BOARD OF SUPERVISORS MEETING
March 6, 2018

"For all items *NOT* on the agenda"

(Each Speaker Limited to 3 Minutes)

Voluntary Sign-In Sheet

1. ✓ Douglas P. Jackson, PE
2. ✓ Vernon Lee Price
3. ✓ Dale Russell
4. ✓ Jon Ray
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Klamath-Trinity Joint Unified School District

P. O. BOX 1308 • HOOPA, HUMBOLDT COUNTY, CALIFORNIA 95546

JON RAY
Superintendent

Telephone (530) 625-5600 FAX (530) 625-5611

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February 13, 2018

Dear Humboldt County Board of Supervisors:

We write in opposition to the Planning Commission's approval of ZR-16-002, MCMP, LLC Zone Reclassification. As concerned citizens of Willow Creek and guardians entrusted with schoolchildren of all ages, the Klamath-Trinity Joint Unified School District ("KTJUSD") is deeply opposed to the proposed rezoning of Key Parcel Number, 522-491-017, which would permit cannabis cultivation and processing. As described in detail below, the proposed rezoning is contrary to the community's, the District's, and the state's compelling interest in deterring drug abuse by schoolchildren.

Current law contains relatively few limitations concerning the cultivation and processing of marijuana. As you know, on November 8, 2016, California voters passed Proposition 64, the "Control, Regulate, and Tax Adult Use of Marijuana Act" ("Act"), which legalized the growth and personal use of marijuana. The Act also included provisions related to the sale, transportation, and taxation of marijuana. For example, the Act prohibits marijuana businesses from being located within 600 feet of schools, day cares, or youth centers. (*See* Cal. Bus. & Prof. Code § 26054.) Likewise, the California Health & Safety Code states in pertinent part:

> No medical marijuana cooperative, collective, dispensary, operator, establishment, or provider who possesses, cultivates, or distributes medical marijuana… shall be located within a 600-foot radius of a school. (Cal. Health & Safety Code § 11362.768(b).)

Although authority specific to marijuana is limited, the regulation of other substances and activities through statutes and case law provides useful guidance. For example, regarding alcoholic beverages, the California Department of Alcoholic Beverage Control ("Department") may, in its discretion, license and regulate the sale of alcohol, and may specifically refuse to issue licenses for premises located within 600 feet of schools. (*See* Cal. Bus. & Prof. Code § 23789; s*ee generally* Cal. Const., Art. XX § 22; Cal. Bus & Prof. Code § 23051; Cal. Bus. & Prof. Code § 23789.)

Case law illustrates the importance of such restrictions. For instance, in *Weiss v. State Board of Equalization*, the California Supreme Court upheld the denial of an off-sale license at premises within 80 feet of a school, stating that, "a reasonable person could conclude that the sale of liquor on such premises would adversely affect the public welfare and morals." (*Weiss v. State Bd. of Equalization* (Cal. 1953) 40 Cal.2d 772, 775-776; *see also* Cal. Const., Art. XX § 22.) Similarly, the California Court of Appeal in *Donia v. Alcoholic Beverage Control Appeals Board* upheld the Department's denial of a license to a convenience store located near an elementary school in a low-income area, recognizing that, "there is considerable expert evidence of the recognized effects of off-sale outlets on public drinking, the associated police problems and the psychological effect of public drinking on children." (*Donia v. Alcoholic Bev. Control Appeals Bd.* (Cal. App. 1985) 167 Cal.App.3d 588, 596.)

Courts have also discussed the important state interest in deterring drug use by schoolchildren. For example, the United States Supreme Court recognized that deterring drug use by schoolchildren is an,

"important – indeed, perhaps compelling" interest, reasoning that, "[d]rug abuse can cause severe and permanent damage to the health and well-being of young people." (*Morse v. Frederick* ("*Morse*") (2007) 551 U.S. 393, 407.) Specifically, the Court stated:

> School years are the time when the physical, psychological, and addictive effects of drugs are most severe. Maturing nervous systems are more critically impaired by intoxicants than mature ones are; childhood losses in learning are lifelong and profound; children grow chemically dependent more quickly than adults, and their record of recovery is depressingly poor. And of course the effects of a drug-infested school are visited not just upon the users, but upon the entire student body and faculty, as the educational process is disrupted. (*Id.*)

The court in *Morse* concluded, "[t]he drug abuse problem among our Nation's youth has hardly abated… [i]n fact, evidence suggests that it has only grown worse." (*Id.*)

The Court's cautionary language in *Morse* is particularly applicable to District students. As you may be aware, in December, 2016, Colorado State University studied drug use among District students.[1] That study revealed alarming and widespread use of marijuana and other substances among the District's students. For example, the study found that the following students used marijuana in the month prior to the study:

18.6% of Hoopa Valley Elementary School ("HVES") 7th and 8th grade students;
16.4% of Hoopa Valley High School ("HVHS") 9th and 10th grade students; and,
32.5% of HVHS 11th and 12th grade students.

Additionally, the study revealed that 36.8% of Hoopa Valley Elementary School Students reported that most of their friends use marijuana.

The study also revealed that District students are likely susceptible to the use and abuse of many other substances. For example, the study found that the following students used alcohol in the month prior to the study:

17.1% of HVES 7th and 8th grade students;
17.1% of HVHS 9th and 10th grade students; and,
29.5% of HVHS 11th and 12th grade students.

