

MHSOAC Staff Overview

Of The Little Hoover Commission Report on Proposition 63, “Promises Still To Keep: A Decade of the Mental Health Services Act”

Introduction

On January 28, 2015, the Little Hoover Commission (LHC) released a report to the Governor and the Legislature entitled, *Promises to Keep: A Decade of the Mental Health Services Act*. The report – an assessment of the Mental Health Services Act (MHSA) – is part of LHC’s broader review of California’s initiative process, with particular focus on the Legislature’s role in clarifying or modifying a voter-approved initiative. The Mental Health Services Oversight and Accountability Commission (MHSOAC), Department of Healthcare Services (DHCS), California Behavioral Health Directors Association (CBHDA) representatives, and representatives of various stakeholder groups provided written and verbal testimony September 23, 2014. The report summarizes what LHC learned about the MHSA through its study and concludes with recommendations, all of which are highly relevant to the MHSOAC. The report can be found at the following web address: <http://www.lhc.ca.gov/studies/225/Report225.pdf>

LHC Report Recommendations

The following are the report’s recommendations:

1. *MHSOAC Authority*: The Legislature should expand the authority of the Mental Health Services Oversight and Accountability Commission.
 - a. Require the oversight commission to review and approve county Prevention and Early Intervention plans annually, as it currently does for Innovation plans.
 - b. Refine the process by which the state responds to critical issues identified in county three-year plans or annual updates to ensure swift action. Empower the oversight commission to impose sanctions, including the ability to withhold part of the county’s MHSA funds, if and when it identifies deficiencies in a county’s spending plan. Decisions of the oversight commission should become mandatory unless they are overturned by the Department of Health Care Services within a reasonable period, such as 60 days.
2. *MHSOAC Authority*: To provide greater oversight and evaluation of the state administrative funds, the oversight commission should annually develop recommendations for and consult with the Department of Finance before the funds are allocated.
3. *Transparency and Accountability*: The MHSOAC should add to and update material on its website to include:
 - a. MHSA revenues by component and annual allocations, and the cumulative total revenue since voters approved the act.
 - b. Data about who benefits from the act, including the number of individuals served, their ages, gender, racial and ethnic background and language spoken.
 - c. Data to demonstrate statewide trends on key indicators such as rates of homelessness and suicide that show how well the act’s programs help those living with mental illness to function independently and successfully.

- d. All county MHSAs and reports submitted to the state, including MHSAs annual revenue and expenditure reports, Three-year program, and expenditure plans and annual updates, other relevant reports such as county cultural competence plans.
4. *Access to Timely, Reliable Information to Monitor Progress toward MHSAs Goals:* MHSOAC and DHCS should:
 - a. Immediately develop a formal plan and timeline to implement a comprehensive, statewide data collection system capable of incorporating data for all MHSAs components, as well as other state and behavioral health programs.
 - i. Plan should address funding for data collection system
 - ii. Should use a portion of MHSAs state administrative fund to support the effort
 - b. Regularly report to the Legislature on progress made in developing data system and identify challenges that arise.

In addition to analysis and recommendations, the LHC report addresses:

- History of the November 2004 passage of Proposition 63 including high expectations generated
- MHSAs implementation, including changes that have occurred through legislative actions
- Summary of MHSAs components
- The MHSAs changing contribution to financing California’s public mental health system
- Enumeration of the entities that receive MHSAs administrative funds
- Delineation of roles and contributions of various entities to MHSAs implementation and oversight

This summary provides an overview of the LHC report and of current MHSOAC activities that are relevant to LHC recommendations.

MHSAs Accomplishments and Areas of Concern

The report recognizes “an anecdotal sense that the act has made California a better place for the estimated 2.2 million adults with a mental health need and their families.” LHC “heard no testimony that the act has not worked.” To the contrary, the report states that throughout its review, LHC encountered “enthusiastic support for the Mental Health Services Act and the changes these funds have generated within the state’s public mental health system.” The LHC report particularly praised how the MHSAs has “changed the mental health system for the better” including:

- A more proactive help-first system that intervenes before people reach the point of a mental health crisis while “steering up to 80 percent of funding toward Californians with the most serious mental illnesses.”
- More efforts to reach people “who might otherwise fall through the cracks, particularly those unable or reluctant to seek care in traditional institutional or office settings” and who might not otherwise seek help.
- New emphasis on wellness, recovery, resilience and hope.
- Sustaining the state’s mental health system through a severe economic recession.

