July 12, 2023

Submitted via Web Portal and E-mail

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

RE: SB 326 (Eggman) Proposed Amendments

Dear Assembly Member Wood:

Mental Health America of California requests amendments (detailed below) to SB 326 (Eggman), the Behavioral Health Services Act (BHSA). 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 increase voluntary, culturally responsive, community-based behavioral health services.

We have included in our email submission a separate red-lined markup of the relevant sections of the Word Document for Amendments including our requested amendments. Justification for the requested amendments is as follows:

I. **Page 4, Amend Section 99277 of the Education Code to include individuals with lived experience of mental health challenges and individuals with lived experience of homelessness to the Advisory Board/Oversight Body.**

99277. (a) Upon receiving funding for purposes of this chapter, UCSF, the UC college named in Section 92200, and the UC/CSU California Collaborative on Neurodiversity and Learning shall each appoint one member from the respective institutions. This group shall be charged with the development and oversight of the initiative and shall function as the institute's management committee. The management committee shall be permitted, but not obligated, to retain a program director to assist in the implementation of the initiative.

(b) (1) An advisory board, with its title and members to be named by the institute, shall be established to serve as an oversight body for the initiative in order to monitor progress and provide leadership from the perspectives of their respective participating organizations, departments, and divisions and to facilitate collaboration among researchers, practitioners, administrators, legislators, and community stakeholders.

(2) The advisory board shall provide expertise and support to the management committee.

(3) The advisory board shall be a check on accountability to ensure that the initiative is meeting its goals.

(4) The advisory board shall conduct a fiscal review of the distribution of funds to ensure alignment with the goals of the initiative.

(5) The membership of the advisory board shall be constituted as set forth in subdivision (c).

(c) The members of the advisory board shall be representatives from the following institutions, organizations, agencies, and groups:

(1) UCSF.

(2) UC college named in Section 92200.

(3) The UC/CSU California Collaborative for Learning and Neurodiversity.

(4) The Behavioral Health Services Oversight and Accountability Commission.

(5) A Member of the Assembly selected by the Speaker of the Assembly.

(6) A Senator selected by the President pro Tempore of the Senate.

(7) Community representatives, including individuals with lived experience of a mental health challenge, formerly unhoused individuals, formerly justice-involved persons and their family members, selected by the Governor, the Speaker of the Assembly, and the President pro Tempore of the Senate.

Justification: As currently drafted, the Advisory Board would include "Community representatives, including formerly justice-involved persons…". While justice-involved individuals are certainly one of many focus populations of the legislation, the main focus of the legislation is people with mental health challenges and people without homes. For this reason, it is imperative that those two populations are represented on the advisory board. People who have received services possess unique knowledge and expertise vital to the success of the initiative.

II. Page 27. Amend Welfare & Institutions Code Section 5806 to clarify that provision should be made for full participation of the family *only when requested by the individual*.

SEC. 27. Section 5806 is added to the Welfare and Institutions Code, to read:

5806. (a) The State Department of Health Care Services shall establish service standards so that adults and older adults in the target population are identified and receive needed and appropriate services from qualified staff in the least restrictive environment to assist them to live independently, work, and thrive in their communities. The department shall provide annual oversight of counties for compliance with these requirements that shall include, but are not limited to, all of the following:

(1) Determination of the numbers of clients to be served and the programs and services that will be provided to meet their needs.

(2) The local director of behavioral health shall consult with the sheriff, the police chief, the probation officer, chief of emergency medical services, the behavioral health board, Medi-Cal managed care plans,

as defined in subdivision (j) of Section 14184.101, child welfare departments, contract providers and agencies, and family, client, ethnic, and citizen constituency groups, as determined by the director.

(3) (A) Outreach to adults with a serious mental illness or a substance use disorder to provide coordination and access to behavioral health services, medications, housing interventions pursuant to Section 5830, supportive services, as defined in subdivision (g) of Section 5887, and veterans' services.

(B) Service planning shall include evaluation strategies that consider cultural, linguistic, gender, age, and special needs of the target populations.

(C) Provision shall be made for a workforce with the cultural background and linguistic skills necessary to remove barriers to mental health services and substance use disorder treatment services due to limited-English-speaking ability and cultural differences.

(D) Recipients of outreach services may include families, the public, primary care physicians, hospitals, including emergency departments, behavioral health urgent care, and others who are likely to come into contact with individuals who may be suffering from either an untreated serious mental illness or substance use disorder, or both, who would likely become homeless or incarcerated if the illness continued to be untreated for a substantial period of time.

(E) Outreach to adults may include adults voluntarily or involuntarily hospitalized as a result of a serious mental illness.

(4) Provision for services for populations with identified disparities in behavioral health outcomes.

(5) Provision for full participation of the family in all aspects of assessment, service planning, and treatment, including, but not limited to, family support and consultation services, parenting support and consultation services, and peer support or self-help group support, When requested by ~~where appropriate for~~ the individual.

