining information from Patients' Rights Advocates on activities, procedures and priorities.
3. Informing local Mental Health Boards on the duties of Patients' Rights Advocates.
4. Addressing the ratio of Patients' Rights Advocates to the general population.
5. Effective training for Patient's Rights Advocates.
6. Whistleblower protections for all Patient's Rights Advocates.

BEHAVIORAL HEALTH SYSTEM ACCOUNTABILITY AND EVALUATION

The Planning Council is mandated in state law to review and report on the public mental health system, to advocate for adults and older adults with serious mental illnesses and children and youth with serious emotional disturbances and their families, and to make recommendations regarding mental health policy development and priorities. This duty includes the following:

- Reviewing, assessing, and making recommendations regarding all components of the mental health and substance use disorder systems.
- Reviewing and approving performance indicators.
- Reviewing and reporting annually on the performance of mental health and substance use disorder programs based on data from performance indicators.
- Periodically reviewing the State's data systems and paperwork requirements to ensure they are reasonable.

The Performance Outcomes Committee surveys all counties annually through the Data Notebook. The theme of each notebook is determined by members and the information collected is intended to assist in closing the gaps on data and support the work of the Council.

SUPPORT

1. Require increased use and coordination of data and evaluation processes at all levels of behavioral health services.
2. Adequate funding of evaluation of mental/behavioral health services.

HOUSING AND HOMELESSNESS

The Council actively engages with stakeholder organizations to influence policy and ensure access to programs by homeless individuals who are served by the public behavioral health system. The Council also advocates on legislation and regulatory matters related to the housing crisis in California and funding and programs to serve persons who have mental illness and are homeless.

The Housing and Homelessness Committee intends to monitor, review, evaluate and recommend improvements in the delivery of housing services and addressing the state's homeless population. The committee intends to highlight and recognize outstanding service delivery programs, so that effective programs can be duplicated and shared throughout the state of California. Existing efforts for this committee's consideration include: Housing First Policy, No Place Like Home (NPLH), Homeless Coordinating and Financing Council (HCFC) and Mental Health Service Act (MHSA) Housing Program. Additionally, the committee is leading the Council's efforts in addressing the current crisis with Adult Residential Facilities.

SUPPORT

1. Lowering costs by eliminating duplicative, unnecessary, or ineffective regulatory or licensing mechanisms of programs or facilities.
2. Development of housing subsidies and resources so that housing is affordable to people living on Social Security Income (SSI)/Social Security Disability Insurance (SSDI) and people with similar limited incomes.
3. Expanding affordable housing and affordable supportive housing.
4. Initiative/policies to mitigate "Not In My Back Yard" (NIMBY) and restrictions on housing and siting facilities for providing behavioral health services.

WORKFORCE AND EMPLOYMENT

The Welfare and Institution Code provides the Council with specific responsibilities in to advise the Office of Statewide Health Planning and Development (OSHPD) on education and training policy development and also to provide oversight for the development of the Five-Year Education and Training Development (WET) Plan, as well as review and approval authority of the final plan.

The Workforce and Employment Committee works closely with OSHPD staff to provide input, feedback and guidance and acts as the conduit for presenting information to the full Council membership as it relates to its responsibilities set in law. Additionally, the committee leads efforts to secure funding for the WET plan. Aside from the activities related to the WET Plan,

the committee is focused on addressing the employment of individuals with psychiatric disabilities.

SUPPORT

1. Expand employment options for people with psychiatric disabilities, particularly processes that lead to certification and more professional status and establish stable career paths.
2. Address the human resources problem in the public behavioral health system with specific emphasis on increasing cultural diversity in efforts to reduce disparities and promote the employment of consumers and family members.

BEHAVIORAL HEALTH SYSTEM/CONTINUUM OF CARE

The Council is statutorily required to advocate for timely access and continuity of care for persons with SMI and SED, addressing all levels of care from acute care to recovery of vocation and functionality across the lifespan. The Council's membership includes the voice of consumers and family members in its statewide policy development. In addition to the federal planning duties, state law mandates additional responsibilities and duties that include:

- Advising the Legislature, Department of Health Care Services, and county boards on mental health and substance use disorder issues and the policies and priorities that this state should be pursuing.
- Make recommendations to the Department on awarding grants to county programs to reward and stimulate innovation
- Advise the Director on the development of the State mental health plan and its priorities.
- Conduct public hearings on the State mental health plan, Community Mental Health Services Block Grant, and on other topics as needed.

