



1340 Arnold Drive, Suite 200, Martinez, Ca 94553 | Phone: (925) 313-9553 | Fax: (925) 957-5156
cchealth.org

**Mental Health Commission
Executive Committee Meeting
Tuesday, November 28, 2023, from 3:30 – 5:00 pm**

This Meeting will be held in person and via Zoom ‘Hybrid’

VIA: Zoom Teleconference: <https://zoom.us/j/5437776481>

Meeting number: 543 777 6481 | Join by phone: 1 669 900 6833 US | Access code: 543 777 6481

In Person: 1340 Arnold Drive, Suite 126, Martinez, CA 94553

AGENDA

- I. Call to Order/Introductions**
- II. Chair Announcements**
- III. Public comments**
In accordance with the **Brown Act**, if a member of the public addresses an item not on the agenda, no response, discussion, or action on the item will occur, except for the purpose of clarification.
- IV. Commissioner comments**
- V. APPROVE the minutes from the October 24, 2023, Executive Committee Meeting**
- VI. DISCUSS December 6th presentation on Care Court Implementation by Indigo Consulting**
- VII. UPDATE on the history of the Behavioral Health Care Partnership (BHCP) then and now – Cmsr. Serwin**
- VIII. UPDATE on the October 27, 2023, Vincente High School Site Visit Report – Cmsr. Serwin**
- IX. DISCUSS voting process for the 2023 Mental Health Commission (MHC) election at the December 6th Commission meeting – Nominating Ad hoc Committee**
- X. DISCUSS Status of MHC Finance Committee for 2024**

(Agenda Continued on Page Two)



The Contra Costa County Mental Health Commission is appointed by the Board of Supervisors to advise them on all matters related to the county's mental health system, in accordance with mandates set forth in the California State Welfare & Institutions Code, Sections 5604 (a)(1)-5605.5. Any comments or recommendations made by the Mental Health Commission or its individual members do not represent the official position of the county or any of its officers. The Commission is pleased to make special accommodations, if needed, please call ahead at (925) 313-9553 to arrange.

XI. DETERMINE December 6, 2023 MHC meeting agenda:

- **Meeting Conduct Agreement**
- **Meeting attendance rules:** Please RSVP as soon as possible to guarantee a quorum; If not attending in person:
Absence must be “just cause” notify the chair ASAP or “Emergency Circumstance”, which must be submitted in writing and voted on by the commission
- **CHAIR COMMENTS / ANNOUNCEMENTS**
- **RECEIVE presentation on Care Court Implementation by Indigo Consulting**
- **RECEIVE MHC Report Outs – Justice and Quality of Care Committees**
- **RECEIVE Behavioral Health Services Director's report, Dr. Suzanne Tavano**
- **2023 MHC Nominations**

XII. Adjourn

ATTACHEMENTS

- A. Care Act Overview Presentation*
- B. Nomination Slate for 2023 Vote*

CONDUCT AGREEMENT

The input of all participants in the meeting is highly valued. In order for all voices to be expressed in a productive, safe and respectful environment, the following set of self-governance guides are asked of all participants:

- 1. We are committed to honoring people’s time. Please help us by being on time, asking questions, speaking to the topic at hand, and allowing for others to speak.**
- 2. Please keep yourself on mute unless you are speaking.**
- 3. Wait to be recognized, before commenting and keep your comments direct and brief.**
- 4. It is okay to disagree, as different perspectives are welcomed and encouraged. Please be polite and respectful and allow others to voice their views as well.**
- 5. Please refrain from criticizing a specific person or viewpoint in a negative manner during the meeting. Outside of the meeting, you may connect with MHC Commissioners and staff for assistance in having your concerns heard and addressed through the appropriate channels.**
- 6. Avoid providing any distractions, such as side bar conversations.**
- 7. An individual may be asked to leave should they behave in a manner that threatens the safety of any participant or does not honor the terms of these guidelines.**



Community Assistance, Recovery and Empowerment: The CARE Act / CARE Court

Overview and Implementation Planning

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CARE Informational Session Agenda

- CARE Act Overview

- Eligibility
- Eligible Petitioners
- CARE Act Process
- CARE Plan
- Capacity Issues
- Funding

