

## Report to Council

Government Affairs Committee

April 13, 2023

### GAC meeting of April 11, 2023

1. **Welcome and Introductions:** The Co-chairs welcomed members to the meeting and reviewed the draft agenda.
2. **Multilevel Issues:**
  1. **APA Assembly Area 6 Council in-person meeting on April 1-2:** GAC attendees to the Council meeting, including Drs. Little, Shaner, and Silverman, reported that CSAP attended at the invitation of the Council. In addition to Council discussion of the CSAP legislative report, also discussed were the potential opportunities for further coordination of statewide psychiatric advocacy. Council consensus was that CSAP's intent to invite the Area 6 Council Representative (or designee) and the Area 6 Trustee to all regularly scheduled CSAP Board meetings would be useful for strengthening state advocacy effectiveness, as would be future invitations by the Area 6 Council to the CSAP board chair and to lead advocate Paul Yoder. Attendees expressed optimism about growing partnerships to strengthen the membership-directed statewide voice of advocacy by APA psychiatrists in California.
  3. **Federal and APA Issues:** The committee discussed ongoing APA work in several areas of concern to SCPS, including national shortages of, and difficulties in patient access to, psychiatric medication. APA participation in the Area 6 Council was noted, including their comment that Area 6 advocacy work was increasingly influencing the APA national agenda.
  4. **CSAP GAC (CGAC) Issues:** SCPS GAC reps to CSAP GAC Drs. Wood (SCAP GAC Chair), Goldberg, Halpin, Little, Shaner reported on CSAP GAC meetings of 3/16 and 4/5.
    1. **CSAP legislative positions thus far: (Attachment I)** The representatives present reported on the progress of CSAP sponsorship and position decisions regarding issues and current legislative bills in the current legislative session. SB 43 (LPS reform) and several bills strengthening general ED responsibilities for adequate assessment of psychiatric emergencies we noted. Key areas of focus include: Budget, LPS and other hospital-related issues, private practice focused and other clinic-related initiatives and bills, parity and scope, health systems issues, and the youth mental health crisis.
5. **CSAP Board:** SCPS CSAP Board members Zeb Little, Rod Shaner reported on CSAP Board meeting of 3/16.

1. **Pharmacy issues:** Adoption of SCPS-originated resolution to request that CSAP collaborate with to approach the California State Board of Pharmacy and the California Pharmacists Association on behalf of psychiatric patients and their families, who are having difficulty filling prescriptions.

## 6. SCPS advocacy issues

1. **Further strengthening of outreach to APA and regulatory authorities to address difficulties of access to psychostimulants: (Drs. Burchuk, Friedman, and Rees):** SCPS GAC members from the SCPS AtC Committee requested GAC support for a draft SCPS Council resolution to request that CSAP take specific advocacy steps. (See Attachment II). The committee voted to support the resolution with specified modifications.

**Motion 1: That SCPS adopt the draft resolution regarding the stimulant shortage crisis and prevention of further shortages of psychiatric medications (See Attachment II).**

2. **SCPS engagement with LA County regarding CARE Court implementation: (See Attachments III and IV)** As directed pursuant to an SCPS Council resolution of 3/9, GAC developed separate potential draft letters to Los Angeles County DMH and the Mental Health Commission that call for LAC DMH: 1) to provide transparency in DMH development of the CARE Court Procedures, 2) include specific operational components that would facilitate clinical psychiatric practice within the framework of the plan, and 3) provide ongoing feedback on the inclusion status or those specific operational components as DMH plan development proceeds. (See attachment III). Also pursuant to the SCPS Board resolution of 3/9, SCPS GAC meeting invited guest Harold Turner, Executive Director of NAMI Urban LA and a former Mental Health Commissioner, lend his opinion that the content and effect of the letters seemed appropriate and likely would engender support from NAMI affiliates, possibly including signing on to the MHC letter.

