



Contra
Costa
County

To: Board of Supervisors
From: William Walker, M.D., Health Services Director
Date: February 3, 2015

Subject: Implementation of Laura's Law in Contra Costa County

RECOMMENDATION(S):

1. Acknowledge that the Health Services Department has reviewed the adopted Mental Health Services Act (MHSA) three year plan and concluded that \$2.25 million can be redirected to alternative programs.
2. Authorize the implementation of Assisted Outpatient Treatment (AOT) under Laura's Law and direct that no voluntary programs serving adults, and no children's mental health programs may be reduced as a result of implementation of Laura's Law.
3. Adopt Resolution No. 2015/9 to direct the implementation of Laura's Law for a three year period and make a finding that no voluntary mental health programs serving adults, and no children's mental health programs, will be reduced as a result of implementing Laura's Law.
4. Direct the Health Services Department to return to the Board with an amendment to the three year MHSA Plan after soliciting the required community input.
5. Affirm that the Laura's Law implementation is to be a three year term project; continuance to be contingent upon demonstration of the efficacy of court ordered out-patient treatment.
6. Acknowledge a potential unfunded financial liability to continue housing subsidies for individuals who have transitioned into lower levels of care but are still in need of housing subsidies. This unknown ongoing cost would need to be quantified and addressed.

APPROVE

OTHER

RECOMMENDATION OF CNTY ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **02/03/2015** APPROVED AS RECOMMENDED OTHER

Clerks Notes:

VOTE OF SUPERVISORS

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: February 3, 2015

Contact: Cynthia Belon,
925-957-5201

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: Warren Hayes, Patrick Godley, Cynthia Belon

RECOMMENDATION(S): (CONT'D)

>

7. Acknowledge the need to establish the same level and type of services for individuals who meet Laura's Law eligibility for court ordered treatment, but elect to voluntarily engage in services.
8. Direct the Health Services Department to develop an evaluation design that determines the difference, if any, in program impact and cost savings to the County for individuals who are ordered to participate in services versus those individuals who voluntarily participate in the same level and type of services.
9. Direct the Health Services Department to develop a program design with stakeholder participation, and comply with MHSA statutory requirements for a community program planning process.
10. Direct the Health Services Department to pursue any available grant funding to offset the cost of implementing and sustaining the AOT Program.
11. Acknowledge that Laura's Law has a sunset provision and will expire on January 1, 2017, and, in the unlikely event the legislation is not extended as it has been in the past, the matter will be brought back to the Board of Supervisors for further consideration.

FISCAL IMPACT:

Health Services Mental Health:

No County General Fund impact; \$2.25 million MHSA funding is contained within the Health Services Department. Due to the implementation of the Affordable Care Act, the Health Services Department has been able to project downward the total MHSA funds actually needed to sustain Behavioral Health Services staffing costs at the newly opened Cynthia and George Miller Wellness Center (MWC). The MHSA Three Year Plan is now determined to be able to accommodate \$2.25 million of additional programming per year for the next three years without reducing existing voluntary mental health program services.

Public Defender:

Assuming that Laura's Law clients would require a similar level of involvement by the Public Defender as current Lanterman Petris Short (LPS) conservatorship cases, it is anticipated that a similar level of staffing would be needed once the program is fully operational. A total cost of approximately \$133,500 in County General Funds is estimated for one part-time Public Defender III positions and a part-time Legal Assistant position. The Department would need to monitor the workload and make adjustments either up or down after the first year.

County Counsel:

County Counsel has estimated that they will need approximately \$157,000 to implement Laura's Law to fund one half-time Senior Deputy County Counsel and one half-time Senior Clerk position. These costs would be charged back to the Health Services Department. County Counsel tasks will include determination of whether the AOT criteria are met, and the preparation, filing and serving of the petition. The Department would need to monitor the workload and make adjustments either up or down after the first year.

Superior Court:

The Court has provided an estimated cost of \$128,000 based on 1.5 positions required to support the estimated workload associated with 37 cases as an extension of the current LPS court calendar. The Court has indicated that actual costs may be less but until the program is implemented, a more accurate estimate is not possible.

