CONTRA COSTA MENTAL HEALTH COMMISSION

CONTRA COSTA MENTAL HEALTH COMMISSION
1340 Arnold Drive, Suite 200
Martinez, CA 94553
Ph (925) 313-9553
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cchealth.org/mentalhealth/mhc

Mental Health Commission (MHC)

Wednesday, December 1st, 2021, ◊ 4:30 pm - 6:30 pm

VIA: Zoom Teleconference:

https://cchealth.zoom.us/j/6094136195
Meeting number: 609 413 6195
Join by phone:
1 646 518 9805 US
Access code: 609 413 6195

AGENDA

I. 4:30 Call to Order/Introductions

II. 4:33 Public Comments

III. 4:43 Commissioner Comments

IV. 4:53 Chair Comments/Announcements

- **i. The first module of the MHC Orientation, "Introduction to the Mental Health Commission", will be presented immediately before the January Commission meeting at 3:30 to 4:20 PM**
- **ii. 2019 updates to the Welfare and Institutions Code (WIC)**
- **iii. By-law changes (attached to include in record)**
- **iv. Civil Grand Jury Report – Telehealth (attached to include in record)**

V. 5:00 APPROVE November 3rd, 2021 Meeting Minutes

VI. 5:02 "Get to know your Commissioner" (Commissioner Dr. Rhiannon Shires / Supervisor Candace Andersen)

VII. 5:12 DISCUSS and VOTE on the Motion brought forth from the November 18, 2021 MHSA-Finance Committee Meeting (Agenda Item VIII):

"Ask Contra Costa Behavioral Health Services (CCBHS) to include Institute of Mental Diseases (IMD) Mental Health Rehabilitation Center (MHRC), as well as appropriate step-down facilities, programming and staffing needs in its upcoming Behavioral Health Continuum Infrastructure competitive grant applications to the state."

VIII. 5:22 Behavioral Health Services Director's Report, Dr. Suzanne Tavano

(Agenda continued on Page Two)

CONTRA COSTA COUNTY
MENTAL HEALTH
COMMISSION

Mental Health Commission (MHC) Agenda (Page Two)

Wednesday, December 1st, 2021 ◊ 4:30 pm - 6:30 pm

IX. 5:37 UPDATE on Site Visits (Nierika House, Crestwood Our House (Vallejo), and small board and cares)

X. 5:52 UPDATE on new Commissioners and open seats

XI. 5:55 PROVIDE summary of MHC 2021 Retreat, Commissioner Graham Wiseman

XII. 6:00 REPORT on Nierika House past issues, current status and future plans, Jamie Almanza, CEO of Bay Area Community Services (BACS) and Dr. Jan Cobaleda-Kegler, Behavioral Health Services

XIII. 6:15 ELECTION 2022 Mental Health Commission officers

XIV. 6:30 Adjourn

ATTACHMENTS:

A. Welfare & Institution Code (WIC) Regarding Legislation for Mental/Behavioral Health Boards/Commissions

B. Internal Operations Committee September 13, 2021 Re: Bylaw Changes

C. Civil Grand Jury Report 2102 – Tele-Mental Health: Expansion of Remote Access to Care (October 12, 2021)

D. Motion from MHSA-Finance Meeting Agenda Item VIII, November 18, 2021

E. Mental Health Commission Officer Elections 2022 Nominee List

Welfare & Institution Code (WIC) Regarding Legislation for Mental/Behavioral Health Boards/Commissions

Items in **bold** reflect October 2019 CA legislative update.

I. **WIC 5604.5**
II. **WIC 5604.2 & 5848**
III. **WIC 5604.3**
IV. **WIC 5604.**

I. BYLAW Requirements (WIC 5604.5)

Bylaw Requirements Duties
Expenses Membership

The local mental health board shall develop bylaws to be approved by the governing body which shall do all of the following:

1. (a) Establish the specific number of members on the mental health board, consistent with subdivision (a) of Section 5604.
2. (b) Ensure that the composition of the mental health board represents **and reflects the diversity** and demographics of the county as a whole, to the extent feasible.
3. (c) Establish that a quorum be one person more than one-half of the appointed members.
4. (d) Establish that the chairperson of the mental health board be in consultation with the local mental health director.
5. (e) Establish that there may be an executive committee of the mental health board.

II. A. DUTIES WIC 5604.2 (Items in **bold** reflect the 2019 legislative update.) The local mental health board shall:

1. Review and evaluate the community's **public** mental health needs, services, facilities, and special problems **in any facility within the county or jurisdiction where mental health evaluations or services are being provided, including, but not limited to, schools, emergency departments, and psychiatric facilities.**

2. Review any county agreements entered into pursuant to Section 5650. **The local mental health board may make recommendations to the governing body regarding concerns identified within these agreements.**

3. Advise the governing body and the local mental health director as to any aspect of the local mental health program. **Local mental health boards may request assistance from the local patients' rights advocates when reviewing and advising on mental health evaluations or services provided in public facilities with limited access.**

4. Review and approve the procedures used to ensure citizen and professional involvement at all stages of the planning process. **Involvement shall include individuals with lived experience of mental illness and their families, community members, advocacy organizations, and mental health professionals. It shall also include other professionals that interact with individuals living with mental illnesses on a daily basis, such as education, emergency services, employment, health care, housing, law enforcement, local business owners, social services, seniors, transportation, and veterans.**

5. Submit an annual report to the governing body on the needs and performance of the county's mental health system.

6. Review and make recommendations on applicants for the appointment of a local director of mental health services. The board shall be included in the selection process prior to the vote of the governing body.

7. Review and comment on the county's performance outcome data and communicate its findings to the California Behavioral Health Planning Council.

8. **This part does not** limit the ability of the governing body to transfer additional duties or authority to a mental health board.

(b) It is the intent of the Legislature that, as part of its duties pursuant to subdivision (a), the board shall assess the impact of the realignment of services from the state to the county, on services delivered to clients and on the local community.

II.B. DUTIES MHSA (WIC 5848)(b)(f) (Items in **bold** reflect the 2019 legislative update.)

(b) The mental health board established pursuant to Section 5604 shall conduct a public hearing on the draft three-year program and expenditure plan and annual updates at the close of the 30-day comment period required by subdivision (a). Each adopted three-year program and expenditure plan and update shall include any substantive written recommendations for revisions. The adopted three-year program and expenditure plan or update shall summarize and analyze the recommended revisions. The mental health board shall review the adopted plan or update and make recommendations to the local **mental health agency or local behavioral health agency, as applicable, for revisions. The local mental health agency or local behavioral health agency, as applicable, shall provide an annual report of written explanations to the local governing body and the State Department of Health Care Services for any substantive** [see (f) below] **recommendations made by the local mental health board that are not included in the final plan or update.**

(f) **For purposes of this section "Substantive recommendations made by the local mental health board" means any recommendation that is brought before the board and approved by a majority vote of the membership present at a public hearing of the local mental health board that has established its quorum.**

III. EXPENSES MHSA WIC 5604.3 & 5892 (c) (Items in **bold** reflect the 2019 legislative update.)
WIC 5604.3

(1) The Board of Supervisors may pay from any available funds the actual and necessary expenses of the members of the Mental Health Board of a community mental health service incurred incident for the performance of their official duties and functions. The expenses may include travel, lodging, childcare and meals for the members of an advisory board while on official business as approved by the director of mental health programs.

(b) **Governing bodies are encouraged to provide a budget for the local mental health board, using planning and administrative revenues identified in subdivision (c) of Section 5892 [see below], that is sufficient to facilitate the purpose, duties, and responsibilities of the local mental health board.**

WIC 5892 (c)

The allocations pursuant to subdivisions (a) and (b) shall include funding for annual planning costs pursuant to Section 5848 . The total of these costs shall not exceed 5 percent of the total of annual revenues received for the fund. The planning costs shall include funds for county mental health programs to pay for the costs of consumers, family members, and other stakeholders to participate in the planning process ...

IV. MEMBERSHIP MHSA WIC 5604. (Items in **bold** reflect the 2019 legislative update.)

(a)(1) Each community mental health service shall have a mental health board consisting of 10 to 15 members, depending on the preference of the county, appointed by the governing body, except that boards in counties with a population of less than 80,000 may have a minimum of five members. **A** county with more than five supervisors shall have at least the same number of members as the size of its board of supervisors. **This section does not limit** the ability of the governing body to increase the number of members above 15.

2. (2) (A) The board serves in an advisory role to the governing body, and one member of the board shall be a member of the local governing body. Local mental health boards may recommend appointees to the county supervisors. The board membership should reflect the diversity of the client population in the county to the extent possible.

   (B) Fifty percent of the board membership shall be consumers, or the parents, spouses, siblings, or adult children of consumers, who are receiving or have received mental health services. At least 20 percent of the total membership shall be consumers, and at least 20 percent shall be families of consumers.

   (C) In addition to consumers and family members referenced in subparagraph (B) Counties are encouraged to appoint individuals who have experience with and knowledge of the mental health system. This would include members of the

community that engage with individuals living with mental illness in the course of daily operations, such as representatives of county offices of education, large and small businesses, hospitals, hospital districts, physicians practicing in emergency departments, city police chiefs, county sheriffs, and community and nonprofit service providers.