The Systems and Medicaid Committee is currently focused on the upcoming expiration of the 1115 and 1915(b) Waivers which provide the bulk of California's Medicaid Infrastructure. The Committee's activities include exploring options for the future system, engaging with various behavioral health stakeholders, and soliciting input to develop recommendations for the Department of Health Care Services. Additionally, the Committee is interested in promoting collaboration with areas of intersection with behavioral health and other systems including:

- Physical Health Care
- Child Welfare
- Juvenile Justice
- Criminal Justice
- Education
- Developmental Disabilities
- Vocational Rehabilitation
- Employment

SUPPORT

1. Promote the integration of mental health, substance use disorders and physical health care services.
2. Safeguard behavioral health care parity and ensuring quality behavioral health services in health care reform.
3. Provide comprehensive health care and improved quality of life for people living with mental illness, and oppose any elimination of health benefits for low income beneficiaries, and advocate for reinstatement of benefits that have been eliminated.
4. Reduce disparities and improving access to behavioral health services, particularly to unserved, underserved populations, and maintain or improve quality of services.
5. Reduce the use of seclusion and restraint to the least extent possible.

2020 Legislative Positions-Pending

AB 2377 (**Chiu** D) **Adult residential facilities: closures and resident transfers.**

Current Text: Amended: 7/7/2020 html pdf

Status: 7/9/2020-In committee: Hearing postponed by committee.

Location: 7/1/2020-Senate Human Services

Summary: Among other provisions, current law requires a residential care facilities for the elderly (RCFE), if 7 or more residents of the facility will be transferred as a result of the forfeiture of a license or the change in the use of a facility, to submit a proposed closure plan for the affected residents to the State Department of Social Services for review, and requires the department to approve or disapprove the plan.Current law requires an RCFE to refund to a resident any paid preadmission fees, according to a prescribed schedule. Current law imposes civil penalties for a violation of these requirements by an RCFE, of $100 per violation per day. This bill would establish similar procedures and requirements for an adult residential facility transferring a resident of the facility to another facility or to an independent living arrangement as a result of the forfeiture of a license or a closure of the facility for another reason.

AB 2576 (**Gloria** D) **Mental health.**

Current Text: Amended: 6/8/2020 html pdf

Status: 7/1/2020-Referred to Com. on HEALTH.

Location: 7/1/2020-Senate Health

Summary: Under the MHSA, funds are distributed to counties for local assistance, and

must be spent for their authorized purpose within 3 years or revert to the state to be deposited into the fund to be reallocated to other counties for the purposes for which the unspent funds were initially allocated to the original county. The MHSA permits amendment by the Legislature by a 2/3 vote of each house if the amendment is consistent with, and furthers the intent of, the MHSA, and also permits the Legislature to clarify procedures and terms of the MHSA by majority vote. This bill would require a county to develop a plan for the utilization of the reallocated funds with the input of specified stakeholders and to conduct a local review process. The bill would require that consideration be given to using the reallocated funds to provide services to individuals with mental illness who are also experiencing homelessness or who are involved in the criminal justice system and to provide early intervention services to youth.

AB 3242 (**Irwin** D) **Mental health: involuntary commitment.**

Current Text: Amended: 5/20/2020 html pdf

Status: 6/23/2020-Referred to Com. on HEALTH.

Location: 6/23/2020-Senate Health

Summary: The Lanterman-Petris-Short Act authorizes the involuntary commitment and treatment of persons with specified mental health disorders for the protection of the persons so committed. Under the act, if a person, as a result of a mental health disorder, is a danger to others, or to themselves, or is gravely disabled, the person may, upon probable cause, be taken into custody for a period of up to 72 hours for assessment, evaluation, and crisis intervention, or placement for evaluation and treatment. Current law requires persons providing the evaluation services to be properly qualified professionals, and authorizes those professionals to provide telehealth evaluation services. Current law also provides immunity from civil and criminal liability for similar detention by specified licensed general acute care hospitals, licensed acute psychiatric hospitals, licensed professional staff at those hospitals, or any physician and surgeon providing emergency medical services in any department of those hospitals if various conditions are met. This bill would authorize an examination, assessment, or evaluation specified, required, or authorized by the above-mentioned provisions to be conducted using telehealth or other audio-visual technology.

SB 1259 (**Hurtado** D) **Licensed adult residential facilities and residential care facilities for the elderly: SSI/SSP recipients: report.**

Current Text: Amended: 6/18/2020 html pdf

Status: 7/9/2020-July 20 hearing postponed by committee.

Location: 6/29/2020-Assembly Human Services

Summary: Would require the State Department of Social Services to establish a task force for the purpose of issuing a report, on or before January 1, 2023, that includes recommendations on how to meet the housing and care needs of recipients of SSI/SSP benefits. The bill would require the task force to, in the report, assess the unmet demand for licensed adult residential facility and residential care facility for the elderly placements for SSI/SSP recipients within each county and recommend how to build capacity of placements to those facilities for SSI/SSP recipients, among other things. The bill would also make related findings and declarations. The bill would require the department to update the Legislature on its progress in developing the report during the 2021–22 and 2022–23 budget process, as specified.