BACKGROUND:

Summary:

On October 7, 2014 the Board of Supervisors (BOS) considered the report from the Contra Costa Health Services Assisted Outpatient Treatment (AOT) Workgroup. The BOS expressed its intention to implement an involuntary assisted outpatient treatment program (also known as AB 1421, or Laura's Law), and instructed the County Administrator's Office (CAO) and Health Services Department to provide additional information in preparation for a January 2015 BOS meeting. Key to the additional information requested was to address whether the BOS could make a finding that no voluntary programs would be reduced as a result of implementing Laura's Law.

On October 28, 2014 the BOS considered and adopted the Mental Health Services Act (MHSA) Three-Year Program and Expenditure Plan (Three Year Plan), and directed the Health Services Director to initiate a process to achieve a structurally balanced program budget by the beginning of Fiscal Year 2017-18. They also directed the County Administrator and Health Services Director to report to the BOS at their January 2015 meeting whether current MHSA funds would be available to implement Laura's Law, and what impact this would have on the County's existing voluntary mental health program services.

Accordingly, the Health Services Department has reviewed all elements of the three year MHSA budget to identify areas that need to be updated or modified. The MHSA budget for the Miller Wellness Center was established prior to the implementation of the Affordable Care Act (ACA) on January 1, 2014. The budget assumed normal start-up costs, Medi-Cal billings, and a large percentage of uninsured "Short-Doyle or Basic Health Care" individuals. While the psychiatric portion of the Center has not yet opened, the Health Services Department now has a year of experience with the ACA in other patient care settings. It is clear that the uninsured patient percentage throughout the Department has been drastically reduced over the last year as a result of individuals obtaining health care coverage through the ACA. Accordingly, the Department concludes that the 2015/16 MHSA budget of \$2,750,000 for the Miller Wellness Center is outdated and can safely be reduced to \$500,000 with no impact on the current program design.

The Health Services Department has determined and previously reported that for the next three year period projected MHSA revenues would not keep pace with the projected MHSA budget. This imbalance is due to the expenditure of surplus funds generated from prior periods being used for current period programs. This apparent structural imbalance would eventually exhaust unspent funds from previous years, and would necessitate the modification of programs funded by the MHSA sometime in fiscal year 2018/19 or after. An in-depth program review of the effectiveness of all MHSA funded program is on-going. Programs will be adjusted over time, based upon the evaluated program outcomes, to accommodate available funding. Periodic reports and adjustments may be made as circumstances dictate.

Background Detail:

1. What is Assisted Outpatient Treatment (AOT)?

AOT is civil court ordered mental health treatment for persons with serious mental illness who demonstrate that they are resistant to voluntarily participating in services that have been offered. Treatment is provided in the community on an outpatient basis, and AB 1421, or Laura's Law, has based its minimum required treatment standards on the Assertive Community Treatment (ACT) model. ACT is intensive and highly integrated outpatient treatment for individuals whose symptoms of mental illness result in serious functioning difficulties in several major areas of life, often including work, social relationships, residential independence, money management, and physical health and wellness. An experienced, highly qualified multidisciplinary team consisting of a psychiatrist, nurse, mental health clinicians, peer providers, and other rehabilitation professionals provide 24/7 mobile, out of office interventions with a low participant to staff ratio. ACT is an evidence based practice that is cited by AB 1421 as having been proven to be effective.

2. Who would be eligible for AOT?

Laura's Law, or AB 1421 defines eligibility as adults who suffer from a serious mental illness, 1) are unlikely to survive safely in the community without supervision, 2) have a history of lack of compliance with treatment, 3) due to their mental illness have either been hospitalized or incarcerated at least twice within the last 36 months, or have committed one or more acts of serious and violent behavior toward him/herself within the last 48 months, 4) have been offered treatment commensurate with an ACT level of care but have continued to fail to engage in treatment, 5) whose condition is substantially deteriorating, 6) participation in treatment would be the least restrictive placement necessary to ensure the person's recovery and stability, 7) the person is in need of the treatment in order to prevent further deterioration that would likely result in grave disability or serious harm to him/herself, or to others, 8) would likely benefit from treatment.