3. (3) (A) In counties **with a population that is less than 80,000,** at least one member shall be a consumer, and at least one member shall be a parent, spouse, sibling, or adult child of a consumer, who is receiving, or has received, mental health services.

   (B) Notwithstanding subparagraph (A), a board in a county with a population **that is less than** 80,000 that elects to have the board exceed the five-member minimum permitted under paragraph (1) shall be required to comply with paragraph (2).

2. (b) The mental health board shall review and evaluate the local public mental health system, pursuant to Section 5604.2, and advise the governing body on community mental health services delivered by the local mental health agency or local behavioral health agency, as applicable.
3. (c) The term of each member of the board shall be for three years. The governing body shall equitably stagger the appointments so that approximately one-third of the appointments expire in each year.
4. (d) If two or more local agencies jointly establish a community mental health service pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the mental health board for the community mental health service shall consist of an additional two members for each additional agency, one of whom shall be a consumer or a parent, spouse, sibling, or adult child of a consumer who has received mental health services.

(e) (1) Except as provided in paragraph (2), a member of the board or the member's spouse shall not be a full-time or part-time county employee of a county mental health service, an employee of the State Department of Health Care Services, or an employee of, or a paid member of the governing body of, a mental health contract agency.

(2) A consumer of mental health services who has obtained employment with an employer described in paragraph (1) and who holds a position in which the consumer does not have any interest, influence, or authority over any financial or contractual matter concerning the employer may be appointed to the board. The member shall abstain from voting on any financial or contractual issue concerning the member's employer that may come before the board.

(f) Members of the board shall abstain from voting on any issue in which the member has a financial interest as defined in Section 87103 of the Government Code.

(g) If it is not possible to secure membership as specified in this section from among persons who reside in the county, the governing body may substitute representatives of the public interest in mental health who are not full-time or part-time employees of the county mental health service, the State Department of Health Care Services, or on the staff of, or a paid member of the governing body of, a mental health contract agency.

(h) The mental health board may be established as an advisory board or a commission, depending on the preference of the county.

Contra Costa County

To: Board of Supervisors

From: INTERNAL OPERATIONS COMMITTEE

Date: September 21, 2021

Subject: MODIFICATIONS TO THE BYLAWS OF THE COUNTY'S MENTAL HEALTH COMMISSION

RECOMMENDATION(S):

ADOPT revisions to the Mental Health Commission Bylaws pertaining to meeting attendance and member recruitment and selection.

FISCAL IMPACT:

No fiscal impact.

BACKGROUND:

In the early spring of 2021, the Executive Committee of the Mental Health Commission (MHC) discussed the fact that its Bylaws were not consistent with the current practices of how members of the Board of Supervisors appoint Mental Health Commissioners. The MHC Bylaws were last amended in 2018.

(Continued on page 2...)

☑ APPROVE ☐ OTHER

☐ RECOMMENDATION OF CNTY ADMINISTRATOR ☑ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **09/21/2021** ☑ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Diane Burgis, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

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: September 21, 2021

Monica Nino, County Administrator and Clerk of the Board of Supervisors

Contact: Julie DiMaggio Enea
(925) 655-2056

By: Stacey M. Boyd, Deputy

cc:

BACKGROUND: (CONT'D)

The current MHC Bylaws provide for the following in terms of vacancies and recruitment:

ARTICLE IV, SECTION 4. VACANCIES AND RECRUITMENT

4.1 Role of the Commission
At the discretion of and to the extent requested by the Board, the Commission shall be involved in the recruitment and screening of applicants. When an application is received, the Commission will appoint an Ad Hoc Applicant Interview Committee, pursuant to Article VIII, Section 5.1. Following an interview by the Ad Hoc Applicant Interview Committee, it will forward its recommendation to the Commission. After Commission vote and approval, the recommendation for nomination of the applicant shall be forwarded to the appropriate member of the Board of Supervisors for that Supervisor's consideration.

4.2 Applications The Commission shall receive applications on an ongoing basis.

4.3 Commission Recommendation

a) Pursuant to Article IV, section 1.2, the Commission shall, to the extent possible, recommend for appointment those persons who will assist the County in complying with the ethnic and demographic mandates in the Welfare & Institutions Code.

b) To the extent possible, the Commission shall recommend for appointment applicants who have experience and knowledge of the mental health system, preferably in the County.

In practice, members of the Board of Supervisors interview applicants, ensure that they meet the requirements of Commission membership, and encourage them to attend MHC meetings prior to appointment. However, Supervisors have not recently requested that the Commission appoint an Ad Hoc Applicant Interview Committee or asked them to make recommendations for nominations.

Supervisor Candace Andersen, the representative of the Board of Supervisors on the MHC, met with MHC Chair Graham Wiseman. It was agreed that the provision in the bylaws regarding an Ad Hoc committee making recommendations for appointment created confusion, and Supervisor Andersen suggested that the bylaws be amended to reflect the current practice. The MHC voted to forward suggested modifed language to the Internal Operations Committee for consideration.

The MHC additionally voted to amend its bylaws pertaining to meeting

attendance, to provide for excusal of certain absences and to clarify that excused absences will not be counted towards constructive resignation, and also forwarded that language to the Internal Operations Committee.

The Internal Operations Committee discussed the proposed amendments at its regular July and September meetings and made additional changes to the amendments proposed by the MHC. County Counsel reviewed language recommended by the Internal Operations Committee to verify it is reflective of current practices by the Board of Supervisors and in conformance with Welfare and Institutions Code sections 5604 and 5604.5.

Attached are a redline (Attachment A) and proposed final version (Attachment B) of the amended MHC bylaws for the Board's consideration and recommended approval.

ATTACHMENTS

Attachment A: Proposed Amendments to Mental Health Commission Bylaws_9-21-21_Redline Markup

Attachment B: Mental Health Commission Bylaws as Amended on 9-21-21_No Markup

INTERNAL OPERATIONS COMMITTEE

RECORD OF ACTION FOR
September 13, 2021

Supervisor Candace Andersen,Chair
Supervisor Diane Burgis, Vice Chair

Present:	Candace Andersen, Chair Diane Burgis, Vice Chair
Staff Present:	Julie DiMaggio Enea, Staff
Attendees:	Monica Nino, County Administrator; Lea Castleberry, District III Supervisor's Office; Cynthia Shehorn, PW Purchasing Svcs Mgr; Carrie Ricci, Deputy PW Director; Jami Morritt, Chief Asst Clerk of the Board; Lauren Hull, CoB Management Analyst; Jill Ray, District II Supervisor's Office; Lia Bristol, District IV Supervisors Office; Michael Kent, Exec Asst to HazMat Commission

1. Introductions

   Chair Andersen called the meeting to order at 10:30 a.m. and acknowledged all of the attendees.

2. Public comment on any item under the jurisdiction of the Committee and not on this agenda (speakers may be limited to three minutes).

   No one requested to speak during the public comment period.

3. RECEIVE and APPROVE the Record of Action for the July 12, 2021 IOC meeting.

   The Committee approved the record of action for the July 12, 2021 IOC meeting as presented.

   AYE: Chair Candace Andersen
   Vice Chair Diane Burgis

4. RECOMMEND to the Board of Supervisors the appointment of Teston Shull to the Labor #1 seat and Terry Baldwin to the Labor #1 Alternate seat on the Hazardous Materials Commission to complete the current terms that will expire on December 31, 2022.

   Approved as recommended. Staff will forward recommendation to the BOS on September 21.

   AYE: Chair Candace Andersen
   Vice Chair Diane Burgis

5. CONSIDER changes to the Mental Health Commission bylaws pertaining to the Commissioner appointment process and to the proposed Attendance policy and DETERMINE action to be taken.

   The Committee considered bylaw changes pertaining to attendance and recruitment/selection, and a proposed code system of seat names that do not distinguish consumers and family members of consumers from other Commission

seats.

The Committee voted to accept updated staff material that better illustrates the Commission recommendation pertaining to attendance. To the added material, the Committee made the following revisions:

SECTION 2. ATTENDANCE

2.1 Attendance requirements

a) Regular attendance at Commission meetings is mandatory for all Commission members.

1) A member who ~~is absent from~~ who has four (4) unexcused absences from regularly scheduled full Commission meetings in any consecutive twelve-month period, as opposed to calendar year, shall be deemed to have resigned from the Commission. In such event, the former Commission member's status will be noted at the next scheduled Commission and shall be recorded in the Commission's minutes. The Chairperson shall, without further direction from the Commission, apprise the Board of Supervisors of the member's resignation and request the appointment of a replacement.

2) A Commissioner's absence from a regularly scheduled Commission meeting may be excused in the case of an unforeseen, extraordinary circumstance, including but not limited to major illness, natural disaster, or civil unrest. Commissioners shall obtain consent from the Chair at least one day prior to the meeting, for any planned absences. Excused absences will be recorded in the meeting minutes as an "excused absence".

b) Each Commissioner will ensure that when s/he attends Commission-sponsored meetings (excluding Commission and Committee meetings) or activities representing her/himself as a Commissioner, s/her expresses only those views approved by the Commission.

c) Regular attendance of one standing Commission Committee, with the exception of Executive Committee, is mandatory for all Commission members.