Justification: Section 5806, details behavioral health services for adults and older adults. All adults, regardless of diagnosis or life experience, have the autonomy to decide what is best or most appropriate for them. As currently written, Section 5806 (a)(5) would require the involvement of families in all aspects of a person's care, when an unnamed person determines that this is appropriate for the individual. Families often include complicated dynamics, with internal disagreement about the services most appropriate for an individual with behavioral health challenges. Allowing a third party to allow family involvement in an individual's care against that person's wishes risks violations of privacy, autonomy, HIPAA, and possibly civil rights.

III. Page 66. Amend Section 5845 to include two Transition Age Youth (TAY) aged 16-26 at the time of appointment on the Behavioral Health Services Oversight and Accountability Commission.

5845. (a) The Behavioral Health Services Oversight and Accountability Commission is hereby established to administer grants, identify key policy issues and emerging best practices, and promote high-quality programs implemented pursuant to Section 5892 through the examination of data and outcomes.

(b) (1) The commission shall replace the advisory committee established pursuant to Section 5814.

(2) The commission shall consist of 22 voting members as follows:

(A) The Attorney General or the Attorney General's designee.

(B) The Superintendent of Public Instruction or the Superintendent's designee.

(C) The Chairperson of the Senate Committee on Health, the Chairperson of the Senate Committee on Human Services, or another member of the Senate selected by the President pro Tempore of the Senate.

(D) The Chairperson of the Assembly Committee on Health or another Member of the Assembly selected by the Speaker of the Assembly.

(E) A county behavioral health director.

(F) (i) The following individuals, all appointed by the Governor:

(I) One adult or older adult who has or who has had a serious mental illness.

(II) One adult or older adult who has or who has had a substance use disorder.

(III) Two Transition Age Youth ages 16-26 at the time of appointment to the Commission.

(IV) A family member of an adult or older adult with a serious mental illness.

Justification: The voices of people with lived experience are essential to the BHSOAC, and family members should never outnumber people with lived experience on boards or commissions. People with lived experience possess unique and vital knowledge that is separate and distinct from the knowledge possessed by family members.

Currently, SB 326 includes 4 family members and 2 individuals with lived experience. MHAC recommends that there be two additional people with lived experience on the BHSOAC, and these members should be Transition Age Youth (TAY). Half of the family representation in SB 326 is parents of children and youth. This is because the needs and experiences of children and youth with behavioral health challenges are very different than the needs and experiences of adults. When parents are represented, TAY should be equally represented to complement the family perspectives. Youth and young adults on commissions are often subject to tokenism. To avoid tokenism, it is essential that at least two TAY serve on the BHSOAC to provide support and encourage dialogue.

IV. Page 193. Section 18 should be amended to remove (b) which would repeal the original language of the MHSA allowing the Legislature to amend the Act by a two-thirds vote if amendments are consistent with and further the intent of the Act.

Sec. 18. (a) This act shall be broadly construed to accomplish its purposes. All of the provisions of this act may be amended by a two-thirds vote of the Legislature so long as such amendments are consistent with and further the intent of this act. The Legislature may by majority vote add provisions to clarify procedures and terms including the procedures for the collection of the tax surcharge imposed by Section 12 of this act.

~~(b) If amendments to the Mental Health Services Act are approved by the voters at the March 5, 2024, statewide primary election, this section shall become inoperative on January 1, 2025, and as of that date is repealed.~~

Justification: SB 326 significantly changes the MHSA amongst a number of other changes to behavioral health care in California. It is likely that over time, the Legislature will seek to clarify or change the BHSA. This option must be preserved.

V. Page 194. Amend Section 106 (b) to require the department to adopt regulations by July 1, 2028.

SEC. 106. (a) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific the amendments made pursuant to this act by means of plan or county letters, information notices, plan or provider bulletins, or other similar instructions without taking further regulatory action.

(b) By July 1, 2028 ~~2033~~, the department shall adopt regulations necessary to implement, interpret, or make specific the amendments made pursuant to this act, except for the additions of Article 3 (commencing with Section 5964) of Chapter 3 and Chapter 4 (commencing with Section 5965) of Part 7 of Division 5 of the Welfare and Institutions Code, in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Justification: As currently drafted, SB 326 allows the department to implement the amendments to the act through internal documents such as information notices and bulletins. These internal documents require no stakeholder involvement and do not have appeal processes, and thus are enforceable documents written by a small group of people. Furthermore, once implemented, information notices, bulletins, and similar documents tend to become precedent, and are difficult to change through the regulatory process. We understand that the regulatory process takes time, but 8 years is excessive. Three years is a reasonable timeframe in which to draft regulations with meaningful stakeholder input.

MHAC appreciates the opportunity to offer suggested amendments to SB 326 to strengthen the peer voice within the BHSA. We have additional concerns with the legislation that will be detailed in a forthcoming letter. Please reach out to me or our Interim Director of Public Policy, Karen Vicari, if you have any questions about these proposed amendments.

In Community,

Heidi L. Strunk
President & CEO