The following students had been drunk in the month prior to the study:

8.6% of HVES 7th and 8th grade students;
10.3% of HVHS 9th and 10th grade students; and,
16.7% of HVHS 11th and 12th grade students.

The following students had smoked cigarettes in the month prior to the study:

11.4% of HVES 7th and 8th grade students;
5.1% of HVHS 9th and 10th grade students; and,
13.9% of HVHS 11th and 12th grade students.

The following students used inhalants (glue, gas, sprays, etc.) in the month prior to the study:

10.0% of HVES 7th and 8th grade students;
0.9% of HVHS 9th and 10th grade students; and,

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[1] See *Drug and Alcohol Use Among Hoopa Valley Elementary School 7th – 8th Graders, Fall 2016,* CSU: Tri-Ethnic Center for Prevention Research, Dept. of Psychology.

3.8% of HVHS 11th and 12th grade students.

The following students used LSD in the month prior to the study:

1.3% of HVHS 11th and 12th grade students.

The following students used other hallucinogens (peyote, shrooms, etc.) in the month prior to the study:

1.4% of HVES 7th and 8th grade students; and,
2.6% of HVHS 11th and 12th grade students.

The following students used amphetamines (Ritalin, Adderall, etc.) without a doctor's orders in the month prior to the study:

4.3% of HVES 7th and 8th grade students;
1.7% of HVHS 9th and 10th grade students; and,
2.6% of HVHS 11th and 12th grade students.

The following students used crystal meth (ice) in the month prior to the study:

0.9% of HVHS 9th and 10th grade students; and,
1.3% of HVHS 11th and 12th grade students.

The following students used tranquilizers (Valium, Xanax, Klonopin, etc.) without a doctor's order in the month prior to the study:

0.9% of HVHS 9th and 10th grade students; and,
2.6% of HVHS 11th and 12th grade students.

The following students used cocaine (powdered form) in the month prior to the study:

0.9% of HVHS 9th and 10th grade students; and,
3.8% of HVHS 11th and 12th grade students.

The following students used cocaine (crack or freebase) in the month prior to the study:

1.4% of HVES 7th and 8th grade students; and,
0.9% of HVHS 9th and 10th grade students.

The following students used heroin in the month prior to the study:

1.7% of HVHS 9th and 10th grade students.

The following students used narcotics other than heroin (Morphine, Vicodin, Oxycontin, etc.) without a doctor's orders in the month prior to the study:

4.3% of HVHS 9th and 10th grade students; and,
5.1% of HVHS 11th and 12th grade students.

Notably, the percentage of HVES 7th and 8th grade students, the youngest students who participated in the study, who used illegal substances in the one-year period prior to the study was even greater. For example:

26.1% used alcohol;
18.6% had been drunk;
28.6% used marijuana;
11.4% used inhalants (glue, gas, sprays, etc.);
1.4% used LSD;

4.3% used other hallucinogens (peyote, shrooms, etc.);
5.7 used amphetamines (Ritalin, Adderall, etc.) without a doctor's order;
4.3% used crystal meth (ice);
2.9% used tranquilizers (Valium, Xanax, Klonopin, etc.) without a doctor's orders;
4.3% used cocaine (powdered form);
1.4% used cocaine (crack or freebase);
1.4% used heroin; and,
4.3% used narcotics other than heroin (Morphine, Vicodin, Oxycontin, etc.) without a doctor's orders

The cultivation of marijuana, or presence of marijuana processing facilities, near District bus stops and other school facilities is harmful to the compelling state interest in deterring drug use by school children. Approval of Zone Reclassification: Assessor Parcel Number 522-491-017, in such close proximity to Klamath-Trinity's school facilities will exacerbate the problem of marijuana use among District students. This location is particularly concerning, as it is directly across the street (56 feet, property line to property line) from Trinity Valley Elementary School. Allowing cultivation of marijuana, or factories processing marijuana, in such close proximity to schoolchildren increases the probability that those children will be exposed to marijuana, and therefore places those children at risk of increased drug use. As a result, we respectfully request the Board of Supervisors reject that project.

Thank you in advance for your consideration. If we can provide any additional information, please do not hesitate to call.

Sincerely,

Jon Ray
Klamath-Trinity Joint Unified School District

Legal Resources | Health and Safety Code | HS 11362.768

Medical marijuana providers, etc. not to be located within 600-foot radius of school

(a) This section shall apply to individuals specified in subdivision (b) of Section 11362.765.

(b) No medical marijuana cooperative, collective, dispensary, operator, establishment, or provider who possesses, cultivates, or distributes medical marijuana pursuant to this article shall be located within a 600-foot radius of a school.

(c) The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the school to the closest property line of the lot on which the medical marijuana cooperative, collective, dispensary, operator, establishment, or provider is to be located without regard to intervening structures.

(d) This section shall not apply to a medical marijuana cooperative, collective, dispensary, operator, establishment, or provider that is also a licensed residential medical or elder care facility.

(e) This section shall apply only to a medical marijuana cooperative, collective, dispensary, operator, establishment, or provider that is authorized by law to possess, cultivate, or distribute medical marijuana and that has a storefront or mobile retail outlet which ordinarily requires a local business license.

(f) Nothing in this section shall prohibit a city, county, or city and county from adopting ordinances or policies that further restrict the location or establishment of a medical marijuana cooperative, collective, dispensary, operator, establishment, or provider.

(g) Nothing in this section shall preempt local ordinances, adopted prior to January 1, 2011, that regulate the location or establishment of a medical marijuana cooperative, collective, dispensary, operator, establishment, or provider.

