LPS REFORM IS NEEDED NOW!

California Law Fails to Ensure Humane Care for People with Serious Mental Illness

The 53-year-old Lanterman-Short-Petris (LPS) Act must be reformed. This important statute, often referred to as the "5150 law," was crucial to California's de-institutionalization of people living with mental illness. Today, the vast majority of people receiving mental health treatment do so at their own free will. However, the symptoms of serious mental illness can at times endanger individuals, making them unable to safely care for themselves. The time has come for policy makers to ensure the LPS Act assures people receive humane and timely care in those rare, but extremely vulnerable, instances when a person with serious mental illness is in crisis and is unable to adequately meet their own needs.

Who We Are

NAMI California (NAMI-CA) brings more voices of people with lived experience of mental illness and their families than any other organization in our state. With over 110,000 active advocates and 62 affiliate organizations, NAMI-CA advocates for lives of quality and respect, without discrimination and stigma, for all our constituents. We provide leadership in advocacy, legislation, policy development, education, and support throughout California.

Last fall, NAMI-CA surveyed the community for input on the LPS Act and received over 1,300 responses from family members, individuals living with a mental illness, consumers, advocates, and providers. While a small portion of families and individuals with lived experience expressed appreciation that their crisis care was handled appropriately, many shared horrific experiences and had great difficulty accessing adequate services. Family members of individuals living with mental illness pointed out key flaws:

> *"I found it impossible to get treatment for my family member when she was starting to have a severe manic-depressive episode. The episode would have to progress to the point where she was in imminent physical danger. At that point, much irreparable damage had been done."*

> *"I have had my son detained twice under W&I Sect 5150. The second time he was detained, it was agreed between myself, the PMRT team and the on-staff psychiatrist that he needed to be detained for several weeks for evaluation. Nevertheless, at the end of the 72-hour hold, he was released on the grounds that the County had no psychiatric beds available."*

NAMI-CA believes that all people should have the right to make their own decisions about medical treatment. However, we are aware that there are individuals with serious mental illnesses such as schizophrenia and bipolar disorder who, at times, due to their illness, lack insight or good judgment about their need for medical treatment. We asked our members, and they told us reform to the LPS Act is needed now.

Humane Consideration of Individuals Who Are Gravely Disabled

One thing is clear: clarity is needed to expand the definition of "gravely disabled." Our family members and peers/consumers tell us there is significant variance in how individuals perceive the term "gravely disabled" and that the ability to provide *care for oneself* should be clearly indicated in the definition.

Under current law, "gravely disabled" is a condition in which a person, as a result of a mental disorder or impairment by chronic alcoholism, is unable to provide for his or her basic personal needs for food, clothing, or shelter, or a condition in which a person has been found mentally incompetent, as specified, for purposes of detaining the person for assessment, evaluation, and treatment; providing a court-ordered evaluation, as specified; certifying the person for intensive treatment; and, placing the person under conservatorship. [Welfare and Institutions Code §5008]

NAMI-CA urges the Legislature to amend the definition of "gravely disabled" to include the inability of an individual, as a result of a mental disorder, to provide for his or her health or safety, or is likely to substantially deteriorate if not provided with timely treatment.

Americans with a serious mental illness live 25 years less than the general population. According to the World Health Organization, the majority of these premature deaths are due to physical health conditions.[i] Paired with existing due process protections for individuals with mental illness who are involuntarily detained under the LPS Act, expanding the population to include individuals who cannot provide for their own health and safety balances civil liberties with a humane approach to getting people access to the help they so desperately need.

Responsible Transitions to Adequate After Care

When older adults experience a physical injury from a fall, for example, their care and treatment often run a predictable course: A visit to the hospital emergency department, which may lead to a brief hospitalization and surgery if the injury is serious. An individualized discharge plan is often developed by the hospital social worker and arrangements are made for transfer home or to a nursing facility for subacute and rehabilitative care. With the goal of preventing readmissions and achieving as much independence for the individual as possible, a variety of rehabilitation services are provided -- physical, occupational, speech, and recreation therapies. Once the individual is discharged, a host of other services are often following them home, including home health care assistance, nutrition services, and additional rehabilitation. Contrast that familiar experience to the discharge experiences of a person who is discharged or stabilized after a mental health crisis:

> *"My daughter has been hospitalized several times under 5150, only to be released to the streets after the 72 hours was up. She has been in the homeless, incarceration circle for six years. One particular experience is vivid in my mind. She was in a county dual diagnosis program and had an episode and ended up in the hospital. The psychiatrist met with her, my husband, and myself and told us he wouldn't release her until she had a place to stay. I called the next day and she had been given a bus pass and released."*
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> *"I am a licensed marriage and family therapist and have worked with numerous individuals who struggle with mental illness and dual diagnoses. I have also seen firsthand how difficult*

experiencing a 5150 is. It has benefits absolutely, to keep individuals safe at the current time of crisis, but once released from the 5150 hold, they are often left without continued support, therapy, resources, etc. and left to their own devices. There needs to be more of an aftercare plan for individuals struggling and once released from the 5150 so they can continue to receive the help and support they need."

In July 2020, the Bureau of State Audits (BSA) report on the LPS Act concluded, "Lanterman Petris Short Act California Has Not Ensured That Individuals With Serious Mental Illnesses Receive Adequate Ongoing Care." The BSA found that "… individuals who receive crisis intervention are not always being effectively served by that broader system. …Los Angeles and San Francisco have high percentages of people who exited holds but were not enrolled in supportive services" (p. 21).