## 6. Next SCPS GAC Meeting: May 9, from 7:00 PM – 9 PM.

## Attachment I: Synopsis of key CSAP statewide legislative issues

### 1. RECENT STATE MENTAL HEALTH BUDGET DEVELOPMENTS

- a. **California Budget:** *Newsom proposed 2024 ballot initiative to improve how California treats mental illness, substance abuse, and homelessness:*
- i. Amend the Mental Health Services Act (MHSA), leading to at least \$1 billion every year in local assistance for housing and residential services for people experiencing mental illness and substance use disorders, and allowing MHSA funds to serve people with substance use disorders.
  - ii. Build thousands of new community behavioral health beds in state-of-the-art residential settings.
  - iii. More funding specifically for housing for homeless veterans.
  - iv. Include new accountability and oversight measures.
  - v. \$3-5 billion for unlocked facilities.

### 2. EGGMAN BILLS (STATUS AND HURTLES) AND OTHER LPS- AND HOSPITAL-RELATED LEGISLATIVE ACTIVITY:

*a. CSAP sponsorship/co-sponsorship list*

- i. **SB 43: Behavioral health (Eggman):** Would expand the definition of “gravely disabled” to also include someone who is at substantial risk of serious harm due to a mental health disorder, or a substance use disorder.
- ii. **SB 363: (Eggman)** Would create an internet-based database where organizations [that] can identify beds available in facilities such as chemical dependency recovery hospitals, psychiatric hospitals, and mental health rehabilitation centers.
- iii. **AB 29: (Gabriel): Firearms: California Do Not Sell List: (CSAP sponsorship)** Would make it a crime, punishable as a misdemeanor, to transfer a firearm to someone on a special registry called the 'California Do Not Sell List'.

*b. Other LPS related bills:*

- i. **SB 65 (Ochoa Bogh) Behavioral Health Continuum Infrastructure Program (CSAP Support)** Focuses on making sure that all general acute care hospitals have the necessary building, staffing, and services standards to provide adequate care for patients. Would create the Behavioral Health Emergency

Response and Training Fund, which provides grants to fund programs that increase behavioral health care staff at hospitals.

- ii. **AB 1001 (Haney) Health facilities: behavioral health emergency services. (CSAP support)** Would require a general acute care hospital to adopt policies to respond to a patient requiring behavioral health emergency services, as defined. The bill would require that these protocols meet standards established by the department and consist of various parameters such as minimum staffing requirements for behavioral health emergency services, procedures for response by behavioral health emergency services personnel in a timely manner, and annual training, as specified.
  - iii. **AB 1316 (Irwin) Emergency services: psychiatric emergency medical conditions (CSAP oppose, CMA watch)** Would expand laws providing for the Medi-Cal program to include coverage for treatments necessary to relieve or eliminate a psychiatric emergency condition, regardless of whether the patient is voluntary or involuntarily detained for evaluation and treatment. It also updates definitions and some regulations regarding psychiatric emergency medical condition.
  - iv. **AB 1451 (Jackson) Behavioral health crisis treatment (CMA sponsored) (CSAP support)** Would require a health care service plan contract or health insurance policy to provide coverage for treatment of a behavioral health crisis that is identified during an appointment at a contracted facility where an enrollee or insured is receiving treatment from a contracted provider for a medical condition.
- c. ***CSAP supports CMA COL initiatives for hospital holds for patients that lack capacity.***

### 3. PRIVATE PRACTICE FOCUSED AND OTHER CLINIC-RELATED INITIATIVES AND BILLS

- a. ***DOJ data mining and Medical Board:*** CSAP is exploring.
  - i. ***Medication shortages and difficulty with getting prescriptions filled:*** update on meetings with DOJ, work with APA: APA, “California is leading the nation on this issue.” Nearly a year after a sweeping opioid settlement imposed new requirements on the companies that provide medications to pharmacies, patients across the United States are having difficulty obtaining drugs to treat conditions such as, anxiety, attention deficit hyperactivity disorder and addiction. SYASL is meeting with key agencies and has a Public Affairs arm and is working extensively with the press on this issue.