- Implementation Planning

- Approach
- Stakeholder Engagement
- Work Plan

CARE Act Overview

Key Considerations

- CARE is a **civil court process** to help focus efforts on comprehensive treatment, housing, and services for individuals with untreated serious mental health issues.
- The purpose of CARE Court is to engage a targeted group of people in community-based treatment to **avoid unnecessary crisis, hospitalization, homelessness, and incarceration**.
- The number of people who will be petitioned to CARE Court is likely **larger than the state estimates** and **exceeds the existing capacity** for treatment and housing.
- **Individuals with commercial insurance can be petitioned to CARE Court**, and CCBHS would bill the commercial plan for payment.
- Contra Costa County **costs to implement CARE are likely to exceed the County's CARE funding allocation** from the state.
- **CARE implementation is required**, and there are fines associated with non-compliance.

What is the CARE Act?

- The CARE Act is a legislation that authorizes CARE court, a new civil court process to ensure that individuals most impacted by mental health challenges receive the services that they need.
- CARE court establishes a civil court process whereby the courts can order eligible individuals to participate in a CARE plan provided by a CARE team for up to 12 months with the possibility to extend for an additional 12 months.
- The CARE Act changes other rules and regulations, including LPS law, the penal code, and health insurance code.
- CARE Court is being implemented in phases.
 - The first cohort of counties to implement the CARE Act include the counties of Glenn, Orange, Riverside, San Diego, Stanislaus, Tuolumne, and San Francisco. This cohort will be required to implement the CARE Act by October 1, 2023. Los Angeles is working to implement by December 1, 2023.
 - All remaining counties are required to begin implementation by **December 2024**, unless the county is granted additional time by DHCS.

Are counties required to implement CARE court?

Yes. Counties must implement CARE court.

If a county does not implement CARE court, they can be fined.

If a County continues to not implement CARE court, the courts can appoint a special master to secure CARE court evaluation and treatment services at the County's expense.

Who is eligible for CARE court?

The CARE act does not apply to everyone experiencing a mental health issue or homelessness.

The State estimates that 7,000-12,000 people may be eligible statewide (est. 206- 354 ppl in Contra Costa County), but this is likely a large underestimate.

CARE court is specifically for individuals who are at a high risk of placement in a locked setting, such as a jail or psychiatric hospital.

The purpose of CARE court is to engage those individuals in the community and reduce the need for conservatorship/ confinement.

5972. An individual shall qualify for the CARE process only if all of the following criteria are met:

- a) The person is 18 years of age or older.
- b) The person is currently experiencing a severe mental illness...and has a diagnosis identified in the disorder class: schizophrenia spectrum and other psychotic disorders, including substance induced psychosis.
- c) The person is not clinically stabilized in on-going voluntary treatment.
- d) At least one of the following is true:
 - (1) The person is unlikely to survive safely in the community without supervision and the person's condition is substantially deteriorating, *and/or*
 - (2) The person is in need of services and supports in order to prevent a relapse or deterioration that would be likely to result in grave disability or serious harm to the person or others, as defined in Section 5150.
- e) Participation in a CARE plan or CARE agreement would be the least restrictive alternative necessary to ensure the person's recovery and stability.
- f) It is likely that the person will benefit from participation in a CARE plan or CARE agreement

Who else may be eligible for CARE court?

- **Penal Code Revisions**

- The CARE Act amends the penal code and allows for judges to refer someone who is determined to be incompetent to stand trial and *ineligible for diversion* over to CARE court. Before the CARE Act, the judge could only refer to AOT or LPS conservatorship.

- **Insurance Code Revisions**

- The CARE Act amends the insurance code to require health insurance plans to cover the costs of CARE Act evaluations and CARE plan services

1374.723. (a) *A health care service plan...shall cover the cost of developing an evaluation pursuant to Section 5977.1 of the Welfare and Institutions Code and the provision of all health care services for an enrollee when required or recommended for the enrollee pursuant to a CARE agreement or a CARE plan approved by a court regardless of whether the service is provided by an in-network or out-of-network provider.*

Are people who are Incompetent to Stand Trial eligible for CARE court?

Yes, if they are determined to be IST and ineligible for diversion, the judge may refer them to CARE court.

Are people with private insurance eligible for CARE court?

Yes. The CARE Act requires that health insurance plans pay for the evaluation to determine CARE court eligibility and establish the CARE plan. It also requires that health plans pay for the services included in a CARE plan.