Significant Concerns: Oversight, Accountability, and Outcomes

Despite the positive changes as a result of the MHSAs that diverse stakeholders report, the LHC expresses several significant concerns, the most fundamental of which is a lack of comprehensive evidence of outcomes: “Funding provided by Proposition 63 – now more than \$1 billion annually and representing

about 25 percent of California’s overall mental health spending – continues to evade effective evaluation.” The report states that California “can’t clearly show, much less measure, what more than \$13.2 billion has accomplished in terms of improving services for the estimated one in six California adults with a mental health need or the one in 20 who suffer from a serious mental illness.”

The primary causes of this problem, according to the report, are “overlapping and sometimes unaccountable bureaucracies” and “antiquated state technology” that impedes comprehensive statewide evaluation and reporting. The report concludes, “Though the act appears successful in improving the range of mental health services provided in California, the state must now take steps to ensure that it can demonstrate those outcomes to voters, taxpayers, mental health advocates, patients and their families.” The following are brief summaries of each LHC concern.

Inadequate and Overlapping Oversight Structures

A critical priority, according to the report, is “strengthening state and county oversight of spending and programs for mentally ill Californians.” LHC believes that structural problems in the MHSA contribute to inefficient and inadequate oversight that weakens “accountability for the act’s performance and outcomes.” A key problem cited is insufficient oversight authority for the MHSOAC, “envisioned to ensure that the annual \$1 billion investment in the mental health system is achieving what voters intended.” The state “lacks a strong oversight body that is empowered to monitor and oversee expenditures,” according to the report.

LHC points to a “diffused authority” structure – originally between the Department of Mental Health (DMH) and the MHSOAC – with continued “overlapping bureaucratic oversight” between the MHSOAC and DHCS, resulting in “bureaucratic confusion.” The report points out that from stakeholders’ perspectives, state oversight is “a confusing patchwork of overlapping responsibilities.”

Lack of Sanctions for Counties

A critical structural problem, according to the report is, the lack of a mechanism by which the state can hold counties accountable, including to “effectively impose sanctions, when necessary, to ensure the act is implemented and delivers the results voters were promised.” According to LHC, it is “imperative that the state exercises its authority to ensure that each county spends the money as allowed by law – and is sanctioned accordingly if it does not comply.” The report is concerned also with MHSOAC’s inability to impose sanctions if counties fail to provide required data: “Until a state watchdog agency can ensure repercussions for counties that fail to provide required information about their implementation of the act, the state will not be able to collect data consistently and its evaluative efforts will continue to be hampered.”

Self-Certification: One-Stop County Accountability Structure

The report states, “Among the consequences of the Legislature’s modifications of the original 2004 Mental Health Services Act, few are bigger than the current overall lack of state control over how counties spend their funds.” The report points out that Legislature-initiated changes, namely lack of state approval replaced by self-certification of counties’ budgets and program plans (except for Innovative Projects), and automatic dispersal of MHSA funds created oversight problems. The system, according to LHC, is a “one-stop accountability structure” that “needs prompt and dramatic review.” The new system, according to the report, has resulted in “little monitoring or oversight of county programs, including the potential mishandling of state funds.”

The report observes that the Legislature made the changes to speed the disbursement of MHSAs in the face of “excessive bureaucracy that made distributing money to counties overly complicated.” It also notes that the Commission approved PEI plans in an average of 28 days, compared to DMH review times that exceeded more than 90 days for the majority of counties and for seven counties ranged from 180 to 336 days.

Inadequate Data System

According to the report, a critical problem is the lack of availability and inadequacy of data: “Without conclusive data no one knows how far the state has come in addressing mental illness through the act and how far it still has to go.” The report points out that the lack and inadequacy of data “is particularly concerning for advocates for the state’s varied ethnic communities who fear there are gaps between needs and services tailored to their communities.” The report also links the lack of adequate data to the inability to address charges by critics that MHSAs have been used inappropriately or ineffectively.