(h) For the purposes of this section, "school" means any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes.

(Added by Stats. 2010, Ch. 603, Sec. 1.)

Klamath-Trinity Joint Unified School District

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March 5, 2018

Dear Humboldt County Board of Supervisors:

In follow-up to our previous letter, dated February 13, 2018, we write to once again express the Klamath-Trinity Joint Unified School District's strong opposition to the proposed rezoning of Key Parcel Number 522-491-017, including to allow for cannabis manufacture and processing. It is our understanding that on January 11, 2018 the County Planning Commission voted to approve ZR-16-002, MCMP, LLC Zone Reclassification. On February 13, 2018, we sent a letter to the County Board of Supervisors expressing our opposition to the proposed rezoning, given the unlawful proximity to the elementary school, and the interest in deterring drug abuse by schoolchildren. A copy of the letter is enclosed here for reference.

It is our understanding that the County Board of Supervisors will now consider whether to give final approval to the proposed rezoning. With this letter, we strenuously reiterate our opposition to the proposing rezoning, drawing specific attention to the legal prohibitions on locating marijuana facilities in close proximity to public school sites, and urge you not to approve this project.

Page 3, Executive Summary of the December 14, 2017 report presented to the County of Humboldt, Planning and Building Department, Current Planning Division, regarding "MCMP, LLC, Zone Reclassification and Special Permit" ("Report"), provides:

> The ultimate objective of this application is to develop and operate a commercial medical cannabis manufacturing facility on a portion of a parcel that hosts an active surface mining and processing operation including a concrete batch plant. . . . Trinity Valley Elementary School's property is approximately 1,270 feet from the proposed location. The 600 foot setback requirement from schools, school bus stops, churches, etc. that applies to commercial cannabis cultivation does not apply to this project because 1) it does not include cultivation; and 2) the setback requirement does not extend to commercial cannabis manufacturing.

The District respectfully disagrees with the above conclusion and believes the setback requirement applies to this medical cannabis manufacturing facility, thereby prohibiting its current proposed location which is only 56 feet from the District's Trinity Valley Elementary School ("TVES"), when measured consistent with applicable legal standards.

For example, as stated previously, the Control, Regulate, and Tax Adult Use of Marijuana Act ("Act") prohibits marijuana businesses from being located within 600 feet of schools, day cares, or youth centers. (*See* Cal. Bus. & Prof. Code § 26054(b); 16 C.C.R. § 5026.) Specifically, this prohibition applies to any "premises licensed under" Division 10 (Cannabis) of the Business and Professions Code, and/or under the California Bureau of Cannabis Control. (Cal. Bus. & Prof. Code §§ 26000 *et seq.*; 16 C.C.R. §§ 5000 *et seq.*) As part of the Medicinal and Adult-Use Cannabis Regulation and Safety Act, these laws and regulations pertain to all state licenses related to cannabis or cannabis products intended for adults without a physician's recommendation as well as commercial cannabis activity involving medicinal cannabis, and including licenses related to the sale, distribution, and manufacture of cannabis. (Cal. Bus. & Prof. Code §§ 26001(a), (ae), 26070(a), 26130(a).) For these purposes, "commercial cannabis activity" is the "cultivation, possession, *manufacture*, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products." (*Id.* § 26001(k), emphasis added.) Thus, the conclusion quoted above that "the setback requirement does not extend to commercial cannabis manufacturing" is incorrect. (See Report, p. 3.)

Here, the December 14, 2017 Report specifically represents that MCMP will "operate a commercial medical cannabis manufacturing facility." (Report, p. 3.) The Report makes clear that MCMP will "produce cannabis concentrate," will accept "raw product" from state licensed providers, and will sell "finished product" to "State license facilities on a wholesale basis." (Report, p. 3.) Based on these activities, MCMP is subject to the licensing requirements described above, including, but not limited to, the requirement for its premises to be located at least 600 feet away from a school, such as TVES. (Cal. Bus. & Prof. Code § 26054(b).)

Moreover, the relevant laws specify that the distance between the premises and a school is to be measured as: "the horizontal distance measured in a straight line from the property line of the school to the closest property line of the lot on which the medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider is to be located without regard to intervening structures." (Cal. Health & Safety Code § 11362.768(c).) The District's information shows that MCMP's proposed facility will be located *only 56 feet*, measured from property line to property line, from TVES. This is in stark contrast to the "approximately 1,270 feet" noted above. This discrepancy is concerning, especially given that a distance of 1,270 feet creates the illusion that the MCMP premises location would be legally-compliant, as well beyond 600 feet from TVES.

In sum, and based on the above, the District believes that MCMP's premises would, in fact, be subject to the 600-foot setback requirement, and considering the premises would be located only 56 feet from TVES, it would be unlawful to allow MCMP to operate at the current proposed location.

Moreover, in addition to the above, the California Health & Safety Code also provides a 600-foot setback requirement, specifically that "no medical marijuana cooperative, collective, dispensary, operator, establishment, or provider who possesses, cultivates, or distributes medical marijuana… shall be located within a 600-foot radius of a school." (Cal. Health & Safety Code

§ 11362.768(b).) This prohibition specifically applies to a medicinal cannabis cooperative, collective, dispensary, establishment, or provider that is authorized to possess, cultivate or distribute medicinal cannabis and has a storefront or mobile retail outlet. (*Id.* § 11362.768(e).)