Who can refer to CARE court?

A potential CARE Court recipient may:

Become engaged with Crisis, Emergency Department, or the Criminal Justice System

Be preparing for discharge from an acute, subacute, or other residential setting

Be engaged in services but not doing well

Have multiple interactions with first responders

Be referred to or enrolled in AOT or LPS Conservatorship

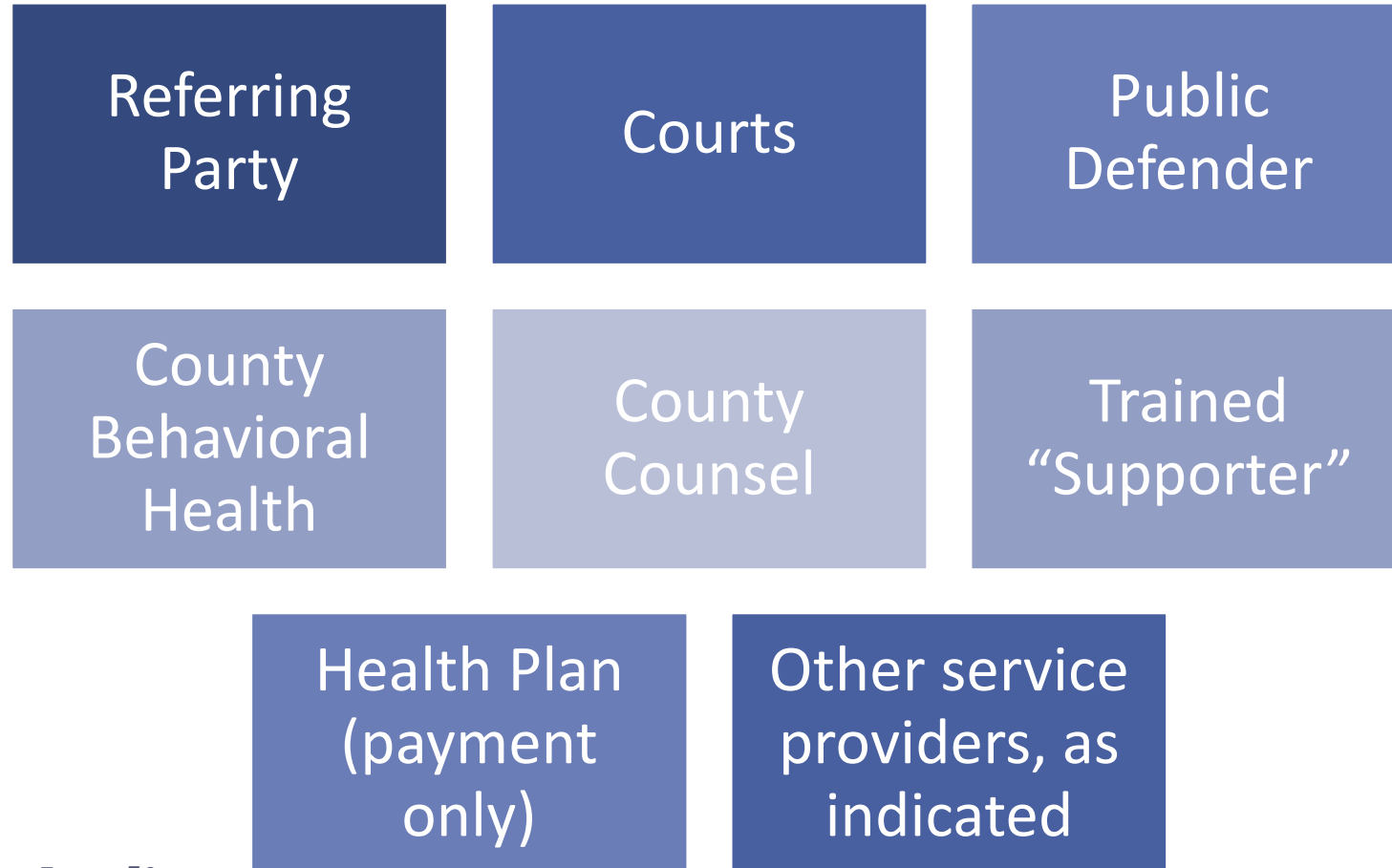
Be engaged with Criminal Court

Be engaging with another qualified petitioner

5974. The following adult persons may file a petition to initiate the CARE process:

- A person with whom the respondent resides.
- A spouse, parent, sibling, child, or grandparent or other individual who stands in loco parentis to the respondent.
- The hospital where a person is receiving treatment, including psychiatric hospitalization.
- The agency that has provided within the past 30 days or who is currently providing behavioral health services to the respondent or in whose institution the respondent resides.
- A licensed behavioral health professional who has supervised the treatment or been treating the respondent for a mental illness within the past 30 days.
- The county behavioral health agency of the county in which the respondent resides or is found.
- *A first responder, including a peace officer, firefighter, paramedic, emergency medical technician, mobile crisis response worker, or homeless outreach worker, who has had repeated interactions with the respondent*
- *The public guardian or adult protective services*
- *California Indian health services program or California tribal behavioral health department*
- *The judge of a tribal court that is located in California, or their designee.*
- *The respondent.*

Who participates in the CARE court process?