The report notes testimony that the current data system is “antiquated,” inflexible, problematic, and limited, despite “\$3 million of MHSAs funds to upgrade the department’s data systems.”

Recognizing the specific impact of data limits on the work of the Commission, the report states “The oversight commission, however, must rely on the department and counties to provide the data it needs to evaluate programs funded by the act. Getting that data can sometimes prove difficult” and adds, “The oversight commission, which is in charge of evaluating the act, does not have access to complete and timely data about counties’ programs in the various component areas.” The report expresses concern that counties do not “consistently or completely comply with reporting requirements” and cites a lack of consistency of state data.

The LHC report includes MHSOAC testimony that “without a stronger data system that produces accurate, complete, meaningful and timely data, the state will be unable to perform its oversight role adequately and produce a comprehensive, outcome-based evaluation of the MHSAs funds.”

Transparency and Accessibility of Available Information

The report charges that the MHSOAC “must be able to better tell who has benefitted from the act and how” and that “Californians should be able to see exactly how much money has been raised through the Mental Health Services Act and have at least a broad understanding of how and where that money is being spent, by county and by component.” The report noted that partial information is scattered among various state, county, and associated organizations’ websites, but is not available in an organized or comprehensive way that is useful or understandable. Without a “single repository for information about the act” it is extremely challenging to compare plans or programs or note trends. Counties’ Annual Revenue and Expenditure Reports, Three-Year Program and Expenditure Plans, and Annual Updates are not available on the MHSOAC or other state web site. There are no clear financial summaries with sufficient or relevant detail. With regard to MHSAs-funded programs, the only comprehensive report is produced by NAMI.

With regard to evaluation, the report praises the wealth of information available on the MHSOAC web site but states that it “is not organized in a way that makes it easy for an interested, but uninformed, Californian, to understand how the state is monitoring and evaluating progress towards the act’s goals.”

According to the report, despite data shortcomings, available information could be considerably more accessible and useful; the report includes specific suggestions about content and format.

Insufficient Oversight of MHSA State Administrative Funds

The report also concludes that there is weak oversight of MHSA state administrative funds, with no comprehensive evaluation of the extent to which these funds are being spent to further the purposes of the Act. The report praised the Commission's Financial Oversight Committee for hosting presentations from the entities receiving administrative funds and developing a format to communicate findings to the Commission as a whole.

Conclusions Regarding California's Initiative System

The report notes frequent concerns that the "direct democracy" of California's voter initiative option has become "a favorite tool for powerful current interests." The LHC is especially interested in the MHSA provision that allows the Legislature with a two-thirds vote to amend the act consistent with its purpose and intent or by majority vote to clarify its terms. The report concludes that the changes that the Legislature has made – which the report describes as "sometimes dramatic actions" – have played a "key role in guiding implementation." The results of legislative changes, the LHC Commission believes, have been mixed, including "an oversight structure and funding process that is different from what voters initially approved." LHC views these changes as a "step in the right direction," particularly the greater independence of the MHSOAC. Overall, the report concludes that the MHSA experience demonstrates benefits of allowing the Legislature to modify an initiative, noting that "the ability of lawmakers to amend the act, once implemented, appears to have allowed it to weather changes in the state's policy and fiscal environment while generally staying on course toward outcomes promised in 2004." However, the report also notes that the changes have occurred "under the watchful eye of Senator Darrell Steinberg, Senate President Pro Tem from 2008 through 2014, and co-author of the Mental Health Services Act," and it is unknown what changes or impact would have occurred or might now occur under different circumstances.

Other Points in LHC Report

- The LHC's early reports on mental health issues and trends in California were influential in the development of Proposition 63, including the inclusion of prevention and early intervention and the recommendation to convene a Commission representing the diverse sectors of society affected by untreated or inadequately treated mental illness.
- The report states that there is a useful role for the state to expand training and technical assistance for counties and stakeholders, particularly to "identify model programs and help ensure those types of programs are adopted statewide."
- The report describes strengths and challenges with regard to the community planning process: the "best part of the Act" according to some stakeholders that responds to the wide differences among counties, and also a possible arena of lack of adequate resources and expertise that results in statewide inconsistency.

MHSOAC Current Activities Relevant to LHC Recommendations

Staff supports the recommendations of the LHC Report. In addition, the MHSOAC is already working in a number of areas that are relevant to the report.

