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## SENATE COMMITTEE ON HEALTH

Senator Dr. Richard Pan, Chair

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**BILL NO:** AB 2265  
**AUTHOR:** Quirk-Silva  
**VERSION:** May 20, 2020  
**HEARING DATE:** August 10, 2020  
**CONSULTANT:** Reyes Diaz

**SUBJECT:** Mental Health Services Act: use of funds for substance use disorder treatment.

**SUMMARY:** Clarifies that Mental Health Services Act funds are permitted to be used to fund treatment for individuals with co-occurring mental health and substance use disorders. Requires counties to report information about the individuals treated pursuant to the provisions of this bill, as specified.

**Existing law:**

- 1) Establishes the Mental Health Services Oversight and Accountability Commission (MHSOAC) to oversee the implementation of the Mental Health Services Act (MHSA), enacted by voters in 2004 as Proposition 63 to provide funds to counties to expand services, develop innovative programs, and integrate service plans for mentally ill children, adults, and seniors through a 1% income tax on personal income above \$1 million. [WIC §5845]
- 2) Requires the Department of Health Care Services (DHCS), in coordination with counties, to establish a program designed to prevent mental illnesses from becoming severe and disabling, including an emphasis on strategies to reduce the following negative outcomes that may result from untreated mental illness:
  - a) Suicide;
  - b) Incarcerations;
  - c) School failure or dropout;
  - d) Unemployment;
  - e) Prolonged suffering;
  - f) Homelessness; and,
  - g) Removal of children from their homes. [WIC §5840]
- 3) Requires each county mental health program to prepare and submit a three-year program and expenditure plan, with annual updates, adopted by the county board of supervisors, to the MHSOAC and DHCS within 30 days after adoption. [WIC §5847]
- 4) Requires DHCS, in consultation with the MHSOAC and the County Behavioral Health Directors Association of California, to develop and administer instructions for the Annual MHSA Revenue and Expenditure Report, including identifying the expenditure of funds, quantifying the amount of additional funds generated for the mental health system, identifying unexpended funds and interest earned on funds, and determining reversion amounts from prior fiscal year distributions. [WIC §5899]

**This bill:**

- 1) Clarifies that MHSA funds are permitted to be used to treat a person with co-occurring mental health and substance use disorders (MHD/SUD) when the person would be eligible for treatment of the MHD pursuant to the MHSA, as specified.

- 2) Requires treatment of co-occurring MHD/SUD to be identified in a county's three-year program and expenditure plan or annual update.
- 3) Requires a county to, as quickly as possible, refer a person to SUD treatment services when that person is being treated for co-occurring conditions and it is later determined that the person does not need the mental health services that are eligible for MHSA funding.
- 4) Permits MHSA funds to be used to assess whether a person has co-occurring MHD/SUDs and to treat a person who is preliminarily assessed to have the co-occurring conditions, even when the person is later determined not eligible for MHSA-funded services.
- 5) Requires a county to report to DHCS both of the following:
  - a) The number of people assessed for co-occurring MHD/SUDs; and,
  - b) The number of people assessed for those co-occurring disorders who were ultimately determined to have only an SUD without a MHD.
- 6) Requires DHCS, by January, 1, 2022, and each January 1 thereafter, to publish on its website a report summarizing county activities pursuant to the provisions of this bill. Requires data to be reported statewide and by county or groupings of counties, as specified.

**FISCAL EFFECT:** According to the Assembly Appropriations Committee, this bill has minor and absorbable one-time costs to DHCS to specify the manner of reporting, and minor ongoing costs to receive reports from counties and report statewide data (MHSA administrative set-aside funds).

**PRIOR VOTES:**

Assembly Floor:	76 - 0
Assembly Appropriations Committee:	18 - 0
Assembly Health Committee:	15 - 0

**COMMENTS:**

- 1) *Author's statement.* According to the author, some people living with serious mental illness simultaneously experience SUDs, complicating diagnosis and treatment. A third of adults who receive county mental health services for serious mental illnesses have a co-occurring SUD. The stakes for these individuals are especially high. People with SUDs are almost six times more likely to attempt suicide than those without. COVID-19 has only exacerbated the need for mental health services. This bill will provide much needed clarity to existing statute so that those who are experiencing co-occurring mental illness and SUDs get the care they need.
- 2) *MHSA.* The MHSA requires each county mental health program to prepare and submit a three-year plan to DHCS that must be updated each year and approved by DHCS after review and comment by the MHSOAC. DHCS is required to provide guidelines to counties related to each component of the MHSA. In the three-year plans, counties are required to include a list of all programs for which MHSA funding is being requested and that identifies how the funds will be spent and which populations will be served. The MHSA makes explicit reference to those with co-occurring conditions and permits use of funds to treat those with a co-occurring SUD, as long as an individual has a primary mental health condition. Counties

also must submit their plans for approval to the MHSOAC before they can spend innovation program funds. The MHSA provides funding for programs within five components:

