



County of Monterey

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: RES 23-211

December 05, 2023

Introduced: 11/15/2023

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Matter Type: BoS Resolution

Adopt a resolution to defer implementation of changes made to the legal definition of “gravely disabled” set forth by Senate Bill 43 (2023-2024 Reg. Session) to January 1, 2026.

RECOMMENDATION:

It is recommended that the County of Monterey Board of Supervisors adopt a resolution to defer implementation of the legal definition of “gravely disabled” set forth by Senate Bill 43 (2023-2024 Reg. Session) to January 1, 2026.

SUMMARY/DISCUSSION:

The Lanterman-Petris-Short (LPS) Act (Welfare and Institutions Code section 5100, et seq.) provides for the evaluation and treatment of a person who is “gravely disabled,” which is currently defined to mean a condition in which a person, because of a mental health disorder, is unable to provide for his or her basic personal needs for food, clothing, or shelter.

On October 10, 2023, the Governor of the State of California signed Senate Bill 43 (2023-2024 Reg. Session), Statutes 2023, Chapter 637 (SB 43), expanding the definition of “gravely disabled” to include a person who, as a result of a mental health disorder, a severe substance use disorder, or a co-occurring mental health disorder and a severe substance use disorder, or as a result of impairment by chronic alcoholism, is unable to provide for their basic personal needs for food, clothing, shelter, personal safety, or necessary medical care.

The new, expanded definition of “gravely disabled” becomes effective on January 1, 2024, unless the governing board of the county adopts a resolution to defer implementation of the new definition of “gravely disabled” under Welfare and Institutions Code section 5008(h)(1) to January 1, 2026.

The County of Monterey administers the LPS system for persons located in Monterey County. The expanded definition will require significant effort in building and expanding the treatment, workforce, delivery networks, housing capacity and models for locked treatment settings or models of care for involuntary Substance Use Disorder (SUD) treatment to successfully meet the conservatorship needs of the target population. The expanded definition will also significantly expand the population potentially subject to detention and conservatorship under LPS from around 1% to around 10% of the population based on SUD prevalence estimates.

Prior to implementation of this new legal definition, the County of Monterey must develop policies and procedures to complete a “severe SUD” grave disability assessment; no such assessment currently exists. The County must develop protocols for designating individuals to

perform severe SUD grave disability assessments and to recruit and hire staff to perform severe SUD grave disability assessments. SB 43 expands LPS criteria to include assessing whether an individual can survive safely in community or provide for necessary medical care without involuntary detention. The County of Monterey will need to develop policies and procedures for how these determinations will be made and how information related to these issues will be shared across agencies interacting with individuals (behavioral health, private insurance providers/programs, law enforcement, adult protective services, local hospitals, criminal justice system, schools, etc.). The information required for the assessment will need to be gathered and then provided to qualified licensed health care providers to assess the information under the new legal definition. The County will need to determine which positions will have responsibility for gathering necessary information and which staff will make the clinical determinations, and they will all need to be recruited, hired, and trained. Until staff is designated and trained on the new legal criteria and the procedures on how and when to apply it, hospitals will be without qualified designated individuals to perform the assessments needed to remove involuntary holds, when appropriate, or recommend conservatorship when appropriate.

One of the most pressing concerns is that California does not currently have any locked treatment facilities for individuals with severe SUD. Further, there is limited capacity at long term facilities for individuals with severe mental illness and co-occurring medical conditions. This means that local hospitals will be impacted by additional individuals who suddenly meet criteria under the new legal definition of “gravely disabled” but there will not be appropriate treatment programs for those persons to be discharged to after hospitalization. In the absence of this new treatment capacity, newly detained or conserved persons will be boarding at the hospital with nowhere to go, not receiving the type of evidence-based treatment necessary to meet their long term needs and depriving the community of hospital beds that could be better utilized for other acutely sick patients. This negatively impacts both the target population this law is intended to serve and other County of Monterey residents who need access to medical care at our local hospitals.

SB 43 will expand the demand for hospital emergency room staff and inpatient staff at local hospitals, county public guardians, Patient Rights Advocates, Public Defenders, County Counsels, and County behavioral health staff and treatment providers. Beyond staffing, SB 43 will require new and novel treatment capacity such as locked SUD treatment facilities which currently do not exist in California. The County of Monterey does not currently have sufficient contracts with long term treatment providers for SUD only care or for co-occurring mental illness and SUD. It will take time to identify providers who could provide the level of care required for this population and establish contracts for that purpose.

Upon consultation with various County stakeholders, the County of Monterey does not currently have the necessary infrastructure to successfully serve the expanded population under the new definition of “gravely disabled.” A deferral would allow County stakeholders to use the additional time to develop assessment tools, develop policies and procedures, designate staff, and conduct trainings on the new legal standard. County stakeholders also intend to gather data on the potential population of persons in the County of Monterey who might qualify for detention or conservatorship under the new definition of gravely disabled to assess the potential impact on County resources when the definition is implemented. Finally, the County

stakeholders hope to learn from other larger counties who will be implementing the change in 2024 on what pathways work best for serving SUD patients on an involuntary basis.

Behavioral Health is currently working on expanding infrastructure for subacute treatment options which will be critical for caring for persons under the new definition of gravely disabled, including potentially building a 110-bed Mental Health Rehabilitation Center (MHRC) in the County of Monterey, which (if full funding is available) will hopefully open sometime in 2026.

For these reasons, the Department of Health and Natividad recommends the Board of Supervisors adopt a resolution to defer implementation of the new definition of grave disability until January 1, 2026, as permitted by Welfare and Institutions Code section 5008(h)(4), so the County can build the necessary capacity to care for the population of persons included under the expanded definition of grave disability.

The outcome of this recommendation contributes to assisting Natividad in managing efficient business operations and in providing quality medical care for its patients and their families.

This work supports the Monterey County Health Department 2018-2022 Strategic Plan Goals: 4. Engage MCHD workforce and improve operational functions to meet current and developing population health needs. It also supports one or more of the ten essential public health services, specifically: 4. Mobilize community partnerships and action to identify and solve health problems and 8. Assure a competent public and personal health care workforce.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel and Office of Public Guardian have assisted in this decision. The Office of County Counsel approves the resolution as to legal form.

FINANCING:

Deferral of the application of Welfare and Institutions Code section 5008(h) will not impact the Health Department Fiscal Year (FY) 2023-24 Adopted Budgets for Behavioral Health (023-HEA012-8410) or Public Guardian (001-HEA008-8118). The Health Department will include the work necessary to implement the changes to Welfare and Institutions Code section 5008(h) in its FY 2024-25 Requested Budgets.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Check the related Board of Supervisors Strategic Initiatives:

☐ Economic Development:

- Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

☒ Administration:

- Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability, and transparency.


☒ Health & Human Services:

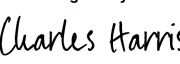
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- Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.
- ☐ Infrastructure:
- Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.
- ☐ Public Safety:
- Create a safe environment for people to achieve their potential, leading businesses, and communities to thrive and grow by reducing violent crimes as well as crimes in general.

Prepared by: Christi McDonald, Deputy County Counsel, 755-5045

Approved by:

DocuSigned by:

C7A30BA59CA8423 Date: 11/17/2023 | 12:30 PM PST
Elsa Mendoza Jimenez, Director of Health Services, 755-4526

DocuSigned by:

4E1F837D204E481... Date: 11/17/2023 | 12:35 PM PST
Charles R. Harris, M.D., CEO, Natividad Medical Center, 783-2551

Attachments:

Resolution to Defer SB 43 until 2026