CAL VOICES
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Dear Governor Newsom,

Cal Voices appreciate your administration's continued efforts to solve the lack of adequate care and housing for Californians with behavioral health issues. This letter conveys our concerns regarding the administration's proposed policies for addressing these issues.

As the oldest consumer-run advocacy organization in California, we fear the administration's plans to expand involuntary treatment and conservatorships through a new judicial bureaucracy while diverting revenues from community-based programs focused on prevention and recovery to fund fail-first approaches that were debunked in the last century elevate political expedience above sound public policy and good fiscal management. The foreseeable negative impacts of these policies will create havoc throughout California's Public Behavioral Health System (PBHS), violate clients' civil rights, and entangle them in profoundly invasive long-term relationships with the government.

We believe the CARE Act, SB 43, and Mental Health Services Act (MHSA) "Modernization" will further marginalize individuals with behavioral health disabilities in California and may discourage people from seeking voluntary treatment when they most need it. The harm done by these approaches will far outweigh the benefits. Rather than adopting draconian and coercive strategies that prey upon the most vulnerable, we urge the administration to consider alternatives that effectively address the systemic causes of chronic houselessness and the barriers preventing timely access to quality behavioral health care.

Alternatives approaches include services such as "street medicine," where those living in encampments can be engaged in voluntary behavioral health services, and even receive assistance with medical ailments. Crisis peer respite services are highly effective, and even crisis residential services can be better utilized in California to serve this population. However, the serious lack of any low-income, subsidized housing in California is simply the largest cause of homelessness in our state.[1]

The CARE Act

Passed in November 2022, the CARE Act creates a brand-new arm of the state's judicial system to "engage" individuals with certain psychiatric conditions into treatment who meet program criteria. While the CARE Act has been lauded as a huge victory for families and the administration, client outcomes remain to be seen.

[1] U.S. Department of Housing and Urban Development, Continuum of Care Program, 2023

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Public behavioral health clients are deeply concerned by these paternalistic measures. California's general fund shortfall is currently estimated at approximately $22.5 billion.[2] The $300 million allocated to the judicial branch over the next three years to "process" individuals routed through this program is fiscally irresponsible. None of this funding will go towards the behavioral health services or permanent housing solutions these individuals actually need. Rather, this funding is purely to pay for a new quasi-criminal court system and counties' related administrative expenses. The CARE Act creates a huge, unnecessary bureaucracy we cannot afford to fund. Worse, it does nothing to directly solve the underlying problems it was purportedly created to address. There is simply no rational reason to implement the CARE Act.

SB 43

This bill proposes to expand the definition of "gravely disabled" so that more people with behavioral health conditions will qualify for conservatorships. The legislative language is vague and overbroad, threatening the civil liberties of those experiencing behavioral health disorders. Moreover, the current PBHS already lacks the capacity, staffing, and infrastructure to serve people who meet eligibility criteria for voluntary services.[3] As a result, people continue to access care in emergency departments, because the waiting lists are long, and access is delayed. Furthermore, psychiatric hospitals are not equipped to serve those with severe substance abuse disorders, as the treatment is unique to those experiencing mental health disorders and/or co-occurring disorders. The fiscal impacts of SB 43 on our psychiatric facilities, conservatorships, etc. needs funding from somewhere. We suspect the administration will use MHSA funds that were intended to be used for behavioral health services. Therefore, we see no rationale to implement SB 43 currently.

MHSA "Modernization"

From our perspective, had the State of California provided the promised oversight of MHSA funds for the past 15 years we would not have experienced supplantation, which precipitated this crisis.[4] The belief that most unhoused citizens are refusing services is a false narrative.[5] On the contrary, most of these services never fully materialized under MHSA. Blaming homelessness on the unhoused is morally wrong and overly simplifies a complex problem. Creating solutions means building strong communities, implementing trauma informed initiatives that do not utilize coercion, force, or violate a person's civil liberties. Finally, you must engage primary stakeholders in a fully transparent process.

[2] https://calbudgetcenter.org/resources/qa-what-does-the-projected-budget-shortfall-mean-for-california/

[3] https://www.chcf.org/wp-content/uploads/2022/07/MentalHealthAlmanac2022.pdf

[4] https://www.latimes.com/california/story/2022-07-10/california-proposition-63-mental-health-money

[5] https://files.hudexchange.info/resources/documents/System-Performance-Measures-HMIS-Programming-Specifications-October-2021.pdf

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Long term solutions must align with a systematic dismantling of institutionalized racism, coercion, incarceration and replacing it with resilient communities, active stakeholders, focusing on recovery-oriented, culturally competent services.

Instead of reconciling with communities who were harmed by broken promises, and deprived of transformative mental health solutions, the administration seems committed to return us to a fail-first, medical model system of care as a "do over" of MHSA. This approach seems to render MHSA a failure which needs to be "modernized" but doesn't take accountability for the mismanagement and misuse of this funding source over the past 15 years since the California Department of Mental Health was dismantled.[6]

The administration offers solutions such as force, coercion and leveraging MHSA with Medicaid Federal Financial Participation (FFP) funds, while eliminating the most effective Prevention and Early Intervention programs we have seen in behavioral health. These solutions risk further marginalizing California's underserved communities who currently receive prevention services. In fact, counties currently have systems of care offering more robust services than geographic managed care or private providers because of MHSA funding. The thought that these services and supports could be eliminated if not directly leveraged by FFP funds is deeply concerning to those being served in these systems of care across California. Therefore, we see no rationale to implement a modernization of MHSA currently.