1) A member who ~~is absent from~~ who has four (4) unexcused absences from regularly scheduled Commission Committee meetings in any consecutive twelve-month period shall be deemed to have resigned from the Committee. In such event, the former Committee member's status will be noted at the next scheduled Committee meeting and shall be recorded in the Committee's minutes. The resigned member shall choose a different Committee on which to serve.

To the language proposed in the staff report, the Committee made the following revisions to the Section 4. Vacancies and Recruitment:

4.4 Each County Supervisor will encourage any applicant being considered for the Mental Health Commission to attend at least one Commission meeting prior to their appointment. Applicants ~~are~~ will also be encouraged to meet with the MHC Chair, MHC Vice Chair and/or ad-hoc committee prior to accepting position to ensure full understanding of the roles, responsibilities, and restrictions of being a Mental Health Commissioner.

The Committee instructed the Clerk of the Board's office to adopt a seat name code system that uses generic titles for the MHC seats. For example, each District is assigned three seats, one designated for consumer of mental health services, one designated for a family member of a consumer, and one designated as a member at large:

District #, Seat 1 = Consumer Member
District #, Seat 2 = Family Member
District #1, Seat 3 = At Large Member

The Local Appointment List and recruitment materials would need to identify what each code seat name represents; however, for all other purposes, the generic seat name will suffice.

AYE: Chair Candace Andersen
Vice Chair Diane Burgis

6. Modify the current form to additionally capture:

- current employer, job title and length of employment. Past relevant employment experience can be addressed within the current request for qualifications.
- relevant occupational licenses possessed by the applicant.
- name and occupation of the applicant's spouse, for conflict of interest purposes.
- if the applicant is a veteran of the U.S. Armed Forces.
- how long the applicant has resided/worked in Contra Costa County.
- whether or not the applicant has any obligations that might affect his/her attendance at scheduled meetings.

The Committee approved the staff recommendation except that it eliminated the section that would capture the name and occupation of the applicant's spouse. The Committee directed the Clerk of the Board's office to add the following information elements to the advisory body application:

- ***current employer, job title and length of employment (past relevant employment experience can be addressed within the current request for qualifications)***
- ***relevant occupational licenses possessed by the applicant***
- ***if the applicant is a veteran of the U.S. Armed Forces***
- ***how long the applicant has resided/worked in Contra Costa County***
- ***whether or not the applicant has any obligations that might affect his/her attendance at scheduled meetings***

AYE: Chair Candace Andersen
Vice Chair Diane Burgis

7. ACCEPT the Small Business Enterprise, Outreach, and Local Bid Programs Report, reflecting departmental program data for the period July 1 through December 31, 2020.

Cindy Shehorn presented the staff report and highlights. The Committee accepted the report, thanked Ms. Shehorn, and directed staff to forward the report to the BOS for its information.

AYE: Chair Candace Andersen
Vice Chair Diane Burgis

8. The next meeting is currently scheduled for October 11, 2021.

9. Adjourn

Chair Andersen adjourned the meeting at 11:43 a.m.

For Additional Information Contact:

Julie DiMaggio Enea, Committee Staff
Phone (925) 655-2056, Fax (925) 655-2066
julie.enea@cao.cccounty.us

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June 2, 2021

Dear Supervisor Candace Andersen,

We respectively ask the Internal Operations Committee of the Contra Costa County Board of Supervisors to read and consider the Mental Health Commission's suggestion to the bylaw regarding Section 4. VACANCIES AND RECRUITMENT.

The following language presents 1) the text that you are requesting; and 2) the text that the Mental Health Commission is requesting as an alternative (note: highlighted text is what differs).

Text Proposed by Supervisor Candace Andersen, District II

SECTION 4. VACANCIES AND RECRUITMENT

4.1 Role of the Commission

The role of the Commission in recruitment of new commissioners is at the discretion of and to the extent requested by the Board of Supervisors.

4.2 The Commission is encouraged to help identify and recruit qualified applicants to apply for any vacancies on the Commission.

4.3 Commission Identification and Recruitment of Applicants

a) Pursuant to Article IV, section 1.2, the Commission shall, to the extent possible, identify and encourage applicants who will assist the County in complying with the ethnic and demographic mandates in the Welfare & Institutions Code.

b) To the extent possible, the Commission shall identify and encourage applicants who have experience and knowledge of the mental health system, preferably in the County

4.4 Each County Supervisor will encourage any applicant being considered for the Mental Health Commission to attend a Commission meeting prior to their appointment.

4.5 Upon appointment, the Chair and Executive Committee of the Mental Health Commission shall coordinate appropriate training and orientation of all new commissioners.

Text Proposed by the Mental Health Commission:

SECTION 4. VACANCIES AND RECRUITMENT

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b) To the extent possible, the Commission shall identify and encourage applicants who have experience and knowledge of the mental health system, preferably in the County

4.4 Each County Supervisor will encourage any applicant being considered for the Mental Health Commission to attend at least one Commission meeting prior to their appointment. Applicants are required to meet with the MHC Chair, MHC Vice Chair and/or ad-hoc committee prior to accepting position to ensure full understanding of the roles, responsibilities, and restrictions of being a Mental Health Commissioner.

4.5 Upon appointment by the District Supervisor, the Chair and Executive Committee of the Mental Health Commission shall coordinate appropriate training and orientation of all new commissioners.

Will you please honor the fact the Commission is currently not reflective of the diversity of the client population in the county? We would like to ensure we are following the guidelines of Executive Order No. 13985 *Advancing Racial Equity and Support for Underserved Communities through the Federal Government* (pg 7009 - 7013), signed into law January 20, 2021 by President Joseph R. Biden Jr., as well as the Recruitment of Board/Commission Members, WIC 5604 (a) (1), and *Best Practices for Local Mental/Behavioral Health Boards and Commissions 2020*, rev.1 (pg. 24, Best Practices, 2020).

We realize that the Board of Supervisors is inundated with responsibilities of the county and Mental Health Commissioners are ready and willing to take on the task of recruiting, orienting/interviewing, and making recommendations to the Board of Supervisors for candidates to fill open seats on this Commission.

Sincere Regards,

Contra Costa County Mental Health Commission

GOVERNMENT CODE - GOV

TITLE 5. LOCAL AGENCIES [50001 - 57607]

(Title 5 added by Stats. 1949, Ch. 81.)

DIVISION 2. CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 55821]

(Division 2 added by Stats. 1949, Ch. 81.)

PART 1. POWERS AND DUTIES COMMON TO CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 54999.7]

(Part 1 added by Stats. 1949, Ch. 81.)

CHAPTER 11. Local Appointments List [54970 - 54974]

(Heading of Chapter 11 amended by Stats. 1991, Ch. 669, Sec. 5.)

54972.

On or before December 31 of each year, each legislative body shall prepare an appointments list of all regular and ongoing boards, commissions, and committees which are appointed by the legislative body of the local agency. This list shall be known as the Local Appointments List. The list shall contain the following information:

(a) A list of all appointive terms which will expire during the next calendar year, with the name of the incumbent appointee, the date of appointment, the date the term expires, and the necessary qualifications for the position.

(b) A list of all boards, commissions, and committees whose members serve at the pleasure of the legislative body, and the necessary qualifications for each position.

(Amended by Stats. 1991, Ch. 669, Sec. 6.)

Contra Costa County Board of Supervisors

Subcommittee Report

INTERNAL OPERATIONS COMMITTEE 5.

Meeting Date:	09/13/2021		
Subject:	Mental Health Commission Request to Modify Bylaws Pertaining to Vacancies and Recruitment		
Submitted For:	Candace Andersen,		
Department:	Board of Supervisors District II		
Referral No.:	IOC 21/5		
Referral Name:	Advisory Body Recruitment		
Presenter:	Candace Andersen	Contact:	Julie Enea (925) 655-2056

Referral History:
In the early spring of 2021 the Executive Committee of the Mental Health Commission (MHC) discussed the fact that its Bylaws were not consistent with the current practices of how members of the Board of Supervisors appoint Mental Health Commissioners. The MHC Bylaws were last amended in 2018.

The current MHC Bylaws provide for the following:

ARTICLE IV, SECTION 4. VACANCIES AND RECRUITMENT

4.1 Role of the Commission
At the discretion of and to the extent requested by the Board, the Commission shall be involved in the recruitment and screening of applicants. When an application is received, the Commission will appoint an Ad Hoc Applicant Interview Committee, pursuant to Article VIII, Section 5.1. Following an interview by the Ad Hoc Applicant Interview Committee, it will forward its recommendation to the Commission. After Commission vote and approval, the recommendation for nomination of the applicant shall be forwarded to the appropriate member of the Board of Supervisors for that Supervisor's consideration.

4.2 Applications The Commission shall receive applications on an ongoing basis.

4.3 Commission Recommendation

a) Pursuant to Article IV, section 1.2, the Commission shall, to the extent possible, recommend for appointment those persons who will assist the County in complying with the ethnic and demographic mandates in the Welfare & Institutions Code.

b) To the extent possible, the Commission shall recommend for appointment applicants who have experience and knowledge of the mental health system, preferably in the County.