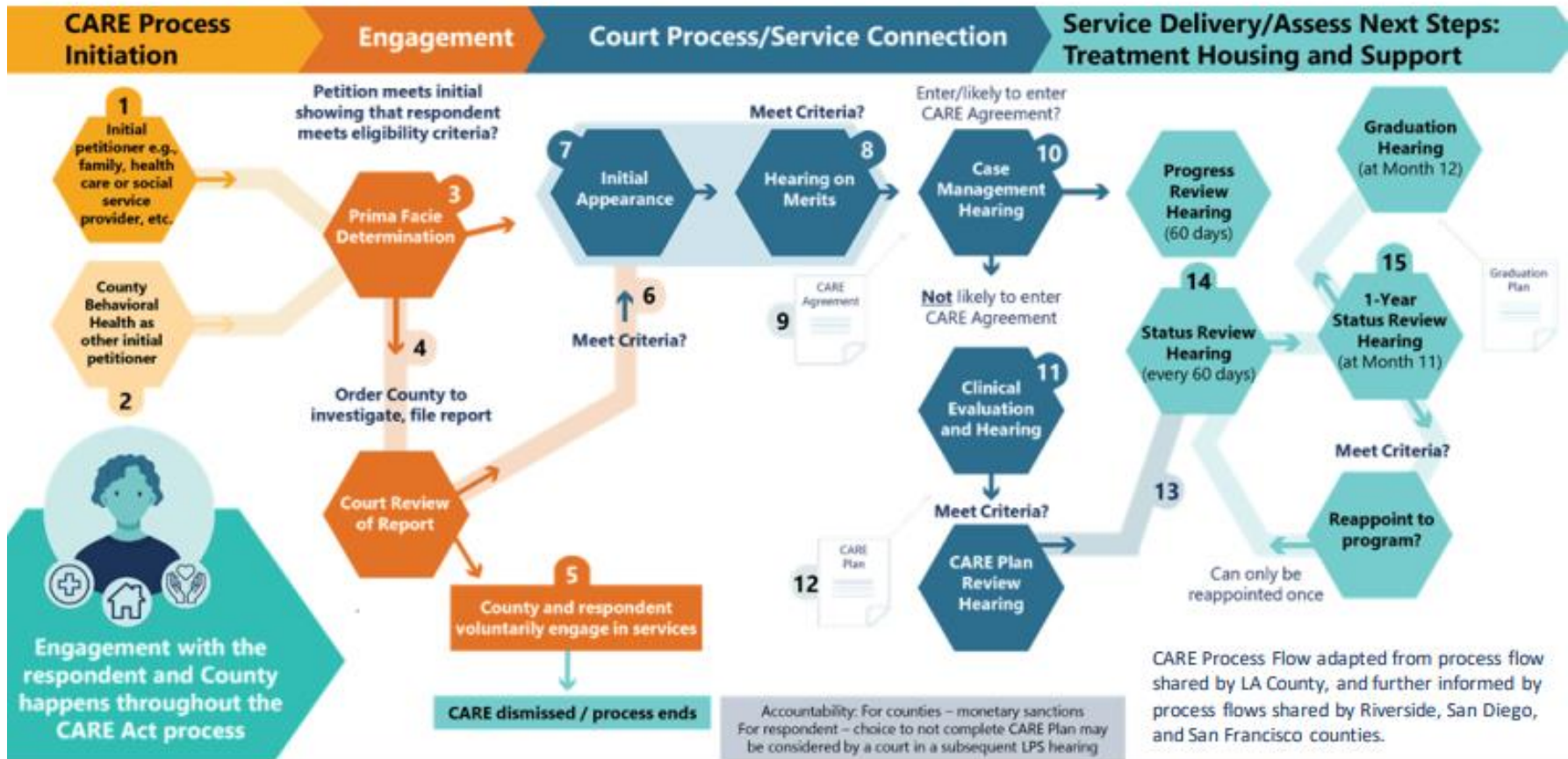


CARE Act will be evaluated by:

- Improvement in housing status, including gaining and maintaining housing,
- Reductions in emergency department visits and inpatient hospitalizations,
- Reductions in law enforcement encounters and incarceration,
- Reductions in involuntary treatment and conservatorship, and
- Reductions in substance use.

CARE Act The CARE Process Flow to Treatment, Housing, and Support

CARE Act Process Flow



➤ Process Flow Details

Crosswalk the numbers shown here with the following information to learn more details about the CARE Act Process Flow.

CARE Process Initiation

- 1 A case is initiated when a person petitions the court to determine a respondent's eligibility and begin CARE proceedings. The statute allows for a range of individuals to file petitions, such as family members, health care or social service providers, or first responders.
- 2 County behavioral health agencies may also file petitions

Engagement

- 3 Initially, the court will decide if the petition shows that the individual meets, or may meet, eligibility criteria for CARE proceedings (i.e., a prima facie showing).
- 4 If the petition was filed by other than the county behavioral health agency, the court will order the agency to investigate and submit a report to determine whether the respondent meets, or is likely to meet, the eligibility criteria.
- 5 During this time, the county behavioral health agency will attempt to engage the respondent in voluntary services and report to the court on the outcome of those efforts.

Court Process/Service Connection

- 6 If the court finds that the respondent qualifies for CARE proceedings, and efforts to engage the respondent in services was not effective, the case will proceed through the court flow with the goal of connecting the respondent with services. At this point, the court will appoint an attorney to represent the respondent throughout the proceedings, at no cost.
- 7 At the initial appearance, if the petition was filed by other than the county behavioral health agency, the original petitioner is substituted out, and the director of the county behavioral health agency is appointed. During this appearance, the respondent has the option to select a supporter or ask that one be appointed.
- 8 At the hearing on the merits (which can be combined with the initial appearance), the court determines if the respondent meets eligibility criteria under a clear and convincing standard.