**b. Telehealth issues: pharmacy and others:** APA tracking DOJ proposed rules.

**c. Bills:**

- i. **SB 282 (Eggman) Medi-Cal: federally qualified health centers and rural health clinics. (CSAP support).** Would allow Medi-Cal to reimburse for two visits at the same site on the same day when additional treatment or diagnosis is needed, or when a medical visit is accompanied by a mental health visit or a dental visit.
- ii. **AB 616 (Rodriguez) Medical Group Financial Transparency Act. (CSAP oppose).** Would allow the Office of Health Care Affordability to release confidential financial information related to providers and physician organizations. It would also set up an 8-member board to use the information to help lower health care costs for consumers and purchasers.
- iii. **AB 1241: Medi-Cal: telehealth (Weber)** Maintains protocols for outpatient clinical referral to appropriate in-person care, when the standard of care cannot be met by video synchronous interaction or audio-only synchronous interaction.
- iv. **SB 582 (Becker): Health records: EHR vendors (CMA sponsored) (CSAP support)** Would require the state entity regulating physician compliance with data exchange regulations to also could regulate EHR vendors in order to crackdown on their exorbitant pricing schemes.

#### 4. PARITY AND SCOPE UPDATE

**a. Key Parity and scope-related bills**

- i. **SB 238: Health care coverage: independent medical review (Weiner) (CSAP support)** Would require a decision regarding a disputed health care service to be automatically submitted to the relevant Independent Medical Review System if the decision is to deny, modify, or delay specified mental health care services.
- ii. **SB 70: Prescription drug coverage (Weiner) (CSAP support)** Would additionally prohibit limiting or excluding coverage of a drug, dose of a drug, or dosage form of a drug that is prescribed for off-label use if the drug has been previously covered for a chronic condition or cancer.
- iii. **AB 317: Pharmacist service coverage (Weber) (undecided)** Would require a health care service plan to pay or reimburse the cost of services performed by a pharmacist at an in-network pharmacy or by a pharmacist at an out-of-

network pharmacy if the health care service plan or insurer has an out-of-network pharmacy benefit.

- iv. **AB 874: Health care coverage: out-of-pocket expenses (Weber) (CSAP support)** Would require a health care service plan, health insurance policy, other health coverage carrier, or pharmacy benefit manager that administers pharmacy benefits to apply any amounts paid by the enrollee, insured, or another source pursuant to a discount, repayment, product voucher, or other reduction to the enrollee's or insured's out-of-pocket expenses toward the enrollee's or insured's overall contribution to any out-of-pocket maximum, deductible, copayment, coinsurance, or applicable cost-sharing.
- v. **AB 236 (Holden) Health care coverage: provider directories (CMA sponsored)** Would require a plan or insurer to annually audit and delete inaccurate listings from its provider directories and would require a provider directory to be 60% accurate on January 1, 2024, with increasing required percentage accuracy benchmarks to be met each year until the directories are 95% accurate on or before January 1, 2027.
- vi. **AB 1437 (Irwin) Medi-Cal: serious mental illness (CMA sponsored) (CSAP support)** Would establish that a treatment authorization request would not be required for the provision of a prescription drug prescribed to prevent, assess, or treat a serious mental illness, as defined.
- vii. **SB 598 (Skinner): Healthcare coverage: prior authorization (CMA sponsored) (CSAP support)** Would require an appeal process that allows physicians to request that the reviewer be of the same or similar specialty.
- viii. **Witt vs UBH:** CSAP has joined in briefs against the Appeals Court decision to allow UBH to make up its own medical necessity criteria rather than adopt national standards.

**b. Scope Update:** Many new initiatives in other states, which APA are tracking, but none yet in California.

## 5. HEALTH SYSTEMS AND OTHER LEGISLATION:

### **a. CSAP sponsored.**

- i. **SB 372: (Menjivar) (CSAP sponsored) Department of Consumer Affairs: licensee and registrant records: name and gender changes "Dead Names":** Would require a licensing entity within the Department of Consumer Affairs (DCA) to update licensee records if it receives government-issued documentation demonstrating that the individual's legal name or gender has changed.

- ii. **SB 373, as amended, (Menjivar) Board of Behavioral Sciences, Board of Psychology, and Medical Board of California: licensees' and registrants' addresses (CSAP Sponsored)** Would, with certain exceptions, prohibit the Boards of Behavioral Sciences, Psychology, and Medicine from disclosing on the internet the full address of record of certain licensees and registrants.