In practice, members of the Board of Supervisors interview applicants, ensure that they meet the requirements of Commission membership, and encourage them to attend MHC meetings prior to appointment. However, Supervisors have not recently requested that the Commission appoint an Ad Hoc Applicant Interview Committee or asked them to make recommendations for nominations.

Supervisor Candace Andersen, the representative of the Board of Supervisors on the MHC, met with MHC Chair Graham Wiseman. It was agreed that the provision in the bylaws regarding an Ad Hoc committee making recommendations for appointment created confusion, and Supervisor Andersen suggested that the bylaws be amended to reflect the current practice. County Counsel prepared a draft amendment to the MHC Bylaws.

At the June 2, 2021 meeting of the MHC, a discussion ensued regarding County Counsel's draft amendment. Concern was expressed about achieving diversity and representation by consumers of mental health services, and effective orientation of prospective members to promote participation and commitment to the office. At the conclusion of the discussion, the MHC decided, on a split vote (4 Aye, 2 No, 3 Abstain), to send the attached letter to Supervisor Andersen requesting IOC consideration of a revision to what County Counsel had drafted. Only Sections 4.3 through 4.5 had recommended changes.

On July 12th, the IOC considered a draft amendment to clear the confusion, to make the bylaws reflective of current practices by the Board of Supervisors, and to have this provision of the bylaws reflect changes to Welfare and Institutions Code sections 5604 and 5604.5. The Committee decided to hold off making recommendations to the Board of Supervisors pending input from the MHC on additional bylaws changes relating to Commissioner attendance. The Committee also asked for County Counsel guidance on the question of whether MHC seat names could be made more generic in an effort to avoid any stigma that may be associated with certain seats, namely the Consumer or Family Member seats.

Referral Update:

Vacancies and Recruitment

On July 12, the IOC considered proposals from the MHC and Supervisor Andersen to modify the MHC bylaws associated governing Commissioner recruitment and appointment.

MHC Proposal:

4.3 Commission Identification and Recruitment of Applicants

a) Pursuant to Article IV, section 1.2, the Commission shall, to the extent possible, identify and encourage applicants who will assist the County in complying with the ethnic and demographic mandates in the Welfare & Institutions Code.

b) To the extent possible, the Commission shall identify and encourage applicants who have experience and knowledge of the mental health system, preferably in the County

4.4 Each County Supervisor will encourage any applicant being considered for the Mental Health Commission to attend at least one Commission meeting prior to their appointment. Applicants are required to meet with the MHC Chair, MHC Vice Chair and/or ad-hoc committee prior to accepting position to ensure full understanding of the roles, responsibilities, and restrictions of being a Mental Health Commissioner.

4.5 Upon appointment by the District Supervisor, the Chair and Executive Committee of the Mental Health Commission shall coordinate appropriate training and orientation of all new commissioners.

Supervisor Andersen's Counter-Proposal (as corrected below):

Because the appointment process remains in the discretion of the Board of Supervisors, requiring applicants to meet with the MHC Chair, Vice Chair and/or ad-hoc committee is not recommended. The language below in Section 4.4 represents a compromise between the MHC proposal and the Board's discretion.

The role of the Commission in recruitment of new commissioners is at the discretion of and to the extent requested by the Board of Supervisors.

4.3 Commission Identification and Recruitment of Applicants

a) Pursuant to Article IV, section 1.2, the Commission shall to the extent feasible identify and encourage applicants who will assist the County in maintaining a Commission that represents and reflects the diversity and demographics of the County as a whole, as provided in the Welfare and Institutions Code.

b) To the extent possible, the Commission shall identify and encourage applicants who have experience and knowledge of the mental health system, preferably in the County

4.4. In order for applicants being considered for the Mental Health Commission to have a better understanding of their potential role, responsibilities, and restrictions as a Commissioner, applicants are encouraged to attend at least one Commission meeting, as well as meet with the MHC Chair, MHC Vice Chair and/or the [insert formal name of the ad-hoc committee], prior to their appointment.

4.5 The Chair and Executive Committee of the Mental Health Commission shall coordinate appropriate training and orientation of all newly appointed commissioners.

Attendance

To ensure that active, appointed members continuously participate in their respective positions, the MHC is recommending additional revisions to its approved By-laws. The current bylaws of the MHC provide the following regarding attendance at MHC meetings.

Article IV Section 2.1b

SECTION 2. ATTENDANCE

2.1 Attendance requirements

a) Regular attendance at Commission meetings is mandatory for all Commission members.

1) A member who is absent from four (4) regularly scheduled Commission meetings in any calendar year shall be deemed to have resigned from the Commission. In such event the former Commission member's status will be noted at the next scheduled Commission meeting and shall be recorded in the Commission 's minutes. The Chairperson shall, without further direction from the Commission , apprise the Board of Supervisors of the member 's resignation and request the appointment of a replacement.

2) Each Commissioner will ensure that when s/he attends Commission-sponsored meetings (excluding Commission and Commission Committee meetings) or activities representing her/himself as a Commissioner, s/he expresses only those views approved by the Commission.

Additional revisions proposed to the Mental Health Commission Bylaws are shown below. These revisions have been considered and approved across multiple meetings by the MHC and its Executive Committee, most recently at the September 1st Commission meeting, but have not yet been reviewed by County Counsel.

- ***A Commissioner's absence from a regularly scheduled Commission meeting may be excused in the case of an unforeseen, extraordinary circumstance, including but not limited to major illness, natural disaster, or civil unrest. Commissioners shall obtain consent from the Chair at least one day prior to the meeting, for any planned absences. Excused absences will be recorded in the meeting minutes as an "excused absence".***
- ***A member who is absent from four regularly scheduled full Commission meetings in any consecutive twelve-month period, as opposed to calendar year, shall be deemed to have resigned from the***

Commission.

- ***Regular attendance of one standing Commission Committee, with the exception of Executive Committee, is mandatory for all Commission members." i) "A member who is absent from four (4) regularly scheduled Commission Committee meetings in any consecutive 12-month period, shall be deemed to have resigned from the Committee. In such event the former Committee member's status will be noted at the next scheduled Committee meeting and shall be recorded in the Committee's minutes. The resigned member shall choose a different Committee on which to serve."***

Seat Names

On the question about whether the County is required to publicly identify which appointees are filling which specific seats on the MHC, pursuant to Government Code § 54972 (or the Maddy Act), each year the County is required to publish its Local Appointment Lists, which contains a "list of all appointive terms which will expire during the next calendar year, with the name of the incumbent appointee, the date of appointment, the date the term expires, and the necessary qualifications for the position." See Gov't Code § 54972(a), attached. Given the requirements of the Maddy Act, the County is required to publicly identify the name of each Commissioner whose term is about to expire, as well as the specific seat held by that Commissioner. The County, thus, cannot prevent the public from knowing who holds the Consumer or Family Member seats on the MHC.

The Board, however, could consider using a code system when it appoints Commissioners. For example, the Board could refer to the code "District 3, Seat 2" when appointing a Commissioner to, for example, the Consumer Seat for that district. However, the Local Appointment List would need to reveal the code system to the public—i.e., disclose that "District 3, Seat 2" refers to the Consumer Seat for that district. And the code system would likewise need to be revealed at the recruitment stage; for example, the Notice of Vacancy could state that the Clerk of the Board is accepting applications for the "District 3, Seat 2 (Consumer)" position, or similar.

Recommendation(s)/Next Step(s):

CONSIDER changes to the Mental Health Commission bylaws pertaining to the Commissioner appointment process and to the proposed Attendance policy and DETERMINE action to be taken.

Fiscal Impact (if any):

No fiscal impact.

Attachments-Y

Government Code 54972 Appointive List

June 2, 2021 Letter from Mental Health Commission requesting Bylaws Changes

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Contra Costa County Board of Supervisors

Subcommittee Report

INTERNAL OPERATIONS COMMITTEE 5.

Meeting Date:	09/13/2021		
Subject:	Mental Health Commission Request to Modify Bylaws Pertaining to Vacancies and Recruitment		
Submitted For:	Candace Andersen,		
Department:	Board of Supervisors District II		
Referral No.:	IOC 21/5		
Referral Name:	Advisory Body Recruitment		
Presenter:	Candace Andersen	Contact:	Julie Enea (925) 655-2056

Referral History:
In the early spring of 2021 the Executive Committee of the Mental Health Commission (MHC) discussed the fact that its Bylaws were not consistent with the current practices of how members of the Board of Supervisors appoint Mental Health Commissioners. The MHC Bylaws were last amended in 2018.

The current MHC Bylaws provide for the following:

ARTICLE IV, SECTION 4. VACANCIES AND RECRUITMENT

4.1 Role of the Commission
At the discretion of and to the extent requested by the Board, the Commission shall be involved in the recruitment and screening of applicants. When an application is received, the Commission will appoint an Ad Hoc Applicant Interview Committee, pursuant to Article VIII, Section 5.1. Following an interview by the Ad Hoc Applicant Interview Committee, it will forward its recommendation to the Commission. After Commission vote and approval, the recommendation for nomination of the applicant shall be forwarded to the appropriate member of the Board of Supervisors for that Supervisor's consideration.