- 9 An important component of this court process is that the respondent, their attorney, their supporter, and the behavioral health agency will work together to create a voluntary CARE agreement and engagement in services.

Court Process/Service Connection continued

- 10 At the case management hearing, if a CARE agreement is not likely to be reached, the court will order the county behavioral health agency to conduct a clinical evaluation.
- 11 The court will review the clinical evaluation and other evidence from the county behavioral health agency and the respondent. The court will also determine if the respondent meets the eligibility criteria and order a CARE plan.
- 12 At this point, the respondent, their attorney, their supporter, and the behavioral health agency will work together to create a CARE plan that includes services the respondent is entitled to receive under the CARE Act. These services should be collaboratively determined, according to the specific needs of the respondent.

Service Delivery/Assess Next Steps: Treatment Housing and Support

- 13 During service delivery, a respondent will receive services indicated in his/her CARE plan: behavioral health services (including treatment for substance abuse disorder as applicable), medically-necessary stabilization medications (as applicable), housing resources & supports, and funded social services, including those services available to indigent California residents.
- 14 Progress will be checked at status review hearings, at intervals set by the court.
- 15 At month 11, it will be determined if the respondent is either ready to graduate or the respondent maybe reappointed to the program, and continue to receive services under CARE, for up to one year.

**Additional Resources**

- Consider viewing the training materials on [CARE-Act.org](https://www.care-act.org) under training materials, including CARE Act 201: The Client's Journey Through the CARE Act and CARE Act 202: The CARE Agreement & CARE Plan.
- Consider viewing the additional CARE Act briefs:
 - [Eligibility Criteria](#)
 - [Supporter Role in the CARE Act](#)

**Statute Language & Citation**

The CARE Act Process Flow follows the progression in Community Assistance, Recovery, and Empowerment (CARE) Court Program outlined in [Senate Bill \(SB\) 1338](#).