To the extent that MCMP intends to have a storefront, this further prohibits its proposed location of only 56 feet from TVES. Furthermore, the County is permitted to adopt ordinances or policies to even further restrict the location or establishment of a medicinal cannabis cooperative, collective, dispensary, establishment, or provider. (*Id.* § 11362.768(f).)

In summary, contrary to the conclusions of the December 14, 2017 Report, MCMP's proposed commercial cannabis manufacturing facility is subject to the legal requirement that such facilities be located at least 600 feet away from a school. Given the proposed location of only 56 feet away from TVES, the current proposed location is unlawful. Further, given the adverse impact drug use has had and continues to have on our students and the school environment, MCMP does not belong directly across the street from Trinity Valley Elementary School. As such, the District once again strongly urges the County Board of Supervisors not to approve the ZR-16-002, MCMP, LLC Zone Reclassification. Although the District desires to work cooperatively with its local community, please be advised that the District will pursue any and all necessary legal action to prohibit MCMP from operating across from TVES, or otherwise challenge any action by the County Board of Supervisors to approve such project.

Thank you for your attention to this correspondence, please do not hesitate to contact me if you would like to discuss this further.

Sincerely,

Jon Ray
Klamath-Trinity Joint Unified School District

SB 906 (Beall & Anderson)
Co-Authors: Hertzberg & Pan
Peer Provider Certification
Fact Sheet

BACKGROUND

A peer provider is a person who draws on lived experience with mental illness and/or substance use disorder and recovery, bolstered by specialized training, to deliver valuable support services in a mental health and/or substance use setting. Across the nation, peer support programs have emerged as an evidence-based practice with proven benefits to both peers and the clients they assist. Peers can include people who have lived experience as clients, family members, or caretakers of individuals living with mental illness.

As noted by the California Mental Health Planning Council, California lags behind the nation in implementing a peer support specialist certification program.[1] The U.S. Department of Veterans Affairs and approximately 40 states have a certification process in place for mental health peer support specialists. Thirteen states have a certification process for SUD peer recovery coaches. The federal Centers for Medicare and Medicaid released guidance in 2007 for establishing a certification program for peers to enable the use of federal Medicaid (Medi-Cal in California) financial participation with a 50% match. Yet California has not acted.

The Working Well Together Statewide Technical Assistance Center, a collaborative of peer and client-oriented organizations, has done substantive work on this issue in California, culminating in a final report and recommendations.[2]

Studies demonstrate that use of peer support specialists in a comprehensive mental health or substance disorder treatment program helps reduce client hospitalizations, improve client functioning, increase client satisfaction, alleviate depression and other symptoms, and diversify the mental health workforce.[3]

Research is also clear that the use of a formal certification program to train peer supporters offers enormous benefits, including:

- Allowing providers to make use of the federal Medi-Cal match.
- Allowing for standardization of the peer support practice, to ensure the highest quality care.
- Establishing core competencies that allow certified peers to transfer skills across county lines.

Although the Department of Health Care Services anticipates there will be substantial growth in the demand for peer support specialists, there is no statewide scope of practice, training standards, supervision standards, or certification.[4]

THIS BILL

SB 906, the Peer Provider Certification Act of 2018 has two primary goals:

First, it requires the Department of Health Care Services (DHCS) to establish a certification program. Among other things, the program defines the range of responsibilities and practice guidelines for peer support specialists, specifies required training and continuing education requirements, determines clinical supervision requirements, and establishes a code of ethics and processes for revocation of certification.

The program provides discretion for DHCS to obtain technical assistance for development of the certification program, and authorizes DHCS to utilize Mental Health Services Act funding and Workforce Employment and Training Program resources to establish the program.

Secondly, SB 906 authorizes DHCS to amend the State's Medicaid Plan to add peer support providers as a provider type within the Medi-Cal program, and to seek federal waivers or state plan amendments as necessary.

The bill expresses the intent of the Legislature that the program will provide increased family support, a fuller continuum of wraparound services, and an individualized focus on clients to promote recovery and self-sufficiency.

SUPPORT

Steinberg Institute (Sponsor)

Staff Contact: Gregory Cramer
Gregory.Cramer@sen.ca.gov; (916) 651-4015

[1] February, 2015, Peer Certification: What Are We Waiting For?

[2] Final Report: Recommendations from the Statewide Summit on Certification of Peer Providers, Working Well Together, 2013

[3] Chinman et al, Peer Services for Individuals with Serious Mental Illness: Assessing the Evidence, Psychiatric Services 65: 429-441, 2014.

[4] UCSSF, Medi-Cal 1115 Waiver Renewal Workforce Work Group paper, December 31, 2014.

SB 906 (Beall (D) and Anderson (R) goes to the Health Committee on Wednesday March 14 at 1:30 pm.

Write letters! Visit the Health Committee legislators!

See template letter.

Health Committee Members:

Senator Ed Hernandez, O.D. (Chair)
Senator Janet Nguyen (Vice Chair)
Senator Connie M. Leyva
Senator Holly J. Mitchell
Senator Bill Monning
Senator Josh Newman
Senator Jim Nielsen
Senator Richard Pan
Senator Richard D. Roth

Health Committee Address:

State Capitol, Room 2191
Sacramento, CA 95814
Phone: (916) 651-4111
Fax: (916) 266-9438

In addition to writing to Health Committee Chair and members, send all letters to authors, Senator Beall and Anderson.