4.2 Applications The Commission shall receive applications on an ongoing basis.

4.3 Commission Recommendation

> *a) Pursuant to Article IV, section 1.2, the Commission shall, to the extent possible, recommend for appointment those persons who will assist the County in complying with the ethnic and demographic mandates in the Welfare & Institutions Code.*
>
> *b) To the extent possible, the Commission shall recommend for appointment applicants who have experience and knowledge of the mental health system, preferably in the County.*

In practice, members of the Board of Supervisors interview applicants, ensure that they meet the requirements of Commission membership, and encourage them to attend MHC meetings prior to appointment. However, Supervisors have not recently requested that the Commission appoint an Ad Hoc Applicant Interview Committee or asked them to make recommendations for nominations.

Supervisor Candace Andersen, the representative of the Board of Supervisors on the MHC, met with MHC Chair Graham Wiseman. It was agreed that the provision in the bylaws regarding an Ad Hoc committee making recommendations for appointment created confusion, and Supervisor Andersen suggested that the bylaws be amended to reflect the current practice. County Counsel prepared a draft amendment to the MHC Bylaws.

At the June 2, 2021 meeting of the MHC, a discussion ensued regarding County Counsel's draft amendment. Concern was expressed about achieving diversity and representation by consumers of mental health services, and effective orientation of prospective members to promote participation and commitment to the office. At the conclusion of the discussion, the MHC decided, on a split vote (4 Aye, 2 No, 3 Abstain), to send the attached letter to Supervisor Andersen requesting IOC consideration of a revision to what County Counsel had drafted. Only Sections 4.3 through 4.5 had recommended changes.

On July 12th, the IOC considered a draft amendment to clear the confusion, to make the bylaws reflective of current practices by the Board of Supervisors, and to have this provision of the bylaws reflect changes to Welfare and Institutions Code sections 5604 and 5604.5. The Committee decided to hold off making recommendations to the Board of Supervisors pending input from the MHC on additional bylaws changes relating to Commissioner attendance. The Committee also asked for County Counsel guidance on the question of whether MHC seat names could be made more generic in an effort to avoid any stigma that may be associated with certain seats, namely the Consumer or Family Member seats.

Referral Update:

Vacancies and Recruitment

On July 12, the IOC considered proposals from the MHC and Supervisor Andersen to modify the MHC bylaws associated governing Commissioner recruitment and appointment.

MHC Proposal:

4.3 Commission Identification and Recruitment of Applicants

a) Pursuant to Article IV, section 1.2, the Commission shall, to the extent possible, identify and encourage applicants who will assist the County in complying with the ethnic and demographic mandates in the Welfare & Institutions Code.
b) To the extent possible, the Commission shall identify and encourage applicants who have experience and knowledge of the mental health system, preferably in the County

4.4 Each County Supervisor will encourage any applicant being considered for the Mental Health Commission to attend at least one Commission meeting prior to their appointment. Applicants are required to meet with the MHC Chair, MHC Vice Chair and/or ad-hoc committee prior to accepting position to ensure full understanding of the roles, responsibilities, and restrictions of being a Mental Health Commissioner.

4.5 Upon appointment by the District Supervisor, the Chair and Executive Committee of the Mental Health Commission shall coordinate appropriate training and orientation of all new commissioners.

Supervisor Andersen's Counter-Proposal (as corrected below):

Because the appointment process remains in the discretion of the Board of Supervisors, requiring applicants to meet with the MHC Chair, Vice Chair and/or ad-hoc committee is not recommended. The language below in Section 4.4 represents a compromise between the MHC proposal and the Board's discretion.

The role of the Commission in recruitment of new commissioners is at the discretion of and to the extent requested by the Board of Supervisors.

4.3 Commission Identification and Recruitment of Applicants

a) Pursuant to Article IV, section 1.2, the Commission shall to the extent feasible identify and encourage applicants who will assist the County in maintaining a Commission that represents and reflects the diversity and demographics of the County as a whole, as provided in the Welfare and Institutions Code.
b) To the extent possible, the Commission shall identify and encourage applicants who have experience and knowledge of the mental health system, preferably in the County

4.4. In order for applicants being considered for the Mental Health Commission to have a better understanding of their potential role, responsibilities, and restrictions as a Commissioner, applicants are encouraged to attend at least one Commission meeting, as well as meet with the MHC Chair, MHC Vice Chair and/or the [insert formal name of the ad-hoc committee], prior to their appointment.

4.5 The Chair and Executive Committee of the Mental Health Commission shall coordinate appropriate training and orientation of all newly appointed commissioners.

Attendance

To ensure that active, appointed members continuously participate in their respective positions, the MHC is recommending additional revisions to its approved By-laws. The current bylaws of the MHC provide the following regarding attendance at MHC meetings.

Article IV Section 2.1b
SECTION 2. ATTENDANCE
2.1 Attendance requirements
a) Regular attendance at Commission meetings is mandatory for all Commission members.
1) A member who is absent from four (4) regularly scheduled Commission meetings in any calendar year shall be deemed to have resigned from the Commission. In such event the former Commission member's status will be noted at the next scheduled Commission meeting and shall be recorded in the Commission 's minutes. The Chairperson shall, without further direction from the Commission , apprise the Board of Supervisors of the member 's resignation and request the appointment of a replacement.
2) Each Commissioner will ensure that when s/he attends Commission-sponsored meetings (excluding Commission and Commission Committee meetings) or activities representing her/himself as a Commissioner, s/he expresses only those views approved by the Commission.

Additional revisions proposed to the Mental Health Commission Bylaws are shown below. These revisions have been considered and approved across multiple meetings by the MHC and its Executive Committee, most recently at the September 1st Commission meeting, but have not yet been reviewed by County Counsel.

- ***A Commissioner's absence from a regularly scheduled Commission meeting may be excused in the case of an unforeseen, extraordinary circumstance, including but not limited to major illness, natural disaster, or civil unrest. Commissioners shall obtain consent from the Chair at least one day prior to the meeting, for any planned absences. Excused absences will be recorded in the meeting minutes as an "excused absence".***
- ***A member who is absent from four regularly scheduled full Commission meetings in any consecutive twelve-month period, as opposed to calendar year, shall be deemed to have resigned from the Commission.***
- ***Regular attendance of one standing Commission Committee, with the exception of Executive Committee, is mandatory for all Commission members." i) "A member who is absent from four (4) regularly scheduled Commission Committee meetings in any consecutive 12-month period, shall be deemed to have resigned from the Committee. In such event the former Committee member's status will be noted at the next scheduled Committee meeting and shall be recorded in the Committee's minutes. The resigned member shall choose a different Committee on which to serve."***

Seat Names

On the question about whether the County is required to publicly identify which appointees are filling which specific seats on the MHC, pursuant to Government Code § 54972 (or the Maddy Act), each year the County is required to publish its Local Appointment Lists, which contains a "list of all appointive terms which will expire during the next calendar year, with the name of the incumbent appointee, the date of appointment, the date the term expires, and the necessary qualifications for the position." See Gov't Code § 54972(a), attached. Given the requirements of the Maddy Act, the County is required to publicly identify the name of each Commissioner whose term is about to expire, as well as the specific seat held by that Commissioner. The County, thus, cannot prevent the public from knowing who holds the Consumer or Family Member seats on the MHC.

The Board, however, could consider using a code system when it appoints Commissioners. For example, the Board could refer to the code "District 3, Seat 2" when appointing a Commissioner to, for example, the Consumer Seat for that district. However, the Local Appointment List would need to reveal the code system to the public—i.e., disclose that "District 3, Seat 2" refers to the Consumer Seat for that district. And the code system would likewise need to be revealed at the recruitment stage; for example, the Notice of Vacancy could state that the Clerk of the Board is accepting applications for the "District 3, Seat 2 (Consumer)" position, or similar.

Recommendation(s)/Next Step(s):
CONSIDER changes to the Mental Health Commission bylaws pertaining to the Commissioner appointment process and to

the proposed Attendance policy and DETERMINE action to be taken.

Fiscal Impact (if any):
No fiscal impact.

Attachments-Y
Government Code 54972 Appointive List
June 2, 2021 Letter from Mental Health Commission requesting Bylaws Changes

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Contra Costa County Board of Supervisors

Subcommittee Report

INTERNAL OPERATIONS COMMITTEE 4.

Meeting Date:	07/12/2021		
Subject:	Mental Health Commission Request to Modify Bylaws Pertaining to Vacancies and Recruitment		
Submitted For:	Monica Nino,		
Department:	County Administrator		
Referral No.:	IOC 21/5		
Referral Name:	Advisory Body Recruitment		
Presenter:	Candace Andersen	Contact:	Julie Enea (925) 655-2056

Referral History:

In the early spring of 2021 the Executive Committee of the Mental Health Commission (MHC) discussed the fact that its Bylaws were not consistent with the current practices of how members of the Board of Supervisors appoint Mental Health Commissioners. The MHC Bylaws were last amended in 2018.

The current MHC Bylaws provide for the following:

ARTICLE IV, SECTION 4. VACANCIES AND RECRUITMENT

4.1 Role of the Commission
At the discretion of and to the extent requested by the Board, the Commission shall be involved in the recruitment and screening of applicants. When an application is received, the Commission will appoint an Ad Hoc Applicant Interview Committee, pursuant to Article VIII, Section 5.1. Following an interview by the Ad Hoc Applicant Interview Committee, it will forward its recommendation to the Commission. After Commission vote and approval, the recommendation for nomination of the applicant shall be forwarded to the appropriate member of the Board of Supervisors for that Supervisor's consideration.