1. *Proposed PEI and Innovation Regulations:* The State lacks regulations for these two MHSOAC components. MHSOAC's PEI regulations will, for the first time, include consistent fiscal and program reporting requirements to provide coherent and systematic information about the use of PEI funds. Because PEI programs will be defined in terms of their intended outcomes, it will be possible to track the use of PEI funds for these purposes (e.g. programs intended to reduce homelessness as a consequence of untreated mental illness). In addition, for the first time, almost all PEI programs will be required to report outcome data, providing the opportunity to understand the impact of expended PEI funds.

Proposed Innovation regulations provide a framework for counties to design, pilot, and evaluate new and changed mental health practices with the goal of adopting and disseminating those that demonstrate success. The regulations strengthen Innovation reporting requirements and increase emphasis on disseminating successful practices.

2. *Statewide Data system:* In response to the lack of comprehensive and consistent data needed to evaluate the MHSOAC and broader mental health system fully and meaningfully, the MHSOAC has invested close to 3 millions of dollars to support current systems that provide limited data for the Community Services and Supports (CSS) component. The MHSOAC continues to work with the DHCS to support these legacy systems. Although these efforts have helped maintain and strengthen data collection and reporting, many major issues cannot be addressed with this level of effort: for example, addition PEI data and modification of the CSS system to track and report additional outcomes are not currently collected.

To provide the State with robust and consistent data on behavioral health programs and outcomes requires designing and implementing a new Statewide Comprehensive Behavioral Health Data System. In partnership with DHCS, MHSOAC is working to develop and submit to the Federal government a Planning – Advanced Planning Document, which it is hoped will generate federal dollars estimated to fund 75% of the forthcoming planning and implementation phases. Formal planning may begin within the year and will be followed by an implementation phase: development and submission of an Implementation – Advanced Planning Document to the Federal government. It is expected that the implementation phase will conclude with awarding of a contract to vendors to build and implement the new Statewide Comprehensive Behavioral Health Data System, which should be completed by 2019 – 2021.

3. *MHSOAC Website:* The Commission is overhauling its website and will highlight on its homepage a visible link to MHSOAC revenues, both annual and cumulative. It will also incorporate data about populations that benefit from the Act and data to demonstrate statewide trends on key indicators to illustrate how and for whom the Act is working. The MHSOAC Prop 63 web site already includes a weekly rotating showcase of county programs that highlight their MHSOAC programs and outcomes; this feature will be highlighted on the revamped MHSOAC website. The MHSOAC website will also house counties' MHSOAC plans and reports submitted to the state, including annual revenue and expenditure reports, three-year program and expenditure plans,

annual updates, reports from the counties that receive triage grants, plus any other relevant mental health reports.

4. *Evaluation of Performance Outcomes:* The Commission is actively working toward this goal. In 2013, the Commission adopted an Evaluation Master Plan and associated Implementation Plan to guide its evaluation efforts. Per the Evaluation Master Plan, the Commission begins a series of new evaluation activities each fiscal year and is in the midst of developing activities scheduled to begin in Fiscal Year 2015/16. In addition, the Commission has continued to partner with the California Mental Health Planning Council, DHCS, counties, and others to continuously monitor the performance of the MHSA and broader public community-based mental health system.
5. *Training, Technical Assistance, and Support:* The Commission is fully committed to working with partners to ensure that counties have the needed knowledge and resources to carry out evaluations and report outcomes of their MHSA programs. This commitment includes training and technical assistance, consistent with the Commission's adopted policy paper, and also providing the necessary systems to support counties' evaluations and reporting, including new requirements in adopted PEI and Innovation regulations.
6. *Logic Model:* The Commission's adopted Logic Model supports and includes all of the oversight and accountability roles that the LHC Report considers to be essential for it to carry out its critical statutory role.

Conclusion

The LHC report emphasizes that the critical importance of fulfilling the MHSA promise extends broadly: "As California continues to experiment with mental health treatment programs, particularly for prevention and early intervention, its successes likely will inform how care is provided throughout the United States. Having data that ensures the best possible implementation will make the transformative effect of this act even more significant." This critically important goal requires collaboration, courage, and perseverance, to which the Commission is fully committed.