



December 10, 2019
Mayor and City Council
City of San Jose

via e-mail

Dear Mayor and Councilmembers,

I write on behalf of the Behavioral Health Contractors' Association (BHCA) with a providers' perspective on the December 10th San Jose City Council agenda item 3.6 - County Implementation of Laura's Law and Enhanced Conservatorships.

The Behavioral Health Contractors' Association (BHCA) is a Santa Clara County-wide network of community-based, non-profit organizations providing essential mental health and substance use prevention, treatment, recovery, and supportive transitional housing services to children, adolescents, and adults under contract with Santa Clara County's Behavioral Health Services Department.

As you discuss this agenda item and consider how to best assist people who are homeless and living with mental illness and/or addiction, BHCA urges you to:

- oppose the recommendation to strengthen conservatorship,
- recognize the importance of City and County staff working together to improve communication and establish warm handoffs from outreach teams to intensive services, and
- ensure the discussion of mental illness and addiction does not increase the stigma that is the greatest barrier to people seeking help and utilizes factual information to create realistic expectations for policies and programs.

Conservatorship

BHCA opposes the recommendation to strengthen conservatorship. There is currently an existing process for mental health conservatorships established in State law. Given the desire to address those who are substance abusing and living on the streets, we interpret this recommendation as expanding to include those abusing substances. A

Member Agencies

Abode Services
Advent Group Ministries
Alum Rock Counseling Center
Asian Americans for Community
Involvement
Bill Wilson Center
Caminar
Catholic Charities
Children's Health Council
Community Solutions
Fred Finch Youth Center
Gardner Family Care Corporation
HealthRight 360
HealthTrust
Home First
Hope Services
Horizon Services
Indian Health Center
Kidango
LifeMoves
Mekong Community Center
Mental Health Advocacy Project
Momentum for Mental Health
National Alliance on Mental Illness
Parisi House on the Hill
PATH
Pathway Society
Peninsula Healthcare Connection
Rebekah Children's Services
Seneca Kinship Center
Ujima Adult & Family Services
Uplift Family Services

range of treatment options exist in mental health – from outpatient to more intensive services to locked facilities. Substance use treatment services do not include any locked facilities. The concept of being forced into treatment is the opposite of the current recommended treatment models based on a recovery approach. People are already ordered by the Court into substance use treatment; however, they cannot be forcibly held. It is unclear how the use of conservatorship would differ from current practice as locked substance use treatment facilities don't exist in our County as it is not an accepted treatment.

Communication, Coordination and Direct Referral

BHCA has long supported the expansion of the County system of care and is heartened that the current expansion of services (over 700 treatment slots this year) were designed to engage the hardest to serve individuals – including those who are homeless and living with mental illness and/or addiction. The City Council is in a position to work with the County to prioritize this population. People who are homeless and living with mental illness and/or addiction are not able to navigate a complex or long process to access services. It often takes years to be ready to accept assistance. When someone is ready, their engagement needs to be simple and supportive – a direct referral that results in a warm hand-off. As these services come on-line, we urge the City staff, County staff, and County-funded service providers to coordinate to ensure the City's most vulnerable people benefit from these intensive services.

In addition, BHCA has made recommendations to the County Board of Supervisors calling for additional actions to strengthen outreach services and engagement, educate families and other supports on how to provide one-way information on their loved one, and incorporating findings from initiatives already underway into all services as appropriate. Our letter sent to the County is attached.

Stigma and Expectations

Public stigma grows through the strengthening of pervasive stereotypes that people with mental illness are dangerous or unpredictable. Research shows that the fear of public stigma leads individuals to avoid treatment for fear of being associated with negative stereotypes. Those who are struggling with seeking help for mental health issues may be adversely influenced when elected officials or the media perpetuate these stereotypes.

Accurate information on policy potential and limits is key to trust in government. City and County residents look to their elected officials to implement policies to solve the problems that concern them. Public trust is lost when policies don't meet the expectations set out. People who are homeless and living with mental illness and addiction are very difficult to help and may require several efforts over a long period of time. To "oversell" an approach creates false hope and ultimately more frustrated residents. In the complex areas such as Assisted Outpatient Treatment and Conservatorship, it is imperative to be clear on what impact will result and when it may result.

Thank you for your consideration of these recommendations. If BHCA providers can serve as a resource, please do not hesitate to contact me.

Sincerely,


Elisa Koff-Ginsborg
Executive Director
ATTACHMENT

Behavioral Health Contractors' Association of Santa Clara County

August 21, 2019
Supervisor Joe Simitian
Supervisor Susan Ellenberg
Santa Clara County

via e-mail

Dear Supervisors Simitian and Ellenberg,

I write on behalf of the Behavioral Health Contractors' Association (BHCA) with a providers' perspective on the Health and Hospital Committee agenda item number 5 regarding Behavioral Health. BHCA applauds the expansion of services and other BHSD efforts to strengthen the system as outlined in the BHSD Annual Report. In addition, **BHCA recommends additional actions to strengthen outreach services and engagement; educate families and other supports on how to provide one-way information on their loved one and incorporating findings from initiatives underway into all services as appropriate.**

While the agenda item covers a wide range of topics, this letter focuses on meeting the needs of underserved and difficult to serve County residents. It is meant to add an additional perspective to the comprehensive annual report included in the transmittal and reflect on concerns raised at previous meetings regarding our County's unserved or underserved population.