3. How many individuals would meet these eligibility criteria?

Contra Costa Behavioral Health Services staff estimate that at any given time approximately 37 individuals would meet the criteria for AOT, and an equal number of individuals would meet the same level of severity but who would likely participate voluntarily in services.

4. Are Counties required to provide AOT?

No. AB 1421, first enacted in 2002, stipulates that Counties may choose to provide AOT by means of authorization from their Board of Supervisors.

5. Why should a County choose to provide AOT?

Proponents, primarily led by parents of adult children who are seriously mentally ill, cite the following reasons:

- Individuals who are gravely disabled by mental illness deny or are not aware of the seriousness of their condition. Consequently, they tend to continue to deteriorate, refuse treatment, and inevitably cause serious harm to themselves, their loved ones, and the community. Enacting Laura's Law breaks that cycle by ensuring the "right to care", and mandating treatment until they can achieve sufficient self-awareness to appropriately make best use of treatment.
- Use of the court system ensures that the behavioral health system is accountable to provide the right level of treatment for individuals who are currently cycling through psychiatric emergency responses.
- Enacting Laura's Law saves the County money by replacing repeated high-cost psychiatric emergency and in-patient hospitalizations with lower-cost out-patient, community-based treatment.
- Enacting Laura's Law saves lives by providing intervention for people who are disproportionately at risk for homelessness, violence, incarceration and death.

6. Why should a County choose not to provide AOT?

Opponents, primarily led by consumers with adverse experience with forced treatment, cite the following reasons:

- Implementing Laura's Law does not provide sufficient protection against potential abuse of the process of involuntary commitment; such as non-mental health professionals initiating the process of forcibly removing someone for evaluation, even if that person has not violated the law.
- Forcible removal of a person from the community by law enforcement can be dangerous, is damaging to the individual, furthers the stigma experienced by people who have a mental illness, and compromises a client's right to confidentiality.
- Out-patient treatment ordered by a civil court has not been proven to be effective long term, and can undermine the powerful positive effects of a provider/client relationship and family/community support built on mutual trust and partnership. Quality, voluntary treatment appropriately applied to a person's unique strengths and limitations has been proven to be effective for persons who are seriously disabled by the effects of mental illness.
- Implementing Laura's Law is expensive in an already underfunded public mental health and County court system.

7. What are other counties doing regarding implementation of Laura's Law?

From a total of 61 possible responses, 46 jurisdictions completed a recent survey, with Contra Costa staff selectively following up for further clarification and analysis.

- 26 are not implementing Laura's Law. Nine Counties have decided not to implement Laura's Law, but have or are enhancing their voluntary services for the most severely disabled by establishing programs that meet the minimum standards for ACT level of services (includes Alameda County). Reasons given for not implementing Laura's Law:
 - o Added voluntary services (usually modeled after ACT) address this population
 - o Lack of funding
 - o Court systems are not capable of handling the increased workload
 - o Board of Supervisors voted no
- 13 are considering implementation, to include Contra Costa County.
- Five have voted to implement, but have not yet started (Los Angeles, Orange, San Francisco, Placer, Mendocino).
- One county, Yolo, has just started a pilot project for up to five individuals to be added on to an existing ACT Team.

- One county, Nevada, reports that they have served 5-10 individuals per year since 2008. They contract out their program to Turning Point at a treatment cost of \$20,000 per person. They estimate that the County saves \$1.81 for every dollar they spend on this program. Funding source for treatment is a combination of Mental Health Services Act (MHSA), Medi-Cal and Medi-Care. Funding source for court costs are County General Fund and State Superior Court funds.

8. How much could Contra Costa save by implementing Laura's Law?

This is unknown. Nevada County reports costs savings (see above), but no county comparable in size to Contra Costa has implemented Laura's Law long enough to determine whether individuals involuntarily participating in outpatient treatment results in either reduced public mental health costs or an overall reduction in public costs incurred by these individuals. The analysis that resulted in an estimate of potentially 37 individuals in Contra Costa being directed to AOT also estimated that these individuals incurred approximately \$1.5 million in yearly public mental health costs associated with psychiatric emergency responses. Primary care and criminal justice costs are unknown.

A rigorous research design is needed, with pre- and post-intervention costs in order to determine the degree of any cost savings.

