



July 25, 2022

The Honorable Jim Wood, DDS
Chair, Assembly Health Committee
Sacramento, CA 95814

The Honorable Mark Stone
Chair, Assembly Judiciary Committee
Sacramento, CA 95814

SUBJECT: AB 2275 (Wood) – CONCERNS

Dear Assembly Members Wood and Stone:

On behalf of the County Behavioral Health Directors Association (CBHDA), the California Hospital Association (CHA), and the California Chapter of the American College of Emergency Physicians (CalACEP), we write to respectfully express our concerns with Assembly Bill (AB) 2275 as amended on June 13. Our three organizations support the goal of AB 2275 to increase transparency around local and statewide trends as it relates to the Lanterman-Petris-Short (LPS) Act; however, we believe that the structure for data collection added to the bill with the June 13 amendments will result in continued frustration for local stakeholders and policymakers without the meaningful changes sought through this important bill.

To demonstrate our commitment to the intent of the bill and our continued partnership throughout this process, we respectfully request your consideration of amendments that we believe will strengthen the state’s ability to make informed policy and practice decisions for decades to come.

Concern: Language in (a) of 5150 that is intended to standardize practice throughout the state by clarifying when a 5150 hold begins describes the hold as a detention. This is novel language with respect to a 5150 hold, which throughout the LPS Act is described as “custody for evaluation and treatment.”

Proposed Technical Amendment: Our organizations recommend that the language in AB 2275 be amended throughout to ensure that 72-hour holds are consistently referenced throughout the statute as a form of custody for evaluation and treatment, rather than detention.

Concern: Our organizations strongly support the goal of increasing the scope and quality of data collected on the various types of LPS holds. However, as amended on June 13, AB 2275 would establish that the Department of Health Care Services (DHCS) would rely on county mental health directors and designated professionals and facilities to provide the full scope of reporting required under the bill.

In addition, the amended language proposes to grant county mental health directors the ability to revoke the LPS designation of any individual or facility who fails to provide the requisite reporting and grants DHCS the ability to fine county mental health directors up to \$5,000 for each violation if they fail to comply with the reporting requirements.

This proposed structure is of concern to our organizations for several reasons:

- County mental health directors already have broad discretion to determine which individuals and facilities may place and release holds, apart from law enforcement for whom existing law provides authority to place individuals on involuntary holds. As a result, revocation of designation status is already a tool which county mental health directors possess to compel reporting. Additionally, compliance with reporting requirements is already a common county contract term for designated facilities.
- Because county mental health directors often rely on LPS designated facilities to ensure counties maintain a functioning crisis system, the loss of additional capacity as a result for a failure to report would ultimately harm patient access to care, result in delays and challenges for law enforcement, and create new significant workload for county mental health to extract information from a wider array of nondesignated facilities.
- Physicians and other professionals who may be LPS designated individuals may be legally prohibited from accessing or transmitting patient information and records for the purposes of complying with a county mental health directors' request.
- County mental health directors would continue to have no ability to compel submission of information from non-LPS-designated facilities and local law enforcement, leaving significant gaps in their ability to comply with DHCS' reporting requirements and exposing them to the risk of significant sanctions per violation.
- The state would continue to grapple with incomplete data and frustrated stakeholders if it continues relying solely on the 58 individual county mental health directors to compel the desired reporting to the state.

Proposed Amendments: To address the above outlined concerns, our organizations strongly recommend that the state take a two-pronged approach to improving the quality and scope of LPS data:

- First, the state should immediately improve data collection by clarifying and improving upon the data that can be feasibly collected by counties from LPS designated facilities.
- Second, the state should immediately begin to develop a web-based, statewide portal to collect deidentified data from any individual or facility that is placing or releasing holds. This would include county mental health agencies, law enforcement, and providers. This centralized approach would ensure consistent data reporting on the breadth of information desired, which will be necessary to ensure the types of outcomes and accountability analyses outlined in the bill.
- DHCS should be required to coordinate with the Department of Justice (DOJ) and the Department of Health Care Access and Information (HCAI) to leverage existing, centralized, statewide portals, such as the DOJ "Mental Health Reporting System" or the hospital discharge data sets collected by HCAI.
- Upon creation of the statewide centralized data portal, the state would be able to expand reporting to include all stakeholders involved in LPS holds, beyond just designated facilities.

Concern: In addition to these concerns, our organizations are concerned that AB 2275 requires a new role for the Mental Health Services Oversight and Accountability Commission (MHSOAC) in analyzing and developing policy recommendations related to the LPS Act. While our organizations support the types of analyses recommended, we are concerned that the MHSOAC lacks the expertise on the LPS Act necessary to oversee this effort.

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Proposed Amendment: Because DHCS is the state regulator for the LPS Act, the investments in added capacity to improve the quality of oversight and policy recommendations should be made with the LPS regulator — DHCS. Housing this capability at DHCS will also reduce complexity, data exchange challenges, and ensure that the Legislature is able to hold a single state regulator accountable.

We reiterate our strong support for the intent of AB 2275 and urge the adoption of the outlined proposed amendments.

Sincerely,

Michelle Doty Cabrera
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County Behavioral Health Directors Association

Elena Lopez-Gusman
Executive Director
American College of Emergency Physicians

Leah Barros
Consulting Lobbyist
California Hospital Association

cc: The Honorable Anthony Portantino, Senate Appropriations Committee Chair
Agnes Lee, Senate Appropriations Committee Consultant
Judy Babcock, Assembly Health Committee
Leora Gershenson, Assembly Judiciary Committee
Marlies Perez, Department of Health Care Services
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