What services and supports are included in CARE Court?

- The framework provides for a clinically appropriate, community-based set of services and supports that could include: short-term stabilization medications, wellness and recovery supports, and connection to social services and housing.
- Participants must be provided legal counsel and may identify a CARE Supporter who cannot be excluded from proceedings, in addition to their full clinical team.
- Each participant develops the CARE agreement or CARE plan in concert with the behavioral health team so that supports and services are coordinated and focused on the individual needs of the participant.
- Upon successful completion of CARE, a Psychiatric Advance Directive provides direction regarding how to address the participant's future mental health crises according to the participant's expressed intent.

What specific services can be included in a CARE plan?

5982. (a) The CARE plan may include only the following:

- 1) Behavioral health services funded through the 1991 and 2011 Realignment, Medi-Cal behavioral health, health care plans and insurers, and services supported by the Mental Health Services Act pursuant to Part 3 (commencing with Section 5800).
- 2) Medically necessary stabilization medications, to the extent not described in paragraph (1).
- 3) Housing resources
- 4) Social services funded through Supplemental Security Income/State Supplementary Payment (SSI/SSP), Cash Assistance Program for Immigrants (CAPI), CalWORKs, California Food Assistance Program, In-Home Supportive Services program, and CalFresh.
- 5) Services provided pursuant to Part 5 (commencing with Section 17000) of Division 9.

Can CARE court force someone to take medications?

CARE court allows for

“medically necessary stabilizing medications”

to be included in the CARE plan but does not authorize them to be administered involuntarily.

If a person refused medication, this would be addressed under existing laws and practices (e.g., Riese hearing)

Is there enough capacity to serve the estimated number of CARE Court participants?

- CCBHS is working on a number of projects that will build capacity throughout the system, including:
 - Miles Hall Community Crisis Hub
 - CRT/ART in San Pablo and MHRC in Richmond.
 - Bridge Housing for Behavioral Health to support housing and housing navigation.
- There will likely be additional needs for facilities and services across the continuum as a result of CARE implementation.

What if someone doesn't do what's in the CARE plan?

If an individual with a CARE plan doesn't participate in the services in their CARE plan, the judge can end their participation in CARE court

The Court may utilize existing authority under the LPS Act to ensure the respondents safety.

The respondent's failure to participate in the CARE process will be considered in any subsequent hearings under the LPS Act that occur within 6 months, and shall create a presumption at that hearing that the respondent needs additional intervention beyond the supports and services provided by the CARE plan

- If a County does not comply with the court orders or fails to provide the services in the CARE plan,
 - The presiding judge can issue a fine of \$1,000 per day up to \$25,000 per instance. These funds go into an account that will be redistributed back to the County to fund CARE court services.
 - If a county is determined to be persistently noncompliant, the presiding judge may appoint a special master to secure court-ordered care for the respondent at the local government entity's cost.

Other questions?

How is CARE court different from the Assisted Outpatient Treatment established by AB1421?

- CARE court is a version of AOT, but there are significant changes in the CARE Act when compared to existing AOT regulations, including:
 - Referrals go to the court, not behavioral health.
 - Additional groups are eligible to refer.
 - There is no threshold of requiring a certain number of prior crises and/or hospitalizations to qualify.
 - People with private insurance are eligible.
 - A “trained supporter” is a formal member of the CARE team.
 - Not participating in the CARE plan can be used as evidence to support the need for an LPS conservatorship.
 - The CARE Act includes fines for Counties if they don’t comply with court orders or provide the services in the CARE plan.
- **What if someone is referred to CARE court in another county?**
 - If a person is referred to CARE court while away from their county of residence, CARE court proceedings are transferred to their County of residence, unless the person objects. If the person objects to the transfer, the CARE court proceedings will take place in the County where the proceedings were initiated. [5973(a) and (b)]
- **Can MHSA funds be used to pay for CARE court?**
 - MHSA funds can be used to pay for the services included in the CARE plan.
- **Will more people become conserved as a result of CARE implementation?**
 - Maybe. Failure to participate in a court-ordered CARE plan can be used as evidence to support an LPS conservatorship.