Senator Beall
Capitol Office

State Capitol, Room 2082, Sacramento, CA 95814-4900; (916) 651-4015

District Office

2105 S. Bascom Avenue, Suite 154, Campbell, CA 95008; (408) 558-1295
100 Paseo de San Antonio, Suite 209, San Jose, CA 95113; (408) 286-8318

Senator Anderson
Capitol Office

State Capitol, Room 5052, Sacramento, CA 95814-4900; (916) 651-4038

District Offices

500 Fesler Street, Suite 201, El Cajon, CA 92020; (619) 596-3136
1 Civic Center Drive, Suite 320, San Marcos, CA 92069; (760) 510-2017

Your CA Senator and CA Assemblyperson Title Name
Find at http://findyourrep.legislature.ca.gov/
or CA Legislative Subcommittee Hearing Members
Date

Support SB 906 (Senators Beall and Anderson): Medi-Cal: mental health services peer, parent, transition-age and family support specialist certification

Dear **Title Name;**

Your organization or name joins the strong tide of California organizations, counties and people advocating for growth in high quality peer/family support services and peer specialist career development in supporting SB 906, to finally bring peer certification to California. The impact of implementing SB 906 on the General Fund would be minimal, while it would bring in a 50% Medi-Cal match for services that already exist currently without federal government participation.

Peer Certification makes good fiscal sense, and California is one of four states in the nation without it. As stated in SB 906, in 2007, the U.S. Centers for Medicare and Medicaid Services (CMS) sent a guidance letter to all State Medicaid Directors emphasizing, "peer support services are an evidence-based mental health model of care which consists of a qualified peer support provider who assists individuals with their recovery from mental illness and substance use disorders." CMS encouraged states to establish a state certification process for training, credentialing, supervision and care coordination. (CMS, SMDL #07-011)[1] This enables the use of federal Medicaid (Medi-Cal in California) financial participation with a 50% match. Currently forty-two (42) states plus the District of Columbia and the U.S. Department of Veteran's Affairs have implemented protocols to certify peer specialists, and four additional states are in the process of creating certification programs, enabling the majority of states to leverage Medicaid funds. *However, California has not acted and is therefore among a mere four US states that are at the tail end of progress.* ***California deserves better!***

Under existing Medi-Cal codes, a few California counties allow peer specialists to bill, but due to the nature of peer specialist services, at least 25% of peer services cannot be billed under existing codes. We need unique peer support service and provider codes to capture the unique services that are provided and will generate more revenue from the federal match.

Initially funded by Department of Mental Health and then OSHPD, California began an in depth and focused look at peer certification in 2011. Substantial work has been done toward peer certification since 2012 and substantial funds have already been invested into developing peer certification in California. SB 906 allows for the use of Mental Health Services Act (MHSA) funds to develop and administer this certification program.

Programmatically peer certification also makes sense. Numerous research studies support the efficacy and cost effectiveness of peer specialist services. Peer services over traditional services alone lead to less inpatient services, decreased symptoms, increased coping skills and life

satisfaction, reduced overall ongoing need for mental health services, and decreased substance use.

Peer Support is a unique service, a relationship of mutual learning founded on the key principles of hope, equality, respect, personal responsibility and self-determination. Services provided are non-hierarchical therapeutic interactions between people who have a shared lived experience of a behavioral health challenge. This connection or affiliation is a deep, holistic understanding based on mutual experience where people are able to "be" with each other without the constraints of the clinical power differential relationships. Peer Support is offered to individuals/groups in a variety of settings, including peer operated centers and programs, community- based organizations, county clinics, natural community settings, as well as personal residences, forensic service agencies, schools, courts, primary care, and in-patient settings.

Across California, an estimated 6,000 peer, family, and parent supporters are in service. However, as SB 906 states, there is no statewide scope of practice, standardized curriculum, training standards, supervision standards, or certification protocol. Few counties that provide peer support services require training prior to hire. The benefits of Peer Certification for peer support are obvious. Peer certification:

- Defines the service of peer support.
- Provides a standardized scope of practice, values and ethics, and competencies
- Assures that practitioners receive standardized training and demonstrate competency.
- Ensures that service recipients will receive the same quality of services regardless of where in California they may live.
- Can be utilized as a basis for the ability to bill Medi-Cal for services provided.
- Allows for portability of Certification to other counties in the State.

SB 906 makes sense from both a policy and fiscal perspective and will provide more comprehensive assistance to people in need. Please do your part to bring California up to speed with the rest of the nation in recovery and resiliency services through a State protocol for Medi-CAL billing and Certification of peer and family support specialists.

Do not hesitate to contact me for any reason at **xxxxxxx**

Sincerely,

Your Name and organization if appropriate

cc: Senator Beall Staff- Greg Cramer gregory.cramer@sen.ca.gov
cc: Senator Anderson Staff- Craig Wilson craig.wilson@sen.ca.gov
cc: Steinberg Institute Staff-Adrienne Shilton adrienne@steinberginstitute.org

[1] United States Department of Health & Human Services, Centers for Medicare & Medicaid Services, Guidance

Letter to State Medicaid Directors, SMDL #07-011, August 15, 2007. http://downloads.cms.gov/cmsgov/archived-downloads/SMDL/downloads/SMD081507A.pdf

SENATE BILL No. 906

Introduced by Senators Beall and Anderson
(Coauthors: Senators Hertzberg and Pan)

January 17, 2018

An act to add Article 1.4 (commencing with Section 14045.10) to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 906, as introduced, Beall. Medi-Cal: mental health services: peer, parent, transition-age, and family support specialist certification.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income persons receive health care benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions. Existing law provides for a schedule of benefits under the Medi-Cal program and provides for various services, including various behavioral and mental health services.