ASSEMBLY BILL 2377 (CHIU)

ADULT RESIDENTIAL FACILITIES CLOSURE ACT

SUMMARY

This bill reduces the risk of homelessness for vulnerable residents of board and care facilities by creating more stringent closure requirements for Adult Residential Facilities.

BACKGROUND

Adult Residential Facilities (ARF) and Residential Care Facilities for the Elderly (RCFE), commonly referred to as “Board and Cares”, offer supportive residential living for individuals who are no longer able to live safely and independently. ARFs are licensed to serve individuals ages 18-59; RCFEs are licensed to serve older adults age 60 years and older.

THE PROBLEM

Throughout the State, these facilities are closing at an alarming rate, with San Francisco alone having lost 43 facilities between 2012 and 2019 (a nine percent decline). In 2019 alone, Los Angeles lost more than 200 beds for low-income people with serious mental illness.

State law establishes relocation rights and protections for residents evicted from RCFEs and ARFs due to facility closure; however, the rights are different for each type of facility. Historically, the RCFE resident population was perceived to have greater levels of vulnerability than ARF resident populations, and therefore RCFE operators have stricter requirements for their closure process (e.g. longer notification times, required resident evaluation and closure planning, etc.).

ARFs are increasingly serving greater numbers of vulnerable residents, including individuals with serious mental illnesses and other chronic conditions. The current closing requirements for ARFs, which are less protective than those for RCFEs, increase the challenges residents face when facilities close. Already, a third of those experiencing homelessness are suffering from mental illness. Because of their vulnerability and the current housing crisis, residents are especially at risk of becoming homeless.

Additionally, we’re on the cusp of another spike in the homelessness crisis as more Californians than ever are facing health and economic insecurity due to the COVID-19 pandemic. California must do all it can to protect those on the brink of homelessness before the crisis worsens.

THE SOLUTION

To ensure the growing vulnerable ARF resident population is provided similar protections that residents of RCFEs have when a facility closes, AB 2377 will align ARF closure requirements with those of RCFEs.

Specifically, AB 2377 will require the following before closure:

- Requires that ARF operators provide written six month notice to residents prior to relocation; and gives local governments first opportunity to purchase after 2 months
- Requires that ARF operators develop Resident Relocation Evaluations for residents, which includes: (i) recommendations on the type of facility that would meet resident needs; (ii) facility listings, within a 60-mile radius of the closing facility, that meet the resident’s needs;
- Mandates that the ARF must submit a closure plan to the State for approval if seven or more residents are impacted;
- Requires the State to take certain actions if the ARF fails to provide required relocation services, and authorizes residents to take civil action for violation of rights provided by the bill.

By improving closure requirements, California will be better able to reduce the effects of homelessness and protect some of the state’s most vulnerable communities.

SUPPORT

London Breed, Mayor of San Francisco (Sponsor)

Alameda County Board Of Supervisors
California Alliance For Retired Americans
City Of Alameda
County Behavioral Health Directors Association
Family Caregiver Alliance (Fca)
Homebridge
Justice In Aging
Life Skills Training And Educational Programs, Inc. (Lifesteps)
National Association Of Social Workers, California Chapter
San Francisco Human Services Agency
San Francisco Long-Term Care Ombudsman Program
San Francisco Senior And Disability Action
St. Anthony Foundation
Steinberg Institute
Swords To Plowshares - Vets Helping Vetseast Bay Supportive Housing Collaborative
Mental Health Association Of Alameda County

FOR MORE INFORMATION

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AB 2576: Maximizing Mental Health Services Act funding

Summary:
This bill requires unspent, reverted Mental Health Services Act (MHSA) funding to focus on people with mental illness who are also experiencing homelessness, who are involved in the criminal justice system, and for early intervention for youth.

Background:
Every year 100,000 young adults in the U.S. experience their first psychotic episode; while, an additional one in 17 adults lives with a serious mental illness such as schizophrenia or major depression. Similarly, research also shows that 50% of all serious mental illness manifests by age 14 and 75% by age 24.

Recognizing the need to combat our mental health crisis, voters approved Proposition 63 in 2004, to change the way California treats mental illness. Proposition 63, otherwise known as the MHSA, expanded the availability of innovative and preventative programs, reduced stigma and long-term adverse impacts for those suffering from untreated mental illness, and held funded programs accountable for achieving those outcomes.

According to the State Auditor's report in 2018, as of fiscal year 2015-16, local mental health agencies had accumulated $2.5 billion in unspent MHSA funds. The Department of Health Care Services estimated that as of September 2017, local mental health agencies should have returned $231 million of that $2.5 billion. Subsequently, the Legislature recently took action to establish a methodology for determining prudent county reserves of MHSA funds and improving the reversion process. Because of the change in methodology, it is estimated that local behavioral health agencies currently have slightly more than $500 million in local reserves, of which $161 million must be shifted to mental health prevention and treatment services by June 30, 2020.

