April 12, 2022

The Honorable Jim Wood
Chair, Assembly Health Committee
1020 N Street, Room 390
Sacramento, CA 95814

SUBJECT: AB 2242 (Santiago) – OPPOSE

Dear Chair Wood:

Mental Health America of California (MHAC) is a peer-run organization that has been leading the state in behavioral health public policy and advocacy since 1957. The mission of MHAC is to ensure that people of all ages, sexual orientation, gender identity or expression, language, race, ethnicity, national origin, immigration status, spirituality, religion, age or socioeconomic status who require mental health services and supports are able to live full and productive lives, receive the mental health services and other services that they need, and are not denied any other benefits, services, rights, or opportunities based on their need for mental health services. Along these lines, we support efforts which provide voluntary, community-based services, and efforts which maintain the intent of the Mental Health Services Act (MHSA) which requires MHSA funds to be utilized for voluntary services except in very limited circumstances.

While we support the idea of ensuring that individuals leaving holds or conservatorships receive appropriate, voluntary, community-based care, we oppose AB 2242 for the following reasons (explained in more detail below):

1. The bill would expand the MHSA to allow MHSA funds to be used to fund involuntary services under Sections 5150, 5250, and 5350 of the Lanterman-Petris-Short Act;
2. The bill would expand the MHSA to allow MHSA funds to be used for one year of inpatient care for conservatees;
3. The bill would expand the MHSA to specify that no person shall be denied access to services funded by MHSA based on their involuntary legal status;
4. The bill would extend inpatient holds by prohibiting counties from releasing an individual from a hold until follow-up appointment information has been provided to the individual.

Current law does not generally allow MHSA funds to be used for involuntary services. Welfare and Institutions Code (WIC) §5813.5(d) requires services funded by the MHSA to be consistent with the philosophy, principles, and practices of the Recovery Vision for mental health consumers, including promoting recovery concepts such as hope, personal empowerment, respect, self-responsibility and self-determination. Involuntary services are entirely inconsistent with principles of recovery, and therefore inconsistent with the MHSA.

There are two California regulations relevant to the use of MHSA funds for individuals in involuntary holds or conservatorships under the LPS Act. Title 9 § 3400 of the California Code of Regulations (CCR) states that programs provided with MHSA funds shall be designed for voluntary participation, but can be made available

to individuals with involuntary status who wish to use these voluntary programs. 9 CCR §3620 of the California Code of Regulations (CCR), under Full Service Partnerships (FSP), states that notwithstanding § 3400, MHSA funds may be used for short-term acute inpatient treatment for FSP clients when there are no other funds available for this purpose.

AB 2242 would significantly expand the MHSA by allowing those funds to be used for any and all services provided under the LPS Act provisions governing both short- and long-term mental health holds. The bill would also authorize up to a full year of inpatient hospitalization to be funded by the MHSA. These provisions are not only inconsistent with the MHSA, but they will divert significant funds away from an already underfunded community behavioral health system of care which is intended to keep people out of involuntary treatment.

AB 2242 also includes language which, although vague, could be interpreted to expand the use of MHSA funds for involuntary services. The bill (§ 5014. (a)(2)) states that, "A person shall not be denied access to services funded by the Mental Health Services Fund based solely on the person's voluntary or involuntary legal status". Because this language is already present in the regulations, the placement of that language in this bill suggests that it is intended to expand the use of MHSA funds for involuntary services beyond those allowed in current law. If this is not the case, the language is duplicative of current law, and should be removed from the bill.

Lastly, § 5257.5 (a) of the bill, which prohibits a county from discharging an individual from a hold until follow-up appointment information has been provided to the individual has the potential to significantly extend LPS holds through no fault of the individual. Under current law, an individual placed on a §5150 hold can only be held for up to 72 hours, and an individual placed on a §5250 hold can only be held for up to an additional 14 days. In both cases, the hospital may choose to release an individual sooner than the maximum time. There are a number of reasons beyond an individual's control that this provision could significantly delay an individual's release, including provider shortages, provider ghost lists and county staffing limitations. Requiring counties to continue to hold a person who has been cleared for release until appointment notification can be given to the individual not only violates the LPS Act, it is also a clear violation of the individual's civil rights.

We appreciate the opportunity to provide comment, and are happy to speak with you if you would like further information.

In community,

Heidi Strunk
President & CEO