4.2 Applications The Commission shall receive applications on an ongoing basis.

4.3 Commission Recommendation

a) Pursuant to Article IV, section 1.2, the Commission shall, to the extent possible, recommend for appointment those persons who will assist the County in complying with the ethnic and demographic mandates in the Welfare & Institutions Code.

b) To the extent possible, the Commission shall recommend for appointment applicants who have experience and knowledge of the mental health system, preferably in the County.

Referral Update:

In practice, members of the Board of Supervisors interview applicants, ensure that they meet the requirements of Commission membership, and encourage them to attend MHC meetings prior to appointment. However, Supervisors have not recently requested that the Commission appoint an Ad Hoc Applicant Interview Committee or asked them to make recommendations for nominations.

Supervisor Candace Andersen, the representative of the Board of Supervisors on the MHC, met with MHC Chair Graham Wiseman. It was agreed that the provision in the bylaws regarding an Ad Hoc committee making recommendations for appointment created confusion, and Supervisor Andersen suggested that the bylaws be amended to reflect the current practice.

County Counsel provided the following draft amendment to clear the confusion, to make the bylaws reflective of current practices by the Board of Supervisors, and to have this provision of the bylaws reflect changes to Welfare and Institutions Code sections 5604 and 5604.5.

SECTION 4. VACANCIES AND RECRUITMENT
4.1 Role of the Commission. The role of the Commission in recruitment of new commissioners is at the discretion of and to the extent requested by the Board of Supervisors.
4.2 The Commission is encouraged to help identify and recruit qualified applicants to apply for any vacancies on the Commission.
4.3 Commission Identification and Recruitment of Applicants

a) Pursuant to Article IV, section 1.2, the Commission shall to the extent feasible identify and encourage applicants who will assist the County in maintaining a Commission that represents and reflects the diversity and demographics of the County as a whole, as provided in the Welfare and Institutions Code.
b) To the extent possible, the Commission shall identify and encourage applicants who have experience and knowledge of the mental health system, preferably in the County.

4.4 Each County Supervisor will encourage any applicants being considered for the Mental Health Commission to attend a Commission meeting prior to their appointment.
4.5 The Chair and Executive Committee of the Mental Health Commission shall coordinate appropriate training and orientation of all newly appointed commissioners.

At the June 2, 2021 meeting of the MHC, a discussion ensued regarding County Counsel's draft amendment. Concern was expressed about achieving diversity and representation by consumers of mental health services, and effective orientation of prospective members to promote participation and commitment to the office. At the conclusion of the discussion, the MHC decided, on a split vote (4 Aye, 2 No, 3 Abstain), to send the attached letter to Supervisor Andersen requesting IOC consideration of a revision to what County Counsel had drafted. Only Sections 4.3 through 4.5 had recommended changes. The requested changes by the MHC to County Counsel's draft are underlined below:

4.3 Commission Identification and Recruitment of Applicants
a) Pursuant to Article IV, section 1.2, the Commission shall, to the extent possible, identify and encourage applicants who will assist the County in complying with the ethnic and demographic mandates in the Welfare & Institutions Code.
b) To the extent possible, the Commission shall identify and encourage applicants who have experience and knowledge of the mental health system, preferably in the County

4.4 Each County Supervisor will encourage any applicant being considered for the Mental Health Commission to attend <u>at least one</u> Commission meeting prior to their appointment. <u>Applicants are required to meet with the MHC Chair, MHC Vice Chair and/or ad-hoc committee prior to accepting position to ensure full understanding of the roles, responsibilities, and restrictions of being a Mental Health Commissioner.</u>

4.5 Upon appointment <u>by the District Supervisor</u>, the Chair and Executive Committee of the Mental Health Commission shall coordinate appropriate training and orientation of all new commissioners.

Because the appointment process remains in the discretion of the Board of Supervisors, requiring applicants to meet with the MHC Chair, Vice Chair and/or ad-hoc committee is not recommended. However, a compromise would be to include the following language to Section 4.4. The MHC changes remain underlined, and the compromise language is in bold:

4.4 Each County Supervisor will encourage any applicant being considered for the Mental Health Commission to attend <u>at least one</u> Commission meeting prior to their appointment. <u>Applicants ~~are required~~ **may meet** with the MHC Chair, MHC Vice Chair and/or ad-hoc committee prior to accepting **the** position to ensure **a** full understanding of the roles, responsibilities, and restrictions of being a Mental Health Commissioner.</u>

Recommendation(s)/Next Step(s):

CONSIDER changes to the Mental Health Commission bylaws pertaining to the Commissioner appointment process and DETERMINE action to be taken.

Fiscal Impact (if any):

No fiscal impact.

Attachments-Y

June 2, 2021 Letter from Mental Health Commission requesting Bylaws Changes

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A REPORT BY

THE 2020-2021 CONTRA COSTA COUNTY CIVIL GRAND JURY

725 Court Street
Martinez, California 94553

Report 2102

Tele-Mental Health: Expansion of Remote Access to Care

APPROVED BY THE GRAND JURY

Date 10/15/2021

/s/ Samil Beret

SAMIL BERET
GRAND JURY FOREPERSON

ACCEPTED FOR FILING

Date 10/12/21

JILL C. FANNIN
JUDGE OF THE SUPERIOR COURT

Contra Costa Grand Jury Report

Tele-Mental Health: Expansion of Remote Access to Care

To: Contra Costa County Behavioral Health Services
Contra Costa County Board of Supervisors

SUMMARY

Barriers to people receiving mental health intervention include the limited availability of mental health clinicians, geographic distances, transportation difficulties, and insufficient financial resources to afford treatment costs. Research indicates that tele-mental health services are comparable to in-person mental health services regarding patient satisfaction, efficacy, and cost effectiveness with diverse populations. Identifying the need and benefit of telehealth services, the California Telehealth Advancement Act of 2011 promotes the parity of telehealth with in-person health care services.

Although Contra Costa County Behavioral Health Services (BHS) identifies the priority of increasing access to mental health services, this investigation determines that BHS does not incorporate tele-mental health services in its service delivery model. In addition, BHS lacks adequate resources to collect data to improve the quality of outpatient mental health services offered to the community.

The Grand Jury recommends that BHS develop a hybrid plan to integrate tele-mental health services with in-person services in both their outpatient clinics and network provider groups. In addition, the Grand Jury recommends that BHS collect outcome data from their clinics and network provider groups to improve the quality of outpatient mental health services offered to the community. Toward this goal, the Grand Jury recommends that BHS modernize the electronic data collection capabilities of the quality management program, seeking grants and funding through the Mental Health Services Act (MHSA). The Grand Jury also recommends that the Contra Costa County Board of Supervisors provide funds to BHS to upgrade its quality management program.

METHODOLOGY

The Grand Jury used the following investigative methods:

- Researched internet-based scholarly literature pertaining to the use of tele-mental health practices with different clinical populations
- Reviewed Federal and State legislation concerning telehealth

- Reviewed BHS authorizations approving the use of tele-mental health services during the Covid-19 public health emergency
- Reviewed the Contra Costa County MHSA Three Year Program and Expenditure Plan for Fiscal Year 2020-2023
- Reviewed information provided by BHS administration in response to Requests for Information
- Conducted multiple interviews with behavioral health program administrators and clinical personnel
- Reviewed BHS clinical staff and network provider surveys

BACKGROUND

The Need

The demand for mental health services exceeds the supply of trained clinicians. In 2018, there were 115 million Americans living in an area with a shortage of professional service delivery providers. According to the National Survey on Drug Use and Health, almost one-quarter of adults with mental illness reported not receiving treatment. Between 1999 and 2017, the Centers for Disease Control and Prevention reported an increase of 33% in suicide rates with the highest increase in rural counties, which was double the rate of urban areas.[1] In 2016, 16.5% of children in the United States had at least one treatable mental health disorder. Half of the estimated 7.7 million children in the United States with a treatable mental health disorder did not receive treatment from a mental health professional.[2] In California there are only 13 practicing child and adolescent psychiatrists for every 100,000 children under 18.[3]

In addition to the limited availability of mental health clinicians, barriers to people receiving mental health intervention include geographic distances, transportation difficulties, insufficient financial resources to afford treatment costs, and time constraints, such as being unable to take time off from work or having caretaking responsibilities.

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[1]Michael L. Barnett and Haiden A. Huskamp, Telemedicine for mental health in the United States: Making progress, still a long way to go. A commentary, Psychiatric Services, 71 no. 2, (February 2020): 197-198.
[2] Daniel G. Whitney and Mark D. Peterson, US national and state-level prevalence of mental health disorder and disparities of mental health care use in children, JAMA Pediatric, 173 no. 4 (February 11, 2019): 389-391.
[3] American Academy of Child and Adolescent Psychiatry, Workforce Maps by State – Practicing child and adolescent psychiatrists (2021).