This is simply unacceptable. **NAMI-CA urges policy makers to examine the adequacy of discharge requirements for inpatient psychiatric facilities and facilities releasing individuals held under the LPS Act.** Individuals receiving hospital-based mental health treatment or crisis stabilization require a high level of wrap-around and transitional services they do not consistently receive today. A consistent case manager is instrumental in supporting individuals and families through the process of re-integration and self-management. NAMI-CA members also reported the need for better coordination across providers and systems. Since so many individuals with serious mental illness are supported by family members and other loved ones, it is critical they be involved in the discharge planning process and aftercare. Consider this NAMI-CA member's experience:

"When I was acutely ill, I needed to be on a psych unit with 24/7 care. I needed someone to make sure I ate, slept, showered, and took my meds. I needed to have someone monitor my activities. I needed to be in a unit where I could not leave on my own whim. When I started to get better, I still needed to be monitored to make sure I was starting to behave normally. Outpatient services from 9 to 3 was perfect. I needed activities that made me follow instructions, set goals or engage with the outside world. I needed someone to help me make plans for coping with how I would live after being released from the hospital. When I was released, the adjustment was very hard. I went from a super structured, supportive environment to having to figure out everything on my own. I also immediately went back to work full time. It was a challenge to perform the tasks of everyday life--groceries, laundry, paying bills, housework. I have no idea how I made it. My family and I could have used some education on my illness. My family needed to know how they could support me and keep me safe. I needed to know that, in spite of medication, the illness is a relapsing, recurring illness. One of the best things I did for my wellness was to [be] in touch with people who were living with mental illness, just like me. It taught me about my illness. I learned coping skills from other patients."

While more thorough discharge planning and follow-through for people with mental illness might increase their success transitioning back into the community, it will not address this confounding question: Discharge *to what?* As has been widely reported, many people with serious mental illness face employment obstacles that place them in poverty, making adequate and safe housing extremely difficult to obtain or keep. The diminishing availability of affordable housing, board-and-care homes, and long-term residential facilities makes a successful discharge back into the community all the more challenging. The July 2020 BSA audit of the LPS Act found, "(A)t the local level, some counties have indicated that they do not have the adequate number or types of beds—such as for longer-term, around-the-clock treatment—to treat individuals near their communities." (p. 22) "(Los Angeles County) needed more than 1,500 additional beds to serve individuals who need longer-term, around-

the-clock treatment." (p. 26). **California must increase the availability of a variety of long-term care and permanent housing options for people living with serious mental illness.**

Timely outpatient services after discharge are also a major challenge in California. According to the 2019-20 Medi-Cal Specialty Mental Health External Quality Review,[ii] it takes as long as nine (9) days for people who have just been discharged from a psychiatric hospital to be seen for follow-up care. In large counties, it takes an average of fifteen (15) days. **California must shorten the time between a psychiatric hospital discharge and a follow-up aftercare appointment.**

Hold the State and Counties Accountable for the Impact LPS Act Services Have on People with Serious Mental Illness

NAMI California applauds all recent efforts by the California State Legislature, California Health and Human Services Agency (CHHS), Department of Health Care Services (DHCS), and Department of State Hospitals (DHCS) to make information available to the public about the state's and counties' care of people with serious mental illness. For example, the CHHS Open Data Portal publishes data on the incidence of adult depression in California, the demographics of individuals enrolled in Medi-Cal, and includes a Performance Dashboard with information about the continuity of outpatient mental health care provided by counties to children, youth, and adults. Additionally, the Mental Health Services Oversight and Accountability Commission (MHSOAC) posts information about counties' expenditures of Mental Health Services Act (MHSA) funds. **NAMI California urges the Legislature, DHCS, MHSOAC, and California Behavioral Health Planning Council to more fully exercise their authority to review and continuously evaluate data about the care the state and county governments provide to people with serious mental illness. NAMI California encourages the Newsom Administration and State Legislature to use this information to make needed policy and appropriations changes**.

Additionally, more can be done to ensure the public (family members and consumers, in particular) and policymakers have the information they need to be assured that public programs treating people with serious mental illness are doing so effectively. In particular, little information is currently collected or shared about one of the most profound roles government plays in the mental health field – involuntary evaluation, treatment, and conservatorship under the LPS Act. Noting the lack of data surrounding LPS Act implementation, the BSA audit of the LPS Act made several recommendations which NAMI-CA supports:

- **Require the California Department of Justice (DOJ) to make the information that mental health facilities report to it about involuntary holds available to DHCS on an ongoing basis.**
- **Require treatment facilities to report to DHCS all short-term LPS Act involuntary holds that result from the "grave disability" criterion.**
- **Direct DHCS to obtain daily the mental health facility information from DOJ and make that information, as well as the information that facilities report directly to it, available to county mental health departments for county residents, and for a limited time for nonresidents on an involuntary hold within the county.**

[i] https://www.who.int/mental_health/evidence/guidelines_severe_mental_disorders_web_note_2018/en/
[ii] https://calegro.com/data/MH/Reports%20and%20Summaries/Fiscal%20Year%202018-2019%20Reports/CalEQRO%20Statewide%20Annual%20Report%20FY%202018-19%20Final.pdf