California's housing and homelessness crises have highlighted the intersection between access to housing and improved behavioral health outcomes. The primary cause of homelessness is the desperate shortage of affordable housing. For most people, affordable housing alone ends homelessness. For others who have certain disabling conditions, such as significant mental health or substance-use disabilities, research shows that permanent supportive housing, delivered according to Housing First principles, can house the vast majority of people with chronic homelessness.

While communities' behavioral health needs have evolved during these crises, the MHSA has only slowly responded to those changes. For example, MHSA funds cannot be used for substance use disorder treatment.

This bill:
Requires unspent, reverted MHSA funds to be used by local behavioral health agencies for the purposes of providing services to individuals with mental illness who are also experiencing homelessness or who are involved in the criminal justice system and providing early intervention services to youth.

Requires local behavioral health agencies to report to the Legislature the number of individuals experiencing homelessness who are receiving mental health services that are paid for through MHSA funds.

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Senator Melissa Hurtado
REPRESENTING SENATE DISTRICT 14

Board and Care Taskforce for Vulnerable Seniors and Disabled Communities Receiving SSI/SSP
Senate Bill 1259

As Amended June 18, 2020

SUMMARY

SB 1259 will require the Department of Social Services (DSS) to establish a task force for the purpose of issuing a report that includes recommendations on how to meet the housing and care needs of low-income individuals who are blind, disabled or over 65 years of age and receiving Supplemental Security Income/State Supplementary Payment (SSI/SSP).

BACKGROUND

On February 24, 2020, the Senate Committee on Human Services conducted an oversight hearing that focused on the state's regulation of board and care facilities. During the hearing it became clear that, while there is potentially a shortage of board and care facilities that accept SSI/SSP recipients, the state does not have data to support or define the scope of the problem.

Over 200,000 Californians who cannot live independently due to physical limitations or behavioral health needs live in licensed residential care facilities and depend on those facilities to provide assistance with activities of daily living. These facilities, commonly referred to as board and care or assisted living facilities, are licensed by DSS as Adult Residential Facilities (ARFs) or Residential Care Facilities for the Elderly (RCFEs).

Prior to the COVID-19 outbreak, policy-makers and advocates were exploring the effects that closure of board and care facilities was having on homelessness. Various stakeholders have expressed concerns that board and care facilities are closing at an increased rate. Low reimbursement rates for facilities that accept SSI/SSP recipients and facilities' generally high operating costs are two commonly cited reasons for closure of board and care facilities. As conversations around board and care facilities increased, in part due to the Governor's 2020-21 Proposed Budget,[1] questions remain surrounding the scope of the supply and demand problem.

It is feared that closures, and potential shortage of board and care facilities, has and will continue to cause a particularly vulnerable population to become homeless. Prior to the COVID-19 outbreak, proposals to stabilize board and care facilities were under consideration. Those proposals are not likely to prevail as the economy and the general fund are recovering from fiscal effects of the shutdown.

Further feeding the concerns around board and care capacity is California's well-documented rapidly aging population.

PROBLEM

Board and care facilities play an important role in providing housing, care and supervision of people who, due to physical or behavioral issues cannot care for themselves. Due to data limitations, it is currently unknown whether the availability of board and care placements has been keeping up with the needs of

[1] https://www.gov.ca.gov/2020/01/10/governor-newsom-proposes-2020-21-state-budget/

Senator Melissa Hurtado

REPRESENTING SENATE DISTRICT 14

California's disabled and older adult population, especially those who receive SSI/SSP benefits.

SOLUTION

SB 1259 will require DSS to establish a task force for the purpose of issuing a report that includes recommendations on how to meet the housing and care needs recipients of SSI/SSP, including those with serious mental illness.

The report will:

- Identify the existing capacity for licensed ARFs and RCFEs (aka board and care facilities) that serve residents on SSI/SSP including identifying the existing capacity for residents with a serious mental illness
- Assess the unmet demand for ARF and RCFE placements for SSI/SSP recipients within each county including assessing the unmet demand for residents with a serious mental illness
- Identify gaps in the data and recommend actions that would close the data gaps.
- Recommend how to build capacity ARFs and RCFE placements for SSI/SSP recipients.
- Identify strategies to ensure SSI/SSP recipients are residing in facilities that are appropriately licensed to meet the residents' care needs
- Make recommendation on implementing HSC 1569.70, which established the levels of care for RCFEs.
- Make any other recommendations deemed appropriate by the majority of the task force members that would enhance the quantity or quality of ARFs and RCFEs that serve SSI/SSP.

SUPPORT

California Long-term Care Ombudsman Association
County Behavioral Health Directors Association

FOR MORE INFORMATION

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