**b. Other bills**

- i. **AB 456 (Maienschein) Public postsecondary education: campus mental health hotlines. (CSAP support)** Would require each campus of the California Community Colleges and California State University without a campus mental health hotline to establish one for students to access mental health services remotely, and would request each campus of the University of California to do the same.
  - ii. **AB 1085 (Maienschein) Medi-Cal: housing support services. (CSAP support)** Would require the state to analyze the impact of providing housing support services and to report findings back to the Legislature by January 1, 2024.
  - iii. **AB 564 (Villapudua) Medi-Cal enrollment. (CSAP support)** Would make it so that people could submit their forms enroll or make any changes to their Medi-Cal accounts electronically, using a digital signature instead.
  - iv. **AB 459 (Haney) California Behavioral Health Outcomes and Accountability Review (CSAP Watch)** Would require the California Health and Human Services Agency to create the California Behavioral Health Outcomes and Accountability Review (CBH-OAR) to improve the quality of mental health services across the state. This would involve creating performance indicators, county self-assessments and county and health plan improvement plans.
  - v. **AB 1690 and SB 770: Single-Payer / "Unified Health Care Financing" (Undecided).** AB 1690 (Kalra) is a rehash of last session's AB 1400. AB 1690 is most likely a two-year bill, meaning it will not move for the 2023 Legislative Session, and will work its way through the process in 2024 with the objective of a unified health care financing system that incorporates specified features and objectives, including, among others, a comprehensive package of medical, behavioral health, pharmaceutical, dental, and vision benefits, and the absence of cost sharing for essential services and treatments.
- c. **SB 513: Incarcerated persons: mental health (Weiner). (CSAP support)** Would require the Department of Corrections and Rehabilitation to conduct mental health treatment for state prison inmates in a manner to accomplish various goals, including providing, to the greatest extent possible, regular and consistent mental health therapy to inmates who seek it.

**6. YOUTH MENTAL HEALTH CRISIS**

**a. Bills:**

- i. **SB 11 (Menjivar) (CSAP support): California State University: mental health counseling.** Would require the Trustees of the California State University to comply with various requirements on mental health counseling at CSU, including having one full-time equivalent California-licensed mental health counselor per 1,500 students enrolled at each CSU campus and developing a telehealth mental health counseling 24 hours per day, 7 days per week.
- ii. **AB 665 (Carrillo) (CSAP Support): Minors: consent to mental health services** Would remove the requirement that the minor must present a danger of serious physical or mental harm to themselves or to others or be the alleged victim of incest or child abuse.

**b. Bills (Cal-ACAP co-sponsored and/or supported)**

- i. **SB 599 (Ward): Suspensions and expulsions: controlled substances: tobacco. (CSAP support)** This bill would, commencing July 1, 2025, remove unlawfully possessing, using, or being under the influence of a controlled substance, an alcoholic beverage, or an intoxicant of any kind from the list of acts for which a pupil, may be suspended or recommended for expulsion for.
- ii. **SB 350 (Ashby) CSAP Support): Pupil Attendance: excused absences.** Would require a pupil to be excused from school for the purpose of attending the funeral service or grieving the death of the pupil's immediate family member, and for the purpose of obtaining victim services or participating in safety planning as it relates to violence or abuse, as specified.
- iii. **SB 509 (Portantino): School employee and pupil training: youth mental and behavioral health: mental health education (SAP support)** Would require identification of training programs that include instruction on how school staff can best provide referrals to special education services.
- iv. **SB 456 (Menjivar): Multifamily Housing Program: nonprofit corporations: homeless or at-risk youth** Would require that at least 8 percent of the specified funds be available for units, rather than projects, serving homeless youth, or youth at risk of homelessness. Would also require that at least one-half of these funds be prioritized for units to house current foster youth between 18 to 21 years of age.



