



April 11, 2024

The Honorable Thomas J. Umberg
Chair, Senate Judiciary Committee
1021 O Street, Room 3240
Sacramento, CA 95814

SUBJECT: SB 1238 (Eggman) — SUPPORT

Dear Senator Umberg:

California hospitals are committed to delivering the right care, at the right time, in the right setting. Over the past several years, California has invested heavily in more behavioral health treatment capacity and to create alternative care settings for people in crisis.

The California Hospital Association (CHA), on behalf of more than 400 hospitals and health systems, supports Senate Bill (SB) 1238, which would expand the types of facilities counties could designate to perform evaluations and treat individuals on involuntary holds.

Specifically, counties could designate several new types of facilities for individuals on involuntary holds to be evaluated and treated if they have appropriate services, personnel, and security to provide safe treatment. These include skilled nursing facilities and mental health rehabilitation centers, as well as facilities capable of providing medically monitored or managed intensive inpatient treatment for substance use disorders. Additionally, the bill would ensure these facilities are appropriately reimbursed for services they provide and would enable them to admit clients who are diagnosed only with a substance use disorder (not a mental health disorder).

Current law suggests that counties may only designate three types of facilities to provide involuntary care: psychiatric hospitals, mental health crisis stabilization centers, and psychiatric health facilities. While most of these facilities can provide involuntary *psychiatric* care, they do not currently offer involuntary inpatient treatment for substance use disorders. Giving counties the authority to designate new facility types for involuntary care is critical to successful implementation of recent changes to California law.

With the 2023 [enactment of Senate Bill 43](#), led by Senator Susan Eggman, individuals living with a severe substance use disorder can now be placed on involuntary holds, receive involuntary treatment, or be conserved by a court if that disorder makes them unable to provide for their basic personal needs including food, clothing, shelter, personal safety, or necessary medical care. Without the important

updates SB 1238 would make to current law, people with severe substance use disorders may not have access to treatment facilities that have the necessary clinical expertise to stabilize and treat their conditions.

Finally, SB 1238 would give the state Department of Health Care Services (DHCS) explicit authority to interpret and issue guidance on the areas of law that are addressed by this bill. Current law — Welfare and Institutions Code Section 5400(a) — requires DHCS to administer and adopt necessary rules, regulations, and standards for California’s involuntary treatment laws found in the Lanterman-Petris-Short (LPS) Act. However, recent experience indicates that DHCS is hesitant to provide implementation guidance or publish behavioral health information notices (BHINs) pertaining to legislation affecting the LPS Act because it has viewed its authority very narrowly. For instance, when DHCS published [BHIN 24-011](#) on implementation of SB 43 last month, it qualified the scope of the BHIN in a footnote stating, “The Legislature has not provided DHCS with authority to ‘implement, interpret, or make specific’ by information notice any other section of the LPS Act amended or added by SB 43.”

As a result, whenever the LPS law has been updated by the Legislature or a new practical issue is identified at the local level, each of California’s 58 counties and the hundreds of local agencies involved in implementing the LPS Act are left to make their own (sometimes conflicting) interpretations of the law to solve problems that arise, and are unaided by the state department that possesses LPS Act oversight authority. While DHCS has recently been required through legislation to conduct additional LPS Act data collection and reporting activities, hospitals support policies that empower and encourage DHCS to take a stronger leadership role in overseeing and helping guide local implementation of the LPS Act. SB 1238 gives DHCS the administrative authority to provide much-needed guidance and technical assistance to local agencies doing their best to implement SB 43.

For these reasons, CHA is pleased to support SB 1238.

We look forward to continuing to work with the author to ensure the full array of appropriate behavioral health treatment facilities are eligible to become designated to provide involuntary evaluation and treatment. I can be reached at Leah@LeahBarros.com or (916) 521-6878 with any questions.

Sincerely,



Leah Barros
Contract Lobbyist, California Hospital Association

cc: The Honorable Susan Talamantes Eggman
Honorable Members of the Senate Judiciary Committee
Allison Meredith, Counsel, Senate Judiciary Committee
Morgan Branch, Consultant, Senate Republican Caucus