Access

Tele-mental health is the use of telecommunication or videoconferencing technology, rather than in-person services, to provide mental health services.[4] Tele-mental health is emerging as an alternative to in-person mental health services for addressing the limited accessibility to mental health services. Studies showed tele-mental health services to be comparable to in-person intervention in patient satisfaction, efficacy, and cost effectiveness.[5] Evidence indicated the strength of the patient-therapist relationship was comparable to in-person treatment.[6] Research showed tele-mental health was an effective treatment approach with diverse groups, including children and adolescents, rural residents, nursing home populations, college students, veterans, immigrants, and incarcerated individuals.[7] Additionally, psychotherapy services delivered by phone were shown to reduce symptoms of anxiety and depression.[8]

A Service Delivery Model

Identifying an expanded approach to providing behavioral health services to meet the needs of underserved populations, the American Psychological Association identified a four-level model of health care delivery [9] to provide access based on the diverse needs of patients:

1. In-person services
2. Traditional telehealth services provided at an originating site such as a clinic or health care facility
3. Telehealth service without originating site restrictions to allow for certain services to be delivered directly into a patient's home
4. Audio-only telehealth for a subset of services and/or particular populations

The California Telehealth Advancement Act of 2011

Recognizing the potential of telehealth to meet the needs of underserved populations the California legislature passed the California Telehealth Advancement Act of 2011 (AB 415). It states, in part,

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[4] National Institute of Mental Health, National Institute of Health Publication No. 21-MH-8155.

[5] Sam Hubley, Sarah B. Lynch, Christopher Schneck, Marshall Thomas, and Jay Shore, Review of key telepsychiatry outcomes, World Journal of Psychiatry, no. 2 (2016): 269-282.

[6] American Academy of Child and Adolescent Psychiatry (AACAP) Committee on Telepsychiatry and AACAP Committee on Quality Issues, Clinical Update: Telepsychiatry with children and adolescents, American Academy of Child and Adolescent Psychiatry 56, no. 10 (2017): 875-893.

[7] Stacie Deslich, Bruce Stec, Shane Tomblin, and Alberto Coustasse, Telepsychiatry in the 21st Century: Transforming healthcare with technology, Perspectives in health information management (Summer 2013).

[8] Mental Health Liaison Group, Submission to the Subcommittee on Health of the House Committee on Energy & Commerce Hearing, The future of Telehealth: How Covid-19 is changing the delivery of virtual care, Recommendations for tele-behavioral health priorities (March 2, 2021).

[9] American Psychological Association, Submission to the Subcommittee on Health of the House Committee on Energy & Commerce Hearing, The future of Telehealth: How Covid-19 is changing the delivery of virtual care (March 2, 2021).

[The] lack of primary care providers, specialty providers, and transportation continue to be significant barriers to access to health services in medically underserved rural and urban areas [and] parts of California have difficulty attracting and retaining health professionals, as well as supporting local health facilities to provide a continuum of health care. . . . It is the intent of the legislature to create a parity of telehealth with other health care delivery modes. . . .Telehealth is a mode of delivering health care services and public health utilizing information and communication technologies to enable the diagnosis, consultation, treatment, education, care management, and self-management of patients at a distance from health care providers. . . .The use of information and telecommunication technologies to deliver health services have the potential to reduce costs, improve quality, change the conditions of practice, and improve access to health care, particularly in rural and other medically underserved areas. Consumers of health care will benefit from telehealth in many ways, including expanded access to providers, faster and more convenient treatment, better continuity of care, reduction of lost work time and travel costs, and the ability to remain with support networks.

The Covid-19 Public Health Emergency

The Covid-19 pandemic prompted the temporary expansion of public and private telehealth services. The U.S. Department of Health and Human Services declared a public health emergency on January 31, 2020, followed by the President's declaration of a national emergency on March 13, 2020, allowing greater flexibility for Medicare providers' use of telehealth services. Consequently, the California Department of Managed Health Care (DMHC) issued temporary emergency orders[10] requiring Medi-Cal and other health plans regulated by the DMHC to reimburse providers at a parity rate for telehealth services typically delivered to patients in-person. Audio-only communication was an allowed service. Additionally, geographic-site constraints in providing telehealth services were suspended, enabling patients to receive services at-home.

Following this state directive, Contra Costa County authorized telehealth services on March 25, 2020.[11] BHS provided the following directive to be in effect during the Covid-19 public health emergency:

Telehealth is not a distinct service, but an allowable mechanism to provide clinical services. The standard of care is the same whether the patient is seen in-person, by telephone, or through telehealth. DHCS [The Department of Health Care Services] does not restrict the location of services via telehealth. Patients may receive services via telehealth in their home, and providers may deliver

[10] California Health and Human Services Agency, Department of Health Care Services, Medi-Cal payment for telehealth and virtual/telephonic communications relative to the 2019-Novel Coronavirus (Covid-19) (3/18/20).
[11] Contra Costa County BHS Memorandum (4/1/20).

services via telehealth from anywhere in the community, outside a clinic or other provider site.

The Future of Tele-Mental Health

Policies enabling temporary telehealth services during the public health emergency period will expire when the state of emergency ends, which has yet to be determined. There have been national and California legislative bills drafted to extend the expansion of telehealth services permanently. Congress recently passed the Consolidated Appropriations Act of 2021[12] to be enacted after the public health emergency regulations are no longer in effect, allowing Medicare providers to permanently receive reimbursement for tele-mental health services that are integrated with in-person sessions. As a result of this legislation, tele-mental health services will be accessible in one's home and extended to residents who do not live in rural locations. Audio-only services are not included in this legislation.

Contra Costa County Broadband Access

The 2018 U.S. Census Bureau estimated the population of Contra Costa County to be 1,150,215 with approximately 9% living in poverty and 30% of the noninstitutionalized residents receiving public health coverage.[13] Nonetheless, in 2021, the Federal Communications Commission (FCC) reported that 99.2 percent of Contra Costa County residents have fixed broadband access.[14] Therefore, most Contra Costa County residents will be able to access tele-mental health services by either computer or smartphone.

Investigation Purpose

Underserved people in the community with mental illness concerns who may have difficulty receiving in-person services, including rural residents and those with mobility and financial limitations, could benefit from tele-mental health services. The focus of this investigation is to ascertain Contra Costa County BHS' plan to maintain and expand tele-mental health services for the community following the termination of the Covid-19 state of emergency.

DISCUSSION

Contra Costa County BHS is staffed by dedicated and compassionate professionals who are invested in the wellbeing of county residents. Clinical staff at BHS clinics provides services to people with severe mental illness. BHS contracts with outside network providers to offer services to people with mild and moderate mental health

[12] Consolidated Appropriations Act (2021): 1775-1776.
[13] Contra Costa Mental Health Services Act Three Year Program and Expenditure Plan Fiscal year 2020-2023.
[14] Federal Communication Commission, Fourteenth Broadband Deployment Report (January 19, 2021): 81.

needs. Despite extensive programs to meet the needs of underserved populations with severe mental illness, the mental health needs of the community exceed the available resources.

The Contra Costa County Mental Health Services Act Three Year Program and Expenditure Plan[15] identifies "access" to service programs as a priority concern. "The cost of transportation and the County's geographical challenges make access to services a continuing priority." This was particularly pertinent for "homebound frail and elderly residents." The Contra Costa County MHSA Three Year Program identified several factors hindering residents receiving mental health services

- Transportation to clinics, especially for rural residents
- The need to provide services outside customary clinic hours
- The importance of clinicians who can offer cultural sensitivity and competent language skills for underserved ethnic groups

In addition, the MHSA plan notes a shortage of psychiatrists, which contributes to long waiting periods for an appointment and undermines the wellbeing of patients who do not have their medication regimens monitored in a timely manner.[16]

Notwithstanding this defined need to increase access to mental health services, the Contra Costa County MHSA Three Year Program did not include any initiatives to develop tele-mental health services.

In 2017, **the Mental Health Commission**[17] advocated offering telepsychiatry to increase the availability of psychiatrists and to reduce wait times for appointments.[18]

BHS Limited Implementation of Tele-Mental Health

BHS addressed the need for more psychiatrists by hiring telepsychiatrists, improving access to psychiatric care. However, BHS did not initiate programs to provide tele-mental health services in accordance with the California Telehealth Advancement Act of 2011.

As noted in Table 1, prior to the Covid-19 public health emergency, tele-mental and audio-only health services collectively represented approximately 7% and 8% of total outpatient services provided in 2018 and 2019, respectively. After the public health

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[15] In 2004, the Mental Health Services Act became California Law providing additional funding to the existing public mental health system.

[16] Contra Costa County Mental Health Services Act Three Year Program and Expenditure Plan Fiscal Year 2020 – 2023: 25-27.

[17] Contra Costa Mental Health Commission Amended Bylaws (September 16, 2014). The Mental Health Commission was established in 1993 to serve in an advisory capacity to the Contra Costa County Board of Supervisors on matters related to mental health.

[18] Mental Health Commission Annual Report 2018.

emergency in March 2020 allowing telehealth services to be reimbursed at parity with in-person services, telehealth services were 18% of services provided, fewer than the office sessions (30%) and services delivered by phone (52%).