9. What is the position of stakeholders in Contra Costa County?

Input from individuals receiving, providing, or otherwise actively engaged with public mental health services in Contra Costa County is divided on the issue of whether to implement Laura's Law.

- On March 13, 2014 the Mental Health Commission, who provides oversight on behalf of the Board of Supervisors, voted 8 to 1 in favor of implementing Laura's Law, with 2 abstaining, and 2 individuals not present to vote.
- On July 15, 2014 the Assisted Outpatient Workgroup, commissioned by the Board of Supervisors' Family and Human Services Committee, were asked to indicate their level of support for implementing Laura's Law. The group did not reach a level of consensus. Of the 6 participating consumers and family members of consumers, 5 expressed support for implementing Laura's Law, with one opposed. The remaining 15 county employees and private provider representatives were neutral, and indicated they would support the direction of the Board of Supervisors.
- On August 7, 2014 the Consolidated Planning Advisory Workgroup, who advises the Behavioral Health Services Director, voted 11 to 2 against implementing Laura's Law, with 4 abstaining (county employees) and 5 individuals not present to vote.

However, there was broad consensus from the above groups and the over 500 individuals participating in the MHSA Three Year Program and Expenditure Planning process that an intensive multi-disciplinary service response is lacking for individuals who are most debilitated by the effects of mental illness, and who continue to cycle through the most costly levels of care without success.

10. Are there legal considerations?

Yes.

- Disability Rights California has gone on record with their opposition to AOT, and stated they will legally challenge the implementation of Laura's Law by Los Angeles County. The impact on other counties is unknown. However, a representative of this statewide disability rights advocacy organization entered their opposition to Contra Costa implementing Laura's Law at the October 28 Board of Supervisor meeting.
- Welfare and Institutions Code, Section 5348 (b) (Laura's Law) mandates that "any county that provides assisted outpatient treatment services pursuant to this article shall also offer the same services on a voluntary basis". Contra Costa County currently does not offer a voluntary program that is comparable to the minimum program standards as specified in AB 1421. Implementing Laura's Law would require also establishing the same services for individuals with the same level of disability who volunteer for services.
- As per Welfare and Institutions Code Section 5349, the Contra Costa Board of Supervisors would be required to include in a resolution to implement Laura's Law the statement that "no voluntary mental health program... may be reduced as a result of the implementation of this article".

11. How much is this MHSA structural fiscal imbalance?

Per the 10/28/14 Board report the MHSA fund has a balance of \$49 million, which includes \$7.1 million in "prudent reserve" funds that can only be used when MHSA revenues are insufficient to fully fund existing programs. The MHSA

budget for current year (\$41.6 million) is approximately \$5 million more than estimated revenue (\$36.9 million), and this shortfall escalates to approximately \$10 million annually thereafter. Utilizing these projections it is estimated that, without correction, the MHSA fund balance would be exhausted in five to six years.

12. How close are projected revenues of the County's Mental Health Services Fund versus what is actually received?

Prior to the start of each fiscal year, the State Department of Health Care Services (DHCS) provides estimates to the counties based upon input from the State Controller's Office. For the last five years actual MHSA revenues received from the State exceeded estimates by \$6.7 million, or 4.9% for the five year period. Any revenues received in excess of the projections become part of the fund balance for the next fiscal year, and are considered in the subsequent budget development.

**Contra Costa County MHSA Revenues
(Dollars in millions)**

	FY09/10	FY10/11	FY11/12	FY12/13	FY13/14	Total
Contra Costa Estimated Revenue ¹	\$31.7	\$25.9	\$19.3	\$30.5	\$30.5	\$137.9
Contra Costa Actual Revenue Received ²	\$30.7	\$26.5	\$23.2	\$36.1	\$28.1	\$144.6
Variance	(\$1.0)	\$0.6	\$3.9	\$5.6	(\$2.4)	\$6.7
Variance in Percent	-3.2%	2.3%	20.3%	18.3%	-8.0%	4.9%

Notes:

- 1) Contra Costa statewide percentage is 2.272674% per MHSA Distribution Ratios per State Controller's Office.
- 2) Contra Costa Actual Revenue Received reflects amounts received for each program year and not actual deposits to the Trust fund. Does not include interest earned from Trust Account.