How is CARE Court funded?

- The state budget includes funds for County Behavioral Health Departments for start-up and ongoing implementation for CARE Act.
 - Contra Costa County's allocation is less than the cost of a single FSP team.
 - The state expects that Medi-Cal and commercial insurance be maximized for all billable services.
- The Courts are receiving a separate allocation.
- Cohort 1 counties received a one-time allocation for legal services to represent clients.
 - There is funding available for client representation, although it is first made available to qualified legal services projects (QLSP) and is then provided to the Public Defender if no QLSP receives funds for the County.

How does MHSA Modernization relate to CARE?

SB 326, Ballot initiative (March 2024)

Key proposed reforms include:

- Rename the MHSA to the Behavioral Health Services Act (BHSA)
- Broaden the target population to include those with debilitating substance use disorders
- Focus on the most vulnerable and most at-risk
- Update Local Categorical Funding Buckets
- Allocate 3% of total BHSA funds for state directed initiatives to expand the behavioral health workforce
- Transform the county MHSA planning process through an Integrated Plan for Behavioral Health Services and Outcomes
- Improve transparency and accountability for behavioral health funding and outcomes

Proposed Local Categorical Funding

- **30% for Housing Interventions** for individuals with serious mental illness/serious emotional disturbance and/or substance use disorder.
 - Will require sustained investment
- **35% for Full Service Partnerships** which should be optimized to leverage Medicaid as much as is allowable.
 - Will require increased investment
- **30% for Behavioral Health Services and Supports** (Behavioral Health Services and Supports (non FSP), Early Intervention, Capital Facilities and Technological Needs, Workforce Education and Training, innovative pilots, and prudent reserve).
 - Will require decreased investment
- **5% for Population-Based Prevention** for mental health and substance use disorder prevention programming.
 - Will require decreased investment

Implementation Planning

Ensure all stakeholders understand what is being asked of counties

- Unlike AOT, the question is not whether to implement CARE Court, but how to implement CARE Court
- Our approach is to make it clear to stakeholders that CARE Court implementation is mandatory and there are consequences for not being compliant
- We will make every effort to be explicit about what is flexible (i.e., where decisions can be influenced) versus what is dictated at the state level
- For Contra Costa County, CARE Court must be implemented by December 1, 2024



Plan CARE
Court within the
larger policy
landscape in the
state and within
current
initiatives

- We will place CARE Court within existing state and local initiatives
- CARE Court will become one of a number of other court-involved mental health programs, and we are preparing informational materials to support that understanding
- Our approach is to work across departments to ensure there are clear agreements and a shared understanding of how the County will provide housing and services to CARE Court participants

How will stakeholders and partners participate in CARE implementation planning?

Group	Purpose	Participant Role	Participating Groups	Meeting
Interagency Work Group	Determine how CARE court will be implemented Develop policies, practices, and documentation	Stakeholders with a designated role in implementing CARE Court	CCBHS, County Counsel, Public Defender, Courts, H3	Monthly, starting in January
Community Advisory Committee	Provide policy updates from state Inform community about implementation plans, receive feedback	Groups that will be involved with or affected by implementation	CCHS, Behavioral Health Partnership, Mental Health Commission, Detention Mental Health, Hospital Council, Sheriff, CCRMC, Public Guardian, Health Plans, Social Services, H3, Consumers, Family Members, Other Community Leaders	Quarterly, starting in January
Community Outreach and Education	Educate stakeholders about the CARE Act Provide guidance and training on implementation	Stakeholders or partners who would benefit from an informational or discussion-based session.	Consumer, Family Members, BIPOC Communities, Service Providers, Other Eligible Petitioners	TBD, Starting in November

Ongoing internal and statewide communication



Tracking legislation
and documenting
pilot county findings



Engaging in regular
communication with
CCBHS and Partners

Questions and Discussion



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Slate for Mental Health Commission 2024 Officers *(Names listed in alphabetical order)*

Chair:

- Laura Griffin

Vice Chair:

- Tavane Payne
- Pam Perls

Executive Committee:

ONE candidate out of whoever is not elected for Vice Chair:

- Tavane Payne
- Pam Perls

Plus:

- Barbara Serwin
- Gina Swirsding

(Therefore there will be THREE Commissioners running for THREE available positions on the Executive Committee)



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