



RURAL COUNTY REPRESENTATIVES
OF CALIFORNIA

August 6, 2024

The Honorable Gavin Newsom
Governor, State of California
1021 O Street, Suite 9000
Sacramento, CA 95814

Re: Senate Bill 43 (Chapter 637, Statutes of 2023) Implementation

Dear Governor Newsom:

The rural counties represented by our organization have received your letter urging immediate implementation of Senate Bill 43, which expands eligibility for Lanterman-Petris-Short (LPS) conservatorship. Rural counties appreciate your continued commitment and leadership on behavioral health issues. Our member counties reiterate our collective commitment to working in collaboration with the state in finding innovative and creative solutions to help address behavioral health challenges facing our residents. That said, before SB 43 can be put into practice with the urgency your letter seeks, several actions are required as described below. We welcome the opportunity to work collaboratively with your administration to resolve these issues so that SB 43 can be successfully implemented.

First, in order to implement Senate Bill 43 "right now," placement capacity must exist. It does not. Counties greatly appreciate the state's significant financial investments in behavioral health services and housing, which promise to greatly expand placement opportunities for the broad population of behavioral health clients in the future. However, these state appropriations do not instantly transform into *available beds*. Planning, allocation, awards, and construction of new facilities takes many months, if not years, of work – much of it occurring at the state level. The articulation of this challenge is not a criticism of state process, but rather the simple reality of the conscientious management of large building programs. Many counties cannot feasibly take action to expand conservatorships before the promise of these state investments is *actually realized*, and the additional conservatees can be reliably housed.

Moreover, many of the state's recent investments exclude locked facility beds, which are a critical component of many newly established LPS conservatorships. Additionally, counties' options for placing LPS conservatees in the State Hospitals have been severely constrained in recent years, with the state, more recently, even proposing to close LPS intake at State Hospitals and require a process for the return of LPS patients to counties. As you are aware, LPS conservatorship is the highest level of civil mental

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health intervention in California, reserved for the most seriously impacted clients. These clients are often in crisis when conservatorship is established and require locked placement for stabilization before step down to community housing. The lack of sufficient and reliable locked placements functionally limits the number of clients who can be effectively treated under an LPS conservatorship. We are hopeful that the \$1.5 billion included in Proposition 1 for local agencies to build new capacity or expand existing capacity for a variety of treatment options, including acute and subacute care for persons with behavioral health disorders, will help increase the number of locked placement options.

Secondly, Senate Bill 43 expands eligibility for LPS conservatorship to clients who are gravely disabled due to substance use disorder (SUD). As explained in detail in our recent letter (attached) addressed to the Secretary of the California Health and Human Services Agency, funding and placement opportunities for these SUD clients are presently limited – or nonexistent – due to an array of state policy and fiscal constraints. As above, we greatly appreciate the efforts of the Administration and Legislature to address some of these issues; however, those efforts have not yet come to fruition in the form of adequate available placements to handle the expanded population of LPS conservatees. Counties will not be able to fully implement Senate Bill 43 until sufficient placements and housing opportunities are *immediately* available.

Lastly, as may not be well known, the offices of public conservators are often primarily, if not wholly, funded by county general funds. Due to prior state revenue shifts, county general fund revenues have been shrinking as an overall portion of county budgets since 1978. As a result, many rural counties today have less general fund funded staff than they did 20 years ago. Put differently, if counties are to increase staff to expand caseload management within public conservator offices, there must be an assigned dedicated revenue to fund these costs. In the absence of the Legislature providing commensurate revenues to fund SB 43 implementation, counties are left with the unworkable choice to cannibalize funds from child welfare services, law enforcement, etc. to fund any new positions within their public conservator's offices.

Rural counties share your desire to tackle the state's behavioral health crisis as quickly as possible. We believe that objective is best accomplished through sincere collaboration and transparency. We would welcome the opportunity to meet with you and your leadership team to further discuss the real circumstances, real constraints, unique challenges and real opportunities facing rural counties on the ground, and we look forward to our continued work together in pursuit of the best solutions for California.