Existing law, the Mental Health Services Act (MHSA), an initiative measure enacted by the voters as Proposition 63 at the November 2, 2004, statewide general election, establishes the continuously appropriated Mental Health Services Fund to fund various county mental health programs. The act also requires funds to be reserved for the costs for the State Department of Health Care Services, the California Mental Health Planning Council, the Office of Statewide Health Planning and Development (OSHPD), the Mental Health Services Oversight and Accountability Commission, the State Department of Public Health, and any other state agency to implement all duties pursuant to certain programs provided for by the act, subject to appropriation in the annual Budget Act. The act provides that it may be amended by the Legislature

by a ⅔ vote of each house as long as the amendment is consistent with, and furthers the intent of, the act, and that the Legislature may also clarify procedures and terms of the act by majority vote.

This bill would require the State Department of Health Care Services to establish, no later than July 1, 2019, a statewide peer, parent, transition-age, and family support specialist certification program, as a part of the state's comprehensive mental health and substance use disorder delivery system and the Medi-Cal program. The bill would include 4 certification categories: adult peer support specialists, transition-age youth peer support specialists, family peer support specialists, and parent peer support specialists. The certification program's components would include, among others, defining responsibilities and practice guidelines, determining curriculum and core competencies, specifying training and continuing education requirements, establishing a code of ethics, and determining a certification revocation process. The bill would require an applicant for the certification as a peer, parent, transition-age, or family support specialist to meet specified requirements, including successful completion of the curriculum and training requirements.

This bill would require the department to collaborate with OSHPD and interested stakeholders in developing the certification program, and would authorize the department to contract to obtain technical assistance pursuant to a specified joint state-county decisionmaking process. The bill would authorize the department to use funding provided through the MHSA and designated funds administered by OSHPD to develop and administer the certification program, and would authorize the use of these MHSA funds to serve as the state's share of funding to develop and administer the certification program for the purpose of claiming federal financial participation under the Medicaid Program.

This bill would authorize the department to establish a certification fee schedule and to require remittance of fees as contained in the schedule, for the purpose of supporting the department's activities associated with the ongoing state administration of the certification program. The bill would require the department to utilize the other funding resources made available under the bill before determining the need for the certification fee schedule and requiring the remittance of fees. The bill would declare the intent of the Legislature that the certification fees charged by the department be reasonable and reflect the expenditures directly applicable to the ongoing state administration of the certification program.

This bill would require the department to amend the Medicaid state plan to include a certified peer, parent, transition-age, and family support specialist as a provider type for purposes of the Medi-Cal program and to include peer support specialist services as a distinct service type for purposes of the Medi-Cal program. The bill would require Medi-Cal reimbursement for peer support specialist services to be implemented only if and to the extent that federal financial participation is available and the department obtains all necessary federal approvals. The bill would authorize the department to enter into exclusive or nonexclusive contracts on a bid or negotiated basis, as specified, on a statewide or more limited geographic basis. This bill also would authorize the department to implement, interpret, or make specific its provisions by means of plan letters, plan or provider bulletins, or similar instructions, without taking regulatory action, until regulations are adopted. The bill would require the department to adopt regulations by July 1, 2021, and, commencing July 1, 2019, would require the department to provide semiannual status reports to the Legislature until regulations have been adopted.

This bill would declare that it clarifies terms and procedures under the Mental Health Services Act.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Article 1.4 (commencing with Section 14045.10) is added to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 1.4. Peer, Parent, Transition-Age, and Family Support Specialist Certification Program

14045.10. This article shall be known, and may be cited, as the Peer, Parent, Transition-Age, and Family Support Specialist Certification Program Act of 2018.

14045.11. The Legislature finds and declares all of the following:

(a) With the enactment of the Mental Health Services Act in 2004, support to include peer providers identified as consumers,

parents, and family members for the provision of services has been on the rise.

(b) There are over 6,000 peer providers in California who provide individualized support, coaching, facilitation, and education to clients with mental health care needs and substance use disorder, in a variety of settings, yet no statewide scope of practice, standardized curriculum, training standards, supervision standards, or certification protocol is available.

(c) The United States Department of Veterans Affairs and over 30 states utilize standardized curricula and certification protocols for peer support services.

(d) The federal Centers for Medicare and Medicaid Services (CMS) recognizes peer support services as an evidence-based model of care and notes it is an important component in a state's delivery of effective mental health and substance use disorder treatment. The CMS encourages states to offer peer support services as a component of a comprehensive mental health and substance use disorder delivery system, and federal financial participation is available for this purpose.

(e) A substantial number of research studies demonstrate that peer supports improve client functioning, increase client satisfaction, reduce family burden, alleviate depression and other symptoms, reduce hospitalizations and hospital days, increase client activation, and enhance client self-advocacy.

(f) Certification at the state level can incentivize the public mental health system and the Medi-Cal program, including the Drug Medi-Cal program, to increase the number, diversity, and availability of peer providers and peer-driven services.

14045.12. It is the intent of the Legislature that the peer, parent, transition-age, and family support specialist certification program, established under this article, achieve all of the following:

(a) Establish the ongoing provision of peer support services for beneficiaries experiencing mental health care needs, substance use disorder needs, or both by certified peer support specialists.