Table 1: BHS Outpatient Modes of Service Delivery[19]

Year	Office	%	Audio-Only	%	Tele-mental health	%	Grand Total
2018	58,293	93%	3,263	5%	1,076	2%	62,632
2019	63,319	92%	3,162	4.5%	2,424	3.5%	68,905
2020	24,286	30%	42,495	52%	14,650	18%	81,431

When the public health emergency orders were implemented, BHS created a list of General Telehealth Logistical Guidelines[20] for providers, who were given Zoom accounts. There was no evidence that providers or clients were given further training to use a tele-mental health approach appropriately and maintaining confidentiality, which would be likely to increase familiarity and comfort with using this approach. Rather than use tele-mental health with video capabilities, the majority of providers used audio-only, which does not allow visual contact with clients. Reportedly, clients preferred audio-only services for the convenience or discomfort with video. Although the Federal Communication Commission (FCC) in 2021 reported 99.2% of Contra Costa residents had fixed broadband access,[21] BHS staff was concerned that a significant number of their clients did not have internet access.

Notwithstanding limited implementation, BHS clinical staff considered tele-mental health and audio-only services to be effective with clients who displayed symptoms of anxiety and depression. The clinical staff viewed clients who were more stable, verbal, insightful, and capable of managing technology benefited more from tele-mental health services. At the outset of the Covid-19 pandemic, BHS reported fewer missed appointments using telehealth and audio-only services in contrast to in-person services. However, as the pandemic persisted, some clients stopped seeking services.

Noteworthy, BHS clinical staff viewed tele-mental health to be inappropriate for the homeless and chronic schizophrenic patients with limited capacity to manage the tasks of daily life. A predominant method of service delivery, audio-only, was determined to be inadequate for patients prescribed controlled substances because of the absence of visual cues to assess the patient. Tele-mental health was also considered inappropriate for patients receiving medication injections.

[19] Data provided by BHS.

[20] Contra Costa County BHS Memorandum (4/1/20).

[21] Federal Communication Commission, Fourteenth Broadband Deployment Report (January 19, 2021): 81.

Concerned for the adverse effects of clients' social isolation, BHS expressed the intention to resume in-person sessions as the public health emergency waned. As previously noted, Medicare expanded eligibility for tele-mental health services when the Covid-19 public health emergency ends.[22] BHS has not communicated plans to augment tele-mental health services in its mental health program.

Quality Management

BHS collects financial data on services provided and ensures documentation meets state standards. The BHS quality management program gathers information about the effectiveness of services provided by its clinical staff. The quality management information collected about tele-mental health services is limited to survey data about BHS clinicians' and network providers' perspectives.[23] The quality management program does not have access to electronic, email and texting forms of data collection.

Although BHS clinicians and network providers preferred in-person sessions, they conveyed confidence meeting client needs using tele-mental health services. Tele-mental health enabled clinicians to maintain connections with clients and facilitated family involvement, while reducing missed appointments. Another advantage acknowledged was the elimination of transportation difficulties to receive in-person treatment.

Network providers contract with the State of California, not Contra Costa County. BHS does not collect clinical information from network providers, who do not use the County electronic medical record system. Additionally, only one-third of clients use the Contra Costa County medical MyChart electronic records system, limiting the opportunity to collect information.

FINDINGS

F1. Prior to the Covid-19 pandemic, tele-mental health and audio-only services available through BHS were a small portion of the outpatient services provided (7% in 2018; 8% in 2019).

F2. During the Covid-19 pandemic, BHS did not offer training to prepare clinicians or clients for effective and confidential use of tele-mental health services.

F3. During the Covid-19 pandemic, BHS tele-mental health services continue to be underutilized. While audio-only increased to 52% of all outpatient services, tele-mental health was 18% of outpatient services delivered.

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[22] Consolidated Appropriations Act (2021): 1775-1776.

[23] CCBHS Remote Work Survey (September 2, 2020).
CCBHS Contract Providers Remote Work Survey (September 10, 2020).

F4. At the outset of the Covid-19 pandemic, tele-mental health and audio-only services decreased the number of missed appointments.

F5. Tele-mental health services are appropriate for clients who are more stable, verbal and insightful.

F6. Tele-mental health services are appropriate to use with clients displaying symptoms of anxiety and depression.

F7. The greater use of audio-only services has the limitation of not offering visual cues, which provide clinicians with important clinical information.

F8. Tele-mental health services are not appropriate for

a. Homeless populations
b. Patients presenting with chronic schizophrenia with a limited capacity to manage the tasks of daily life
c. Patients prescribed controlled substances or injectable medication.

F9. BHS has not incorporated tele-mental health into a comprehensive service delivery model to offer a broad range of opportunities for underserved populations to receive outpatient mental health services.

F10. Access to outpatient mental health services in Contra Costa County suffers from difficulties with transportation to clinics, long wait times for appointments, and insufficient availability of after-hours appointments.

F11. BHS has a limited number of clinicians who can provide culturally and linguistically sensitive services to diverse minority groups.

F12. Increasing access to mental health services is a priority for Contra Costa County BHS.

F13. The FCC reported 99.2% of Contra Costa County residents have access to internet broadband for greater use of tele-mental health services.

F14. BHS has not followed the directives of the California Telehealth Advancement Act of 2011 to develop telehealth services to better meet the needs of underserved populations in the community.

F15. The Congressional Consolidated Appropriations Act of 2021 expands Medicare services to allow tele-mental health services to be integrated with in-person sessions, and to be received by beneficiaries in their home without geographic limitations.

F16. BHS lacks an adequate electronic data system to evaluate the efficacy of outpatient mental health services provided.

F17. BHS does not collect clinical data from network providers, which limits accountability for the outpatient mental health services provided to county residents.

RECOMMENDATIONS

By June 30, 2022, it is recommended that Contra Costa Behavioral Health Services:

R1. Develop a hybrid plan to integrate tele-mental health services with in-person services in their clinics.

R2. Coordinate with network provider groups to integrate tele-mental health services with in-person services.

R3. Develop a training program for BHS clinicians, network providers, and support staff to facilitate the use of tele-mental health.

R4. Develop a training program for clients to facilitate and provide support for the use of tele-mental health.

R5. Collect outcome data from BHS providers and programs to provide feedback to improve mental health services delivered to the community.

R6. Collect outcome data from network providers to provide feedback to improve mental health services delivered to the community.

R7. Increase the use of the MyChart health care information system to make clinical information accessible to clients and providers.

R8. Modernize the electronic data collection capabilities of the quality management program to provide meaningful information about mental health services.

R9. Develop appropriate clinical metrics to evaluate outcomes that improve the effectiveness of mental health services provided.

R10. Seek grants and MHSA funding to upgrade the technological resources of the quality management program.

By June 30, 2022, it is recommended that Contra Costa Board of Supervisors:

R11. Allocate funds for BHS to upgrade its quality management program.

REQUIRED RESPONSES

	Findings	Recommendations
Contra Costa Behavioral Health Services	F1 through F17	R1 through R10
Contra Costa Board of Supervisors	F16	R11

These responses must be provided in the format and by the date set forth in the cover letter that accompanies this report. An electronic copy of these responses in the form of a Word document should be sent by e-mail to ctadmin@contracosta.courts.ca.gov and a hard (paper) copy should be sent to:

Civil Grand Jury – Foreperson
725 Court Street P.O. Box 431
Martinez, CA 94553-0091

Mental Health Commission
Proposed Motion(s)

Meeting Date: November 23, 2021

Motion (original): MHSA-Finance Committee Meeting 11/18/21 (Agenda Item VIII)

Mental Health Commission December 1, 2021 Agenda Item VII
MOTION:

Ask Contra Costa Behavioral Health Services (CCBHS) to include Institute of Mental Diseases (IMD) Mental Health Rehabilitation Center (MHRC), as well as appropriate step-down facilities, programming and staffing needs in its upcoming Behavioral Health Continuum Infrastructure competitive grant applications to the state

Mental Health Commission December 1, 2021 Agenda Item VII
VOTE ON MOTION

MOTION:

Ask Contra Costa Behavioral Health Services (CCBHS) to include Institute of Mental Diseases (IMD) Mental Health Rehabilitation Center (MHRC), as well as appropriate step-down facilities, programming and staffing needs in its upcoming Behavioral Health Continuum Infrastructure competitive grant applications to the state

Cmsr Moving to Approve:

Cmsr Second Motion:

Vote:

Chair- Cmsr. Graham Wiseman, District II
Vice-Chair, Cmsr. Barbara Serwin, District II
Cmsr. Candace Andersen, District II
Cmsr, Douglas Dunn, District III
Cmsr. Laura Griffin, District V
Cmsr, Michael Hudson, District IV
Cmsr. Kathy Maibaum, District IV
Cmsr. Leslie May, District V
Cmsr. Joe Metro, District V
Cmsr. Alana Russaw, District IV
Cmsr. Rhiannon Shire, District II
Cmsr. Geri Stern, District I
Cmsr. Gina Swirsding, District I

Abstain:

Notes/Future Action:

2022 Mental Health Commission Election

Nomination List

Chair Nominees

Laura Griffin

Leslie May

Barbara Serwin

Vice-Chair Nominees

Douglas Dunn

Laura Griffin

Leslie May

Executive Committee Member Nominees

Douglas Dunn

Laura Griffin

Leslie May

Alana Russaw

Barbara Serwin