SUMMARY OF THE 2020 LANTERMAN-PETRIS-SHORT ACT STATE AUDIT
(REPORT NUMBER: 2019-119)

FISCAL LEADERSHIP INSTITUTE
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LANTERMAN-PETRIS SHORT ACT OF 1967

- State law which governs the criteria and steps for counties to provide involuntary mental health treatment to individuals who, by virtue of their mental illness are:
  - A danger to themselves or others
  - Unable to provide for their food, clothing, or shelter

- Types of involuntary treatment include:
  - Short-term holds up to 72 hours ("5150 holds")
  - 14-day holds
  - One year renewable court-ordered conservatorships

- Involuntary medical treatment, including medications, are handled through separate court processes, i.e. probate
**LANTERMAN-PETRIS SHORT ACT OF 1967**

- **Responsible entities:**
  - County behavioral health (assessment, placing and releasing holds, and treatment)
  - Law enforcement (placing holds)
  - Providers (can be designated by counties to place and release holds, treatment)
  - County public guardians (manage conservatorships throughout process)
  - Courts (judges and juries decide whether to conserve individuals)
  - Public defenders (often represent individuals who are identified in need of conservatorship)

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**AUDIT ORIGINS & SCOPE**

- Repeated attempts in the legislature to re-define LPS Act by:
  - Families
  - Local jurisdictions dealing with homelessness crisis
  - Individual counties
- Review the implementation of the LPS Act in Los Angeles and two additional counties (San Francisco, Shasta)
- Focus on implementation via county behavioral health and state oversight
AUDIT SCOPE

• Legal Review
• Review of state oversight
• Review by county for three years prior:
  • Number of holds, including repeat holds, and referral sources
  • Number of conservatorships, including length and repeat conservatorships, reasons for termination, and referral sources
• Review and compare for the three counties:
  • County criteria used for involuntary holds and whether those are applied consistently
  • County criteria for LPS conservatorships and least-restrictive environment, and consistency

AUDIT SCOPE (CONT)

Assessment of differences in approaches to holds, conservatorships, or care which could be addressed in law or regulation

Assessment of county funding for implementations of the LPS Act whether funding is a barrier to access

Assessment of treatment resources, including availability of LPS facilities, rehabilitative programs during and post-conservatorship

Review of related issues pertinent to audit
## AUDIT FINDINGS

### (CONT)

- No evidence that changes to LPS Act criteria are warranted; counties have sufficient authority under existing law
- Found significant issues with how Californians with serious mental illnesses are cared for:
  - Limited treatment options for conservatees via state hospital facilities due to bed shortages (wait lists of > year)
  - Limited connection to care when existing an involuntary hold, e.g. in two counties, ~9% were connected to ongoing care
  - Only a third of counties (19) have adopted assisted outpatient treatment (AOT), despite its effectiveness in treating and preventing conservatorships

- Despite the billions of dollars the State invests in the county-based mental health system each year, stakeholders do not have the information they need to assess the effectiveness of these funds on people’s lives:
  - Public reporting of dedicated funds is disjointed and incomplete
  - Current Mental Health Services Act reporting requirements make it difficult to assess the balance of counties’ unspent funds
- Mental health reporting requirements should be overhauled to capture comprehensive spending information as well as outcomes for programs
### AUDIT RECOMMENDATIONS

<table>
<thead>
<tr>
<th>Data</th>
<th>Give counties access to existing state-managed data about individuals placed on 5150 holds</th>
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<tr>
<td>DSH</td>
<td>Require the DSH to report the costs of increasing state hospital capacity to care for individuals under the LPS Act</td>
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<tr>
<td>AOT</td>
<td>Require counties to adopt AOT programs</td>
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<td>Rx</td>
<td>Change AOT laws to explicitly allow for medication requirements as a part of court-ordered AOT and expand eligibility criteria to include individuals who have recently left conservatorships.</td>
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### AUDIT RECOMMENDATIONS (CONT)

- Assign the MHSA Oversight and Accountability Commission primary responsibility for developing, implementing, and overseeing a comprehensive framework for reporting mental health spending across all major fund sources, as well as program-specific and statewide mental health outcomes.

- Direct counties to spend MHSA funds for the purpose of connecting individuals leaving LPS Act holds or conservatorships to community-based services.
UNPACKING THE AUDIT

ACCESS TO DATA REGARDING 5150 HOLDS

Additional information is needed
Counties do not currently have access to timely or comprehensive information on 5150 holds

Considerations
DOJ data is retrospective
Real-time data more effective, but more challenging for providers
LACK OF CONNECTION TO SERVICES

• Audit applied a narrow definition of connection to services:
  • Only considered the *involuntary* portion of AOT and Full Service Partnership involvement
  • Did not consider other Medi-Cal services, other insurance, severity, or the voluntary portions of AOT

• Considerations:
  • A majority of individuals in AOT (~80%) are helped via voluntary services
  • Did not consider responsibility of managed care plans in serving Medi-Cal individuals who do not meet Specialty Mental Health Criteria
  • Did not consider individuals with private coverage
  • *Individuals released from holds have a legal right to refuse treatment services offered*

LAURA’S LAW AOT IMPLEMENTATION

Laura’s Law is currently an opt-in for counties

Includes high-touch, intensive voluntary outreach and engagement  

75-80% of services voluntarily

Many counties successfully provide AOT-like services not connected to Laura’s Law, not considered in the audit

Laura’s Law requires counties ensure that voluntary services for adults and all services for children beyond Laura’s Law will not be adversely impacted by opting in to AOT
DEPARTMENT OF STATE HOSPITALS

- Population increasingly forensic
- No new capacity for LPS conservatees
- Wait list has grown by 500% in last 5 years
- Capacity further strained by COVID-19 infection control protocols

MHSA UNSPENT FUNDS

Audit Finding: Los Angeles and Shasta had large unspent fund balances and current reporting makes it difficult to assess balances

- Context:
  - No distinction between unspent vs encumbered or allocated funds
  - With state law and guidance last year establishing a maximum reserve level, *counties have drastically reduced MHSA unspent funds*
  - According to DHCS, 80% of funding is spent within the first two years and the rest by the end of the three-year funding cycle
  - Less than $3 million of the ~$2 billion in MHSA was reverted last year (<1/10th of 1% of funding)
Comprehensive aggregate reporting of behavioral health financing and outcomes could be improved

- Considerations:
  - Breadth and complexity of Medi-Cal data
  - Counties carry hundreds of millions of dollars in risk year-to-year due to audits and reconciliation processes which hamper efforts at transparency
  - Need to include Substance Use Disorder data
  - Funding is highly categorical, therefore variation is built-in
  - Currently, OAC has a very limited scope of responsibility which is focused primarily on a relatively small (4-20%) portion of county behavioral health funding

QUESTIONS?
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