(b) Provide support, coaching, facilitation, and education to beneficiaries with mental health needs, substance use disorder needs, or both, and to families or significant support persons.

(c) Provide increased family support, building on the strengths of families and helping them achieve desired outcomes.

(d) Provide a part of a wraparound continuum of services, in conjunction with other community mental health services and other substance use disorder services.

(e) Collaborate with others providing care or support to the beneficiary or family.

(f) Assist parents, when applicable, in developing coping mechanisms and problem-solving skills.

(g) Provide an individualized focus on the beneficiary, the family, or both, as needed.

(h) Encourage employment under the peer, parent, transition-age, and family support specialist certification program to reflect the culture, ethnicity, sexual orientation, gender identity, mental health service experiences, and substance use disorder experiences of the people whom they serve.

(i) Promote socialization, recovery, self-sufficiency, self-advocacy, development of natural supports, and maintenance of skills learned in other support services.

14045.13. For purposes of this article, the following definitions shall apply:

(a) "Adult peer support specialist" means a person who is 18 years of age or older and who has self-identified as having lived experience of recovery from mental illness, substance use disorder, or both, and the skills learned in formal trainings to deliver peer support services in a behavioral setting to promote mind-body recovery and resiliency for adults.

(b) "Certification" means, as it pertains to the peer, parent, transition-age, and family support specialist certification program, all federal and state requirements have been satisfied, federal financial participation under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.) is available, and all necessary federal approvals have been obtained.

(c) "Certified" means all federal and state requirements have been satisfied by an individual who is seeking designation under this article, including completion of curriculum and training requirements, testing, and agreement to uphold and abide by the code of ethics.

(d) "Certification examination" means the competency testing requirements, as approved by the department, an individual is required to successfully complete as a condition of becoming certified under this article. Each training program approved by the

department may develop a unique competency examination for each category of peer, parent, transition-age, and family support specialist listed in subdivision (b) of Section 14045.14. Each certification examination shall include core curriculum elements.

(e) "Code of ethics" means the professional standards each certified peer, parent, transition-age, and family support specialist listed in subdivision (b) of Section 14045.14 is required to agree to uphold and abide by. These professional standards shall include principles, expected behavior and conduct of the certificate holder in an agreed-upon statement that is required to be provided to the applicant and acknowledged by signing with his or her personal signature prior to being granted certification under this article.

(f) "Core competencies" are the foundational and essential competencies required by each category of peer, parent, transition-age, and family support specialists listed in subdivision (b) of Section 14045.14 who provide peer support services.

(g) "Cultural competence" means a set of congruent behaviors, attitudes, and policies that come together in a system or agency that enables that system or agency to work effectively in cross-cultural situations. A culturally competent system of care acknowledges and incorporates, at all levels, the importance of language and culture, intersecting identities, assessment of cross-cultural relations, knowledge and acceptance of dynamics of cultural differences, expansion of cultural knowledge, and adaptation of services to meet culturally unique needs to provide services in a culturally competent manner.

(h) "Department" means the State Department of Health Care Services.

(i) "Family peer support specialist" means a person with lived experience as a self-identified family member of an individual experiencing mental illness, substance use disorder, or both, and the skills learned in formal trainings to assist and empower families of individuals experiencing mental illness, substance use disorder, or both. For the purposes of this subdivision, "family member" includes a sibling or kinship caregiver, and their partners.

(j) "Parent" means a person who is parenting or has parented a child or individual experiencing mental illness, substance use disorder, or both, and who can articulate his or her understanding of his or her experience with another parent or caregiver. This

person may be a birth parent, adoptive parent, or family member standing in for an absent parent.

(k) "Parent peer support specialist" means a parent with formal training to assist and empower families parenting a child or individual experiencing mental illness, substance use disorder, or both.

(*l*) "Peer support specialist services" means culturally competent services that promote engagement, socialization, recovery, self-sufficiency, self-advocacy, development of natural supports, identification of strengths, and maintenance of skills learned in other support services. Peer support specialist services shall include, but are not limited to, support, coaching, facilitation, or education to Medi-Cal beneficiaries that is individualized to the beneficiary and is conducted by a certified adult peer support specialist, a certified transition-age youth peer support specialist, a certified family peer support specialist, or a certified parent peer support specialist.

(m) "Recovery" means a process of change through which an individual improves his or her health and wellness, lives a self-directed life, and strives to reach his or her full potential. This process of change recognizes cultural diversity and inclusion, and honors the different routes to resilience and recovery based on the individual and his or her cultural community.

(n) "Transition-age youth peer support specialist" means a person who is 18 years of age or older and who has self-identified as having lived experience of recovery from mental illness, substance use disorder, or both, and the skills learned in formal trainings to deliver peer support services in a behavioral setting to promote mind-body recovery and resiliency for transition-age youth, including adolescents and young adults.

14045.14. No later than July 1, 2019, the department, as the sole state Medicaid agency, shall establish a peer, parent, transition-age, and family support specialist certification program that, at a minimum, shall do all of the following:

(a) Establish a certifying body, either within the department, through contract, or through an interagency agreement, to provide for the certification of peer, parent, transition-age, and family support specialists as described in this article.

(b) Provide for a statewide certification for each of the following categories of peer support specialists, as contained in federal

guidance issued by the Centers for Medicare and Medicaid Services, State Medicaid Director Letter (SMDL) #07-011:

(1) Adult peer support specialists, who may serve individuals across the lifespan.