- a) *Community Services and Supports (CSS)*: Provides direct mental health services to the severely and seriously mentally ill, such as mental health treatment, cost of health care treatment, and housing supports. Regulations require counties to direct the majority of its CSS funds to Full-Service Partnerships (FSPs). FSPs are county coordinated plans, in collaboration with the client and the family, to provide the full spectrum of community services. These services consist of mental health services and supports, such as peer support and crisis intervention services; and non-mental health services and supports, such as food, clothing, housing, and the cost of medical treatment;
  - b) *Prevention and Early Intervention*: Provides services to mental health clients in order to help prevent mental illness from becoming severe and disabling;
  - c) *Innovation*: Provides services and approaches that are creative in an effort to address mental health clients' persistent issues, such as improving services for underserved or unserved populations within the community;
  - d) *Capital Facilities and Technological Needs*: Creates additional county infrastructure such as additional clinics and facilities and/or development of a technological infrastructure for the mental health system, such as electronic health records for mental health services; and,
  - e) *Workforce Education and Training*: Provides training for existing county mental health employees, outreach and recruitment to increase employment in the mental health system, and financial incentives to recruit or retain employees within the public mental health system.
- 3) *Related legislation*. SB 665 (Umberg) establishes a Jail-Based Community Mental Health Innovation Program (JBCMHIP), authorizing up to eight counties, including Orange County, to introduce innovative approaches to meet the mental health needs of those in jail, including those who have been convicted of a felony and sentenced to imprisonment in a county jail. Permits MHSA Innovation funds to be used to establish, upon approval from of the MHSOAC, a JBCMHIP. *SB 665 passed out of the Assembly Health Committee on August 4, 2020, on a vote of 14-0.*
  - 4) *Prior legislation*. SB 389 (Hertzberg, Chapter 209, Statutes of 2019) permits counties to use MHSA funds to provide services to a person who is participating in a presentencing or post-sentencing diversion program or who is on parole, probation, post-release community supervision, or mandatory supervision.
  - 5) *Support*. Supporters of this bill state that individuals living with serious mental illness often simultaneously experience SUDs, which complicate diagnosis and treatment. One-third of adults who receive county mental health services for serious mental illnesses have a co-occurring SUD. Removing programmatic barriers to serving these individuals with MHSA funded services is particularly important in California's effort to end homelessness and combat the crisis of suicide, particularly among young people. Supporters argue that individuals living with SUDs are almost six times more likely to attempt suicide than those without these conditions, and believe this bill preserves the MHSA's focus on meeting the state's large unmet mental health needs with a more comprehensive approach. Supporters state that while existing law permits county behavioral health programs to serve individuals with co-occurring SUDs and MHDs using MHSA funds, those funds cannot be used for

individuals with only a primary SUD diagnosis. Supporters state some confusion may exist, which this bill helps to clarify.

- 6) *Technical assistance amendments.* The author received technical assistance from DHCS on this bill and requests the Committee approve the following amendments:
- a) Limit the programs eligible under the provisions of this bill to all MHSA-funded programs except the No Place Like Home Program;
  - b) Require SUD services pursuant to this bill to comply with applicable requirements of the MHSA;
  - c) Change “as quickly as possible” to “in a timely manner” in reference to referring those with only an SUD to appropriate treatment services;
  - d) Permit DHCS to implement, interpret, or make specific the provisions of this bill through letters, notices, bulletins, or other similar instructions, as specified; and,
  - e) Require DHCS to adopt regulations by July 1, 2025, to implement the provisions of this bill.

**SUPPORT AND OPPOSITION:**

**Support:** California Alliance of Child and Family Services  
California Pan-Ethnic Health Network  
City of Santa Monica  
County Behavioral Health Directors Association of California  
County of Orange  
Disability Rights California  
Drug Policy Alliance  
Humanidad Therapy and Education Services  
Jewish Public Affairs Committee of California  
NAMI California  
National Association of Social Workers, California Chapter  
Racial and Ethnic Mental Health Disparities Coalition  
SEIU California

**Oppose:** None received

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