

Some Recent Behavioral Health* Developments in California

*behavioral health = mental health + substance use

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Exhibit D

Mental Health Human Rights Milestones in California

- 1967 (enacted 1972): Lanterman-Petris-Short Act
- 1989: *Riese v. St. Mary's Hospital & Medical Center* California Supreme Court case decided
- 2017: Report of the United Nations Working Group on Arbitrary Detention on its visit to the United States of America
- 2023: Alameda County Settlement Agreement
- 2024: Disability Rights California STUCK Report

Recent Past Legislation

2021

- **Assembly Bill (AB) 133 (Behavioral Health Continuum Infrastructure Program or BHCIP):**
 - \$1+ billion to fund behavioral health facilities, particularly locked ones
 - Proposition 1 added up to \$4.393 billion

2022

- **Senate Bill (SB) 929:** Data collection on involuntary holds
- **SB 1227:** Allows second 30-day involuntary hold for “gravely disabled” persons (after a 3-, 14-, and first 30-day hold)
- **SB 1338 (CARE Court):** New court system to order treatment for “schizophrenia spectrum and other psychotic disorders”

Recent Past Legislation

2023 (non-Proposition-1 bills)

- **SB 35:** CARE Court updates
 - Weakens requirements for presiding officers
 - Allows and requires disclosure of medical records to counties in CARE Court cases without patient consent

Recent Past Legislation

2023 (non-Proposition-1 bills)

- **SB 43:** Expands “gravely disabled” definition
 - Now includes “severe substance use disorder” as a sufficient diagnosis and inability to provide for “personal safety” or “necessary medical care” as criteria
 - Allows health practitioners’ statements in medical records to enter involuntary hold and conservatorship hearings without the health practitioner’s presence
 - Most counties except San Francisco and San Luis Obispo delayed implementation (Alameda County to January 1, 2026) because California currently has zero existing facilities for forced SUD treatment

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Proposition 1: \$6.38 Billion Bond (AB 531)

Permanent supportive housing (\$1.987 billion)

- 4,350 units (\$456,781 per unit plus interest)
- 2,350 of 4,350 units (\$1.065 billion) for veterans
- 4,350 units would house 2.4% of 181,399 unhoused in California in 2023 (2023 Annual Homeless Assessment Report)

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Proposition 1: \$6.38 Billion Bond (AB 531)

Treatment facilities (\$4.393 billion)

- 6,800 beds (\$646,029 per bed plus interest)
- Bill and proponents promised that it would fund only unlocked facilities for voluntary, community-based treatment
- Bill amended 81 hours before final passage to delete all the unlocked, voluntary, and community-based language and insert euphemisms for locked facilities (“acute and subacute care”)
- Adds the funds to BHCIP and repeals 2027 BHCIP sunset (to allocate more future budget dollars for facility construction)
- More on funds at infrastructure.buildingcalhhs.com

Proposition 1: Behavioral Health Services Act (SB 326)

Original Mental Health Services Act

- Passed in 2004 as Proposition 63 after advocacy by Mad and disabled people, families, and clinicians
- Funded by 1% tax on incomes over \$1 million
- Cannot be used for long-term institutionalization or conservatorship
- Budgeting and data collection and evaluation overseen by the Mental Health Services Oversight and Accountability Commission (MHSOAC), including real (and reimbursed) participation by people with serious mental illness (SMI)

Proposition 1: Behavioral Health Services Act (SB 326)

Behavioral Health Services Act

- Renames the Mental Health Services Act the Behavioral Health Services Act
- Unchanged amount of funding must now also cover substance use disorder treatment and new housing
- Unclear if can now fund long-term institutionalization or conservatorship
- Moves most of the budgeting and evaluation authority from the more independent MHSOAC to the governor's office via the Department of Health Care Services (DHCS)

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Currently Pending Legislation

- **SB 26:** Scholarships for mental health clinicians who agree to implement CARE Court for 3 years after licensure
- **SB 42:** Notice to CARE Court petitioners of case dispositions
- **SB 402:** Expands initial involuntary hold (5150) authority to private practice therapists
- **SB 1184:** Allows Riese involuntary medication orders to last into subsequent involuntary holds
- **SB 1238:** Authorizes existing mental health facilities also to hold involuntary patients with standalone substance use disorders

Institutions for Mental Diseases Exclusion

- **Institutions for Mental Diseases (IMD) Exclusion:**
Social Security Amendments of 1965 prohibit Medicaid funds from paying for treatment in mental health facilities > 16 beds
- **California Behavioral Health Community-Based Organized Networks of Equitable Care and Treatment (BHCONNECT) Demonstration:**
Application for an IMD exclusion waiver in California
 - Submitted October 20, 2023, and addended July 26, 2024, to the Centers for Medicare and Medicaid Services (CMS)
 - Pending (Centers for Medicare and Medicaid Services has seemed skeptical)

Exhibit D Organizations I love

- All People's Health Collective: allpeopleshealthcollective.substack.com
- Black Men Speak: blackmenspeak.org
- California Association of Mental Health Patients' Rights Advocates (CAMHPRA): camhpra.com
- California Association of Mental Health Peer-Run Organizations: camhpro.org
- California Pan-Ethnic Health Network: cpehn.org
- CalVoices: calvoices.org
- Disability Rights California: disabilityrightsca.org
- Mental Health First Oakland: antipoliceterrorproject.org/mh-first-oakland
- Mental Health America of California: mhac.org
- Painted Brain: paintedbrain.org

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- California Department of Health Care Services, Behavioral Health Continuum Infrastructure Program, 2024, <https://www.infrastructure.buildingcalhhs.com/>
- California Department of Health Care Services, California Behavioral Health Community-Based Organized Networks of Equitable Care and Treatment Demonstration, July 2024, <https://www.dhcs.ca.gov/CalAIM/Pages/BH-CONNECT.aspx>
- Congressional Research Service, Medicaid's Institution for Mental Diseases (IMD) Exclusion, October 2023, <https://crsreports.congress.gov/product/pdf/IF/IF10222>

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- Disability Rights California STUCK Report, March 2024, <https://www.disabilityrightsca.org/press-release/disability-rights-california-releases-new-report-stuck-los-angeles-countys-abuse-and>
- Legislative Analyst's Office, Mental Health Services Act: Governor's Behavioral Health Modernization Proposal, 2023, <https://www.lao.ca.gov/Publications/Series/3>
- Riese v. St. Mary's Hospital & Medical Center, 259 Cal. Rpt. 669 (Cal. Ct. App. 1989)

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- United States Department of Housing and Urban Development, Annual Homeless Assessment Report: Part 1, 2023, <https://www.huduser.gov/portal/datasets/ahar/2023-ahar-part-1-pit-estimates-of-homelessness-in-the-us.html>

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- World Health Organization, Guidance on community mental health services: Promoting person-centred and rights-based approaches, June 2021, <https://www.who.int/publications/i/item/9789240025707>