Discussions about the population of Santa Clara County residents in need of behavioral health services but who do not connect or remain connected to services can be divided into three main categories (with overlap):

- People who are high utilizers of EPS/ER/Jail
- People living with family member support
- People living on the street

Below is an overview of the questions that need to be answered in thinking about serving each of these populations and our specific recommendations.

High Utilizers of EPS/ER/Jail

The County has undertaken several initiatives to better serve those in this group and stop the on-going cycling through emergency and criminal systems. The experience and findings from these initiatives should inform further response.

Member Agencies

Abode Services
Advent Group Ministries
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Asian American Community Involvement
Bill Wilson Center
Caminar
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- **Important Questions:**
 - **What have we learned from Pay for Success?**
 - **What have we learned from Whole Person Care?**

The BHSD Annual Report describes new services such as enhanced FSP, ACT and FACT and IHOT that will be starting this Fall focus specifically on the hard to engage and those needing a “whatever it takes” approach. The implementation of these programs greatly expands the options available for this population. Success in these programs as well as existing FSP and intensive programs is challenged by inadequate communication between different parts of the County system.

- **Recommendation: When a person is served at EPS, immediate communication with the person’s existing provider is necessary. By looking in Unicare, EPS staff will know if the client is open with any other service provider. Proactive timely communication is critical to ensuring coordinator with existing provider.**

Underserved people with family support

Family members express great frustration about their adult relatives not receiving adequate services. Legally, they are not able to compel adult relatives to participate in services. Only when the person is considered a danger to themselves or others can there be intervention.

A treatment provider cannot speak with a family member or other support person without a signed consent form from the client. The State recognized that the family member or support is an important source of information to the treatment provider and can improve the client’s care. Assembly Bill 1424 requires that all individuals making decisions about involuntary psychiatric treatment consider information supplied by family members. The AB 1424 forms provide a means for family members to communicate about their relative’s mental health history to psychiatric and court authorities, who must read the information and keep a copy in a Consumer’s health chart or court record. Locally NAMI families have also found the AB 1424 Form (and/or the shorter Family Input Form) form useful in communicating with the Santa Clara County Jail and Court if their loved one has been arrested.

According to NAMI, the use of these forms is not well known. While NAMI works to publicize with family members, those not connected with NAMI are not automatically informed of this when contacting EPS. While it is appropriate for providers to decline to acknowledge a client is receiving services, it is possible to inform all family member or support person about their right to submit a form. Again, appropriately, they can’t respond upon receiving the form but the information provided can inform care.

- **Recommendation: If a family member or support person contacts any provider in the County system, that provider should refer them to NAMI for support and either provide AB1424 form or direct to NAMI or County website for access to form. Training on use of the form should be made available and copies of this form should be displayed at all service locations.**

People on the street

Engaging people who are encountered on the street in behavioral health services has been very challenging. County residents who are uncomfortable interacting with them call the police but an arrest response is not appropriate and police can not take other action except in a crisis.

The County Pay for Success initiative is underway and can inform further response. New intensive services such as enhanced FSP, ACT and FACT and IHOT are by referral which make it harder for this population to access. Intensive outreach and engagement will be necessary. A discussion of current outreach follows.

- **Question: What have we learned from Pay for Success?**

Outreach

Currently outreach services that are part of a Behavioral Health Program are an important component in engaging clients who are referred to them. Outreach by referral is critical in keeping clients continually engaged. This type of outreach does not address most of the population about whom County residents call police or other government.

The Office of Supportive Housing (OSH) and City of San Jose have extensive outreach efforts. There are both professional and peer-to-peer teams. When a connection is made with a person with a behavioral health need, the outreach team works to connect them with services. If the need does not constitute a crisis, it is difficult for the client to connect. An additional step is often needed as too often this population cannot navigate the current system of contacting the call center system to be referred or be reached or follow-up if immediate services are not provided.

OSH received a one-year grant from the State Department of Health Services to establish Homeless Mentally Ill Outreach and Treatment (HMIOT) Program. This team is comprised of outreach worker/case managers and two clinicians. Should a person be interested in engaging in services, the clinician will go to the client's location to assess and engage them. This effort just began and expects to outreach to 250 people (100 of which will likely have a Serious Mental Illness). Their goal is to engage 45 people in appropriate behavioral health services this year. Other outreach teams can bring in this specialized outreach team if needed. An additional OSH team focuses on serving homeless individuals who have patterns of "falling through the gaps" within our homeless systems and have shown historical patterns of dis-engagement and/or aggressive behavior to other outreach teams. They work closely with the HMIOT team and can also access open slots VHHP has for them to access a psychiatrist.