Sincerely,

A handwritten signature in blue ink that reads "Patrick Blacklock". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Patrick Blacklock
RCRC President and CEO

The Honorable Gavin Newsom
Senate Bill 43 (Chapter 637, Statutes of 2023) Implementation
August 6, 2024
Page 3

Attached: Letter to Secretary Ghaly RE: SB 43 Implementation

cc: Dana Williamson, Chief of Staff, Office of Governor Gavin Newsom
Richard Figueroa, Deputy Cabinet Secretary, Office of Governor Gavin Newsom
Angela Pontes, Deputy Legislative Secretary, Office of Governor Gavin Newsom



August 2, 2024

Dr. Mark Ghaly, MD
Secretary, California Health and Human Services Agency
1215 O Street
Sacramento, CA 95814

Re: SB 43 (Chapter 637, Statutes of 2023) Implementation

Dear Secretary Ghaly:

On behalf of the Urban Counties of California (UCC), a coalition of 14 of the most populous counties, and the Rural County Representatives of California (RCRC), which represents 40 rural counties, we write in response to Governor Newsom's outreach on implementation of Senator Eggman's SB 43 (Chapter 637, Statutes of 2023). UCC and RCRC members have been actively implementing SB 43, including working with the Administration and the Legislature on several issues necessary to do so successfully.

Locally, successful implementation requires many steps, including evaluating the current capacity for LPS-designated locked substance use disorder (SUD) treatment, extensive training, support for the County Office of the Public Conservator, additional development of connections to voluntary harm reduction and SUD treatment services, and data preparation. For example, counties are conducting a comprehensive mapping and capacity analysis of the SUD system and contracts with hospitals and crisis stabilization units (CSUs) are being evaluated and negotiated to address this new need. In addition, urban and rural counties are moving forward with training various law enforcement agencies, psychiatric emergency response teams, LPS-designated facilities, as well as other agencies and community partners on SB 43. Thousands of individuals across the state will need to be trained in order to implement SB 43.

Despite this work, the following implementation issues remain:

- **Lack of Locked SUD Inpatient Treatment Beds.** Adequate capacity for treating conserved SUD-only individuals, does not yet exist, with limited exceptions. This is an issue that counties raised many times as SB 43 moved through the legislative process. Senator Eggman has introduced SB 1238 to permit certain existing facilities, mental health rehabilitation centers and psychiatric health facilities to treat these individuals. However, the Administration issued guidance requiring hospitals to have a distinct part

unit with a chemical dependency service for this treatment, which will require most hospitals to go through an additional licensing step. Pending legislation – AB 2376 (Bains) – would allow a general acute care hospital to provide chemical dependency recovery services within the same building. However, until these bills are signed into law there are very limited options for placement today. To fully implement SB 43, counties need legal placement options with state-approved reimbursement mechanisms.

- **Lack of Medi-Cal reimbursement.** The Administration has not established Medi-Cal reimbursement rates for locked primary or stand-alone SUD treatment. SB 43 directs DHCS to do so and counties have asked the Administration to establish reimbursement rates as quickly as possible, but this remains an outstanding issue.
- **Lack of Crisis Residential Treatment Options.** For the same reasons (lack of licensing and Medi-Cal reimbursement), crisis residential units also cannot provide diversion or step-down care for conservatees without cooccurring mental health condition. Urban and rural counties have asked the Administration to share its thinking about new crisis residential treatment for primary and stand-alone SUD in the context of BH-CONNECT and Proposition 1.

Urban and rural counties are not only working locally to implement SB 43, we are also engaging with the Administration on the issues above to implement the new policy. Many of the issues outlined above need further clarification in state law and guidance. Without these changes, counties are unable to meaningfully implement the provisions of SB 43. We urge your partnership in good faith in the coming weeks and months as we all work to implement this significant behavioral health system transformation and positively impact the lives of as many Californians as possible.

Sincerely,



Kelly Brooks-Lindsey
Legislative Representative
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916-753-0844



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cc: Richard Figueroa, Deputy Cabinet Secretary, Office of Governor Gavin Newsom
Kim McCoy Wade, Senior Advisor, Office of Governor Gavin Newsom
Angela Pontes, Deputy Legislative Secretary, Office of Governor Gavin Newsom
Stephanie Welch, Deputy Secretary, California Health and Human Services Agency
Michelle Baass, Director, Department of Health Care Services