## **Attachment II: Possible SCPS Resolution regarding the stimulant shortage crisis and prevention of further shortages of psychiatric medications**

### **Whereas,**

The recent shortage of stimulants in the US represents an urgent mental health crisis with potential for irreparable harm to patients; and

### **Whereas,**

Access to care, in particular, reliable access psychiatric medications, requires monitoring of demand and supply of medications and a coordinated response to guarantee that there are no shortages in medically necessary medications; and

### **Whereas,**

Efforts to reduce mental health stigma, increased awareness, and better recognition of ADHD by healthcare providers, parents, and teachers, along with changes in ADHD diagnostic criteria, have led to an increase of ADHD diagnoses and increased demand for stimulants over the past few decades. Additional factors, such as increasing average screen time exposure, longer attention span demands set by evolving job markets, and more recently, pandemic related work-study from home options, likely play a role. The ability to access psychiatric care via telepsychiatry, including the diagnosis and treatment of ADHD, likely contributed to stimulant demand pressures. The contribution of clinically equivocal prescriptions of stimulants by telehealth start-ups to higher stimulant demands remains unclear: and

### **Whereas,**

In addition to rising demand for stimulants, other reasons for shortage listed on the FDA website include manufacturing delays, discontinuation of certain stimulants, and shortage of active ingredients; and

### **Whereas,**

Numerous physicians and pharmacists have reported that CA DOJ and DEA attempts to prevent illicit provision of medication have impaired access to psychiatric medications essential for the health of children and adults, and

### **Whereas,**

The ongoing shortage in stimulants has marked negative effects on patients with ADHD. From children who regress behaviorally and academically, to adults, who have been successfully treated with stimulants for years, but are now unable to perform in their jobs and function in other areas of life. Additionally, the shortage places patients with ADHD at increased risk for substance use, car accidents, depression, anxiety, and other comorbidities;

### **Therefore, be it resolved that:**

- 1) SCPS will publish the position statement below in the newsletter and on its website.

- 2) SCPS Council shall have its representatives to the CSAP Government Affairs Committee (GAC) and/or CSAP Board make a motion(s) that:
- a) CSAP will publish a similar position statement in its newsletter.
  - b) CSAP will collaborate with Area 6 representatives and APA on actions to:
    - i) Work with the DEA, FDA and state agencies to immediately use regulatory authority to hold pharmaceutical companies and pharmacies accountable for taking action to ameliorate current stimulant shortage and discuss prevention and management of further shortages of psychiatric medications.
    - ii) Revise APA clinical guidelines for the diagnosis and treatment of ADHD to explicitly include the concurrent use of benzodiazepines and psychostimulants in patients who have comorbid primary anxiety disorders or who cannot tolerate stimulants alone due to anxiety-related side effects.
  - c) CSAP will act at the state level to urge relevant state agencies to address the current shortage and prevent further shortages of psychiatric medications.
  - d) CSAP will ask SYASL to approach California legislators who might be interested in strengthening federal mandates and sanctions designed to encourage pharmaceutical and healthcare companies to ensure adequate supplies of necessary psychiatric medications. (of note - Rep. Eric Swalwell (D-Calif) reportedly approached the DEA to discuss the issue).

**Position Statement:**

Stimulants are recognized as an effective and safe treatment for ADHD. The ongoing shortage in stimulants is causing irreparable harm to patients with ADHD, from children who regress behaviorally and academically, to adults who are unable to perform their daily duties without these medications. Additionally, the shortage places patients with ADHD at increased risk for substance use, car accidents, depression, anxiety, and other comorbidities.

SCPS calls upon policymakers, pharmaceutical companies and psychiatric organizations to take focused action now to prioritize the needs of patients with ADHD over attempts by law enforcement agencies to prevent illicit provision of medication when those attempts create dangerous shortages in the supply of psychiatric medications essential for the health of children and adults.

**Attachment III: Draft Letter to DMH Director re DMH Care Program Community Input**

Dear DMH Acting Director:

The Southern California Psychiatric Society (SCPS), a District Branch of the American Psychiatric Association that represents over 900 psychiatrists, many based in Los Angeles, wishes to express our enthusiastic support of the efforts by the Los Angeles County Department of Mental Health (DMH) to design an operational framework for implementation of the mental health portions of the County's CARE Act program. We understand the complexity of the task and recognize the Department's longstanding commitment to meaningfully solicit stakeholder input in program development.