13. Are there MHSA funds available in the next three years to fund the above mental health treatment program without reducing current voluntary programs?

Yes. Due to the implementation of the Affordable Care Act, the Health Services Department has been able to project downward the total MHSA funds actually needed to sustain Behavioral Health Services staffing costs at the newly opened Cynthia and George Miller Wellness Center (MWC). The MHSA Three Year Plan is now determined to be able to accommodate \$2.25 million of additional programming per year for the next three years without reducing existing voluntary mental health program services.

14. What is recommended, given the above information and the Board of Supervisor's direction?

- Establish a Laura's Law program as a three year term project, with continuance to be contingent upon demonstration of the efficacy of court ordered out-patient treatment, as well as sufficiency of MHSA funds available to continue the program without causing the reduction of voluntary programs.
- Design the program to concurrently establish the same level and type of services for individuals who meet Laura's Law eligibility for court ordered treatment, but who elect to voluntarily engage in services.

15. How much would it cost to implement the above recommendations?

Resource Development Associates (RDA), the consulting AOT Workgroup facilitator, submitted a report to the Board of Supervisors in October that provided treatment, Superior Court, County Counsel and Public Defender cost estimates for 37 individuals who were ordered to participate in treatment. The report also estimated mental health treatment costs for an additional 76 individuals who voluntarily participated in full service partnerships.

The Board then directed County administration to re-visit the program and fiscal assumptions that RDA used to arrive at these estimates. For example, treatment and court costs were derived by accepting estimates of costs that other counties were using for planning purposes, such as assuming a \$37,500 treatment cost per individual. County staff subsequently engaged in a "zero based budgeting" approach, in which needed line items within personnel, operating and administrative costs were built upon minimum standards prescribed by AB 1421, as well as current staffing and operating costs for various professional disciplines currently funded by Contra Costa County.

As a result of this subsequent analysis Behavioral Health Services staff now indicates that a mental health treatment program meeting the minimum program standards and legal requirements specified in AB 1421 can be implemented for \$2.25 million. This treatment program can serve up to 37 court ordered individuals, and a similar number of individuals with the same level of severity who are the subject of a petition, but who choose to volunteer for services. Thus a single mental health treatment program could serve up to 70-75 individuals who are both court ordered and voluntary.

Costs for non-mental health treatment participation, such as Superior Court, County Counsel, Public Defender and the Sheriff's Office were also subsequently reviewed. Direct Superior Court costs were revised downward to \$128,000, Public Defender costs were revised downward to \$133,500, and County Counsel costs were reduced downward to \$157,000. This reduced the estimated Court, County Counsel and Public Defender costs downward to \$418,500. Additional workload and increased costs to the Sheriff's Department are unknown.

The following factors need to be considered regarding costs:

- If MHSA funds are used as a funding source, a community program planning process is required where stakeholder input would be solicited regarding program design. Costs could vary depending upon the program design that results from this process.
- Housing subsidies committed to and paid for during program participation would potentially be an ongoing County financial responsibility after an individual has moved to a different level of care, as funding would need to be secured to enable individuals to stay in their homes. This unknown ongoing cost needs to be determined as part of the evaluation of program impact and potential cost savings.
- A one-time start-up cost of up to \$250,000 could be incurred prior to the start of treatment for such items as retrofitting a facility for staff and client safety and reasonable accommodation, and one-time purchases, such as furnishings, computers, communication equipment and vehicles.

16. How long would it take before a program could start?

It is estimated that it would take 10 months from Board resolution to start of program services. Major milestones to accomplish would be:

Complete a community program planning process	4 months
Board approves implementing plan and authorizes budget	1 month
Contract awarded to contract provider and/or fill county positions	3 months
Plan for program start, train staff	<u>2 months</u>
Total	10 months

If the Board approves Resolution No. 2015/9, attached to this Board Order, client services could start by November 2015.

CONSEQUENCE OF NEGATIVE ACTION:

If the Board does not approve the recommendations in this Board Order the status quo will be maintained.

CHILDREN'S IMPACT STATEMENT:

Not applicable.

ATTACHMENTS

Resolution No. 2015/9