- **Recommendation: Sustain the HMIOT Team when the one-year grant ends.**
- **Recommendation: Ensure there is adequate ability for behavioral health engagement at the client location. All non-profit outreach teams, regardless of funding agency should be able to link to behavioral health services to be initially provided at the client location.**

LPS Conservatorship

As established through the Welfare and Institutions Code, LPS Conservatorship has strict standards and processes to require involuntary inpatient services for a person who is gravely disabled on an ongoing basis. Often community constituents refer to the term conservatorship for mental health or substance use without regard to these standards that are required by law. For example, during a temporary conservatorship (30 days for up to 6 months), the client retains the right to refuse to take medication unless an additional court process is undertaken. In the case of permanent conservatorship, up to 1 year, the client has the right to a jury trial or hearing before a judge and is initiated for placement in a locked setting. A client may be under conservatorship in the community as they transition out of that locked setting. As the client can function in the community setting, the conservatorship is ended. The months after this are another time a person can "fall through the cracks".

- **Recommendation: Initiate a practice at ending of conservatorship to automatically connect with a case manager/outreach worker whose responsibility it is to provide on-going check-in and initiate re-engagement immediately if needed.**

The standard of gravely disabled on an ongoing basis means that people on the streets using substances while exhibiting MH symptoms will not be considered for conservatorship as after going through any short-term

holds based on danger to self or others, the symptoms are not likely as acute and assessment doesn't indicate on-going grave disability.

Assisted Outpatient Treatment (AOT)

Many constituents have asked about AOT which was established by Laura's law. A popular vision is that Laura's law allows the government to require a person to participate in treatment, including taking medication. As outlined in the study included in the transmittal, there are set criteria for whom it applies and a process to follow – it is not immediate access to services. As it has been implemented, it is clear that the impact on the greatest number of clients has been the expansion of outreach and engagement services developed and strengthened as the first step in the process.

- **Recommendation: Utilizing lessons from the experience of other Counties in implementing greater outreach and engagement should be used to strengthen and expand current similar voluntary services in our County.**

Thank you for your consideration of these recommendations. BHCA providers look forward to working together on this challenging and critical issue.

Sincerely,

Elisa Koff-Ginsborg
Executive Director

10 Things to Know About Assisted Outpatient Treatment

1. Advocates and Consumers **call the program AOT** (Assisted Outpatient Treatment) or IOC (Involuntary Outpatient Commitment) and not Laura's Law because of the stigma and stereotype associated with a violent and tragic story that preempted the legislation. In fact, the man who killed Laura Wilcox came to the mental health clinic willingly and was angry because he could NOT see or speak with his treatment providers.
2. **It is the creation of the services and not the court order that saves money by reducing hospitalizations and arrests.** Every randomized controlled trial on the impact of the involuntary component to AOT has failed to show a significant benefit to the use of a court-mandated program. However, the intensive services that are the basis of AOT, which are based on a model called Assertive Community Treatment (ACT), have been proven to engage hard-to-reach consumers and provide significant benefits in terms of reducing hospitalization, incidents of violence, victimization, and incarceration.
3. **AOT increases the stigma of living with a mental health disorder and seeking mental health treatment.** It reinforces the misconception that people with mental health disabilities are violent and cannot make decisions about their treatment. The conversations in every county where it has been implemented have centered on this idea, and the same thing is happening in right now Santa Clara County.
4. Santa Clara County is currently expanding its ability to provide intensive services to persons with serious mental health disorders who are reluctant to engage in treatment. **The County has funded 800 new service slots which will provide county residents with the same level of services as found in an AOT program.** This will provide the same benefits as implementing AOT but to many more people than any AOT program in the state is able to serve.
5. **AOT will not address service gaps in our county mental health system.** Implementing AOT will not increase funding for services targeted to the county's population of unhoused persons and it will not ensure that the needs of unhoused persons will be centered and prioritized.

6. **AOT does not allow for people to be placed in a locked setting or forced to live in any particular location.** The involuntary component of AOT is a way to force people to engage in outpatient treatment by attending appointments, following treatment plans, and completing programs. It would not give service providers the ability to prevent participants from leaving a residential program or housing placement.
7. **AOT will not expand the number of beds available for persons needing temporary, transitional, and/or permanent housing.** Any AOT program will have to rely on using the resources of our current system, thus competing with every other program that is working tirelessly to find housing for persons experiencing homelessness.
8. **The County already has legal mechanisms for providing involuntary treatment to persons whose mental health condition makes them dangerous or unable to care for themselves.** These include 72-hour holds that brings someone into the hospital, 14-day holds for intensive treatment, and mental health temporary and permanent conservatorships which last for months and years if a person's ongoing condition warrants extended detention.
9. **Adding an involuntary component to the ACT services that are proven to work undermines the philosophy and power of the service model.** Why would service providers do "whatever it takes" to engage someone in treatment and services, the hallmark of the ACT program, if they can use the coercive aspect of a possible court order?
10. **There are many evidence-based programs that will better meet the concerns of the community about unsheltered homeless persons.** These include:
 - Specifically using Assertive Community Treatment slots to target and serve unsheltered persons.
 - Increasing street outreach and the resources available to outreach teams.
 - Opening walk-in shelters and drop-in centers to create no-barriers options for people to go inside and find services.
 - Creating a hotline for the community to call and receive assistance when they are concerned about the health and/or safety of people in their community who are unsheltered.