The Current Crisis at the Intersections of Houselessness and Behavioral Health Results from California's Lack of Affordable Housing, Especially for People with Disabilities

These bold policy proposals solve the wrong problems by blaming the victims of California's decades-long failure to address the worsening affordable housing shortage. Vast ink has been spilled on numerous studies and reports that confirm what we already instinctually know: The severe shortage of affordable housing – particularly for people with the lowest incomes – is the number-one driver of California's homelessness crisis.[7] People on low fixed incomes are just one financial disaster away from losing their homes. Rampant inflation has far outpaced modest increases to monthly benefits. If we do not solve the affordable housing issue – which is a much harder political sell than corralling unhoused people with disabilities into court-ordered treatment and conservatorships – we are only exacerbating the problem for future generations to benefit the wealthy and political donors.

[6] https://www.auditor.ca.gov/pdfs/reports/2017-117.pdf

[7] https://calbudgetcenter.org/resources/qa-understanding-homelessness-in-california-what-can-be-done/#what-are-the-key-drivers-of-homelessness-in-california

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The Public Behavioral Health System Workforce Shortage is Real

The behavioral health community is experiencing an unprecedented workforce shortage, exacerbated by the pandemic, and driven to the brink by the housing crisis.[8] Add major disruptions in the marketplace brought on by Cal Aim reform, Medicaid unwinding, and the proposals directly from the administration coming in a top-down approach, the workforce cannot take a collective breath. All these changes are driving people away from the PBHS rather than towards it and we were already on the verge of collapse.

The fact that no matter how many services you can provide someone in California, there is literally no low income, or affordable housing options cannot hold. People wait years to receive Section 8 or make it to the top of housing lists. This impacts burnout because many working in the PBHS could get a job at Costco or AT&T for more money, less stress, and no compassion fatigue.

Re-Institutionalization Is Unconstitutional and Destined to Fail

Cal Voices, and many of our collaborative partners believe California is heading backwards in its approaches to behavioral health care in the community, reverting California to a state of re-institutionalization. These approaches unfairly push blame on the unhoused living with behavioral health conditions. This crisis did not happen overnight and will not be fixed for years, and only if we learn the mistakes of history. We must address the structural inequities, socioeconomic conditions, and health disparities that bring us to this moment in time.

The United States Supreme Court's 1999 decision in ***Olmstead v. L.C.*** prevents the government from keeping people in institutions when they can live in the community. ***Olmstead*** held that unjustified segregation of persons with disabilities constitutes discrimination in violation of title II of the Americans with Disabilities Act. Public entities must provide community-based services to persons with disabilities when: (1) such services are appropriate; (2) the affected persons do not oppose community-based treatment; and (3) community-based services can be reasonably accommodated, taking into account the resources available to the public entity and the needs of others who are receiving disability services from the entity.[9]

CARE Act, SB 43, and MHSA "Modernization" collectively roll back the civil rights of Californians living with behavioral health conditions by more than 60 years. These are not new strategies; they are the same fail-first strategies MHSA was intended to transform. Leveraging most of the state's MHSA revenues with Medicaid/FFP funds may seem like sound economic advice, but the outcomes

[8] https://www.calbhbc.org/uploads/5/8/5/3/58536227/cbhda_needs_assessment_final_report_2-23.pdf
[9] https://archive.ada.gov/olmstead/olmstead_about.htm

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could be catastrophic. The inevitable consequence is the elimination of any recovery-oriented, culturally-competent, personalized approaches to behavioral health engagement and treatment, forgetting that California is home to many diverse cultural experiences, languages, sexual orientations, gender identities, abilities, etc.

Conclusion

Cal Voices compels the administration to engage people with lived experience at the forefront of these discussions. We need more public meetings with those most impacted, and opportunities to weigh in on what our government is doing. The Treatment Advocacy Center and NAMI are the only entities informing the state on these issues, seemingly behind closed doors. Neither of these entities represents the primary needs of behavioral health clients in their advocacy efforts. These are the voices being left out of the dialogue and who continue to experience stigma and discrimination from this administration.

We urge the administration to focus its efforts on more community-based voluntary services, real housing, peer support specialists, peer respite, community health workers, street medicine, behavioral health walk in urgent cares, reducing disparities and utilizing recovery-oriented practices. BH Communities need policies that promote whole person care, equity, and inclusion, rather than resort to the failed approaches of force, shame, and blame that have historically targeted people of color, and are not evidenced based practices. Cal Voices requests the administration cease enacting policies that further harm those who the State of California owes a debt to for all its broken promises behind the MHSA. We cannot sit idly by while history repeats itself.

Sincerely,

Susan Gallagher

Susan Gallagher, MMPA
Executive Director, Cal Voices