The delivery of psychiatric services, both public and private, is a critical part of CARE Act programs, and SCPS urges you to solicit and respond to input from psychiatric groups within both the Department and the larger Los Angeles psychiatric community. Equally important, we urge you to extend the same invitation to other community-based stakeholders, including the Los Angeles based NAMI chapters. We believe that this approach will enhance the quality of the psychiatric services delivered to our community in the context of the Los Angeles County CARE Act.

SCPS requests that you immediately and publicly disclose which DMH committee or committees is/are developing the clinical psychiatric aspects of the DMH program. We also wish to know what allowances have been made to ensure ongoing community participation in the planning process and responsiveness to that input from the Department. With such information, SCPS commits to supporting the Department in making every effort to help sustain the robust involvement necessary.

Please let me know at your earliest convenience the information requested above, and how SCPS and other community stakeholders can contact the appropriate committees to request participation.

Thank you for the extraordinary efforts and success thus far in delivery of mental health services to Los Angeles County.

Sincerely,

## **Attachment IV: Draft Letter to MHC re DMH Care Program Community Input**

Dear MHC,

The undersigned academic, professional and community stakeholders call on the Mental Health Commission to support us in our efforts to provide meaningful community input to LAC DMH planners as Los Angeles County launches its CARE ACT Program components. As always, we feel that community involvement through an understanding of the stakeholder process and opportunities to share ideas, expertise, and experience will benefit individuals in our community who live with mental illness, along with their families and other supporters.

A broad spectrum of community stakeholders have expressed concerns about the likelihood of successful implementation of the psychiatric component of the LAC DMH CARE Act Program (CAP). These concerns are engendered by the perception that there is, at best, uncertainty about the plans for the adequate training of psychiatrists who will provide CAP services through directly operated and contracted DMH units. This uncertainty concerns several features, including:

1. Establishment of necessary core CAP psychiatric competencies
2. Responsibilities for the development and presentation of CAP training content
3. CAP training intensity
4. CAP training resource prioritization, and
5. Timelines for CAP training completion.

Stakeholders do believe that the means for DMH to establish and implement the necessary CAP training already exist. However, they also strongly believe that implementation of the necessary steps to successfully complete the task may be greatly enhanced by a broader participation of stakeholders, including community psychiatrists and individuals living with mental illness and their family, to do so. Their consensus is that the key goal should be to establish within the DMH Full-Service Partnership (FSP) Teams, which DMH has assigned to manage CAP services, the psychiatric skills set and associated resources that currently exists in the DMH HOME teams. Their rationale follows:

DMH has already fielded a good model for adaptation to CAP, which is the DMH HOME Team. These teams, some ten in total, provide cutting edge street psychiatry interventions that effectively leverage psychiatric services to stabilize homeless individuals with severe mental, find suitable placements, and help ensure that they continue along a road to a safer and more rewarding life. However, the resources of the HOME Team are insufficient to effectively address

anything approaching the anticipated volume of CARE Court referrals to DMH for evaluation and treatment of CARE-involved individuals.

Because of this realistic HOME team resource limitation, DMH plans to instead use FSP teams for this work. However, the current FSP team model for psychiatric services, as it now exists, presents serious shortcomings for use in addressing anticipated CAP needs.

Establishing a priority and plan for transferring the psychiatric skill set already existing in the HOME program is a necessity. If the task is ignored, at least two consequences are foreseeable. First, the DMH CARE Program will be less effective than it would otherwise be. Second, the HOME program will be overwhelmed by CARE Court referrals that are insufficiently stabilized in FSP programs and are then referred to the HOME program and its limited resources.

The Southern California Psychiatric Society, NAMI, UCLA, and other stakeholder groups have urged LAC DMH to quickly disclose which DMH committee or committees is/are developing the clinical psychiatric aspects of the DMH program. We also wish to know what allowances have been made to ensure ongoing community participation in the planning process and responsiveness to that input from the Department. With such information, we commit to supporting the Department in making every effort to help sustain the robust involvement necessary to ensure that the DMH CAP will have the cutting-edge street psychiatry skills necessary to fulfill the CAP promise while at the same time preserving the HOME program successes.

We call on the Mental Health Commission to support the undersigned stakeholders in our efforts to participate with the department through an understanding of the stakeholder process and the means to engage meaningfully in the planning.