(2) Transition-age youth peer support specialists.

(3) Family peer support specialists.

(4) Parent peer support specialists.

(c) Define the range of responsibilities and practice guidelines for the categories of peer support specialists listed in subdivision (b), by utilizing best practice materials published by the federal Substance Abuse and Mental Health Services Administration, the federal Department of Veterans Affairs, and related notable experts in the field as a basis for development.

(d) Determine curriculum and core competencies, including curriculum that may be offered in areas of specialization, such as older adults, veterans, family support, forensics, whole health, juvenile justice, youth in foster care, sexual orientation, gender identity, and any other areas of specialization identified by the department. Specialized curriculum shall be determined for each of the categories of peer, parent, transition-age, and family support specialists listed in subdivision (b). Core competencies-based curriculum shall include, at a minimum, all of the following elements:

(1) The concepts of hope, recovery, and wellness.

(2) The role of advocacy.

(3) The role of consumers and family members.

(4) Psychiatric rehabilitation skills and service delivery, and addiction recovery principles, including defined practices.

(5) Cultural competence training.

(6) Trauma-informed care.

(7) Group facilitation skills.

(8) Self-awareness and self-care.

(9) Cooccurring disorders of mental health and substance use.

(10) Conflict resolution.

(11) Professional boundaries and ethics.

(12) Safety and crisis planning.

(13) Navigation of, and referral to, other services.

(14) Documentation skills and standards.

(15) Study and test-taking skills.

(e) Specify training requirements, including core-competencies-based training and specialized training necessary to become certified under this article, allowing for multiple qualified training entities, and requiring training to include people with lived experience as consumers and family members.

(f) Specify required continuing education requirements for certification.

(g) Determine clinical supervision requirements for personnel certified under this article, that shall require, at a minimum, personnel certified pursuant to this article to work under the direction of a mental health rehabilitation specialist, as defined in Section 782.35 of Title 9 of the California Code of Regulations, or substance use disorder professional. A licensed mental health professional, as defined in Section 782.26 of Title 9 of the California Code of Regulations, may also provide supervision.

(h) Establish a code of ethics.

(i) Determine the process for certification renewal.

(j) Determine a process for revocation of certification.

(k) Determine a process for allowing existing personnel employed in the peer support field to obtain certification under this article, at their option.

14045.15. In order to be certified as an adult peer support specialist, an individual shall, at a minimum, satisfy all of the following requirements:

(a) Be at least 18 years of age.

(b) Have or have had a primary diagnosis of mental illness, substance use disorder, or both, which is self-disclosed.

(c) Have received or is receiving mental health services, substance use disorder services, or both.

(d) Be willing to share his or her experience of recovery.

(e) Demonstrate leadership and advocacy skills.

(f) Have a strong dedication to recovery.

(g) Agree to uphold and abide by a code of ethics. A copy of the code of ethics shall be signed by the applicant.

(h) Successful completion of the curriculum and training requirements for an adult peer support specialist.

(i) Pass a certification examination approved by the department for an adult peer support specialist.

(j) Successful completion of any required continuing education, training, and recertification requirements.

14045.16. In order to be certified as a transition-age youth peer support specialist, an individual shall, at a minimum, satisfy all of the following requirements:

(a) Be at least 18 years of age.

(b) Have or have had a primary diagnosis of mental illness, substance use disorder, or both, which is self-disclosed.

(c) Have received or is receiving mental health services, substance use disorder addiction services, or both.

(d) Be willing to share his or her experience of recovery.

(e) Demonstrate leadership and advocacy skills.

(f) Have a strong dedication to recovery.

(g) Agree to uphold and abide by a code of ethics. A copy of the code of ethics shall be signed by the applicant.

(h) Successful completion of the curriculum and training requirements for a transition-age youth peer support specialist.

(i) Pass a certification examination approved by the department for a transition-age youth peer support specialist.

(j) Successful completion of any required continuing education, training, and recertification requirements.

14045.17. In order to be certified as a family peer support specialist, an individual shall, at a minimum, satisfy all of the following requirements:

(a) Be at least 18 years of age.

(b) Be self-identified as a family member of an individual experiencing mental illness, substance use disorder, or both.

(c) Be willing to share his or her experience.

(d) Demonstrate leadership and advocacy skills.

(e) Have a strong dedication to recovery.

(f) Agree to uphold and abide by a code of ethics. A copy of the code of ethics shall be signed by the applicant.

(g) Successful completion of the curriculum and training requirements for a family peer support specialist.

(h) Pass a certification examination approved by the department for a family peer support specialist.

(i) Successful completion of any required continuing education, training, and recertification requirements.

14045.18. In order to be certified as a parent peer support specialist, an individual shall, at a minimum, satisfy all of the following requirements:

(a) Be at least 18 years of age.

(b) Be self-identified as a parent, as defined in Section 14045.13.
(c) Be willing to share his or her experience.
(d) Demonstrate leadership and advocacy skills.
(e) Have a strong dedication to recovery.
(f) Agree to uphold and abide by a code of ethics. A copy of the code of ethics shall be signed by the applicant.
(g) Successful completion of the curriculum and training requirements for a parent peer support specialist.
(h) Pass a certification examination approved by the department for a parent peer support specialist.
(i) Successful completion of any required continuing education, training, and recertification requirements.

14045.19. This article shall not be construed to imply that an individual who is certified pursuant to this article is qualified to, or authorize that individual to, diagnose an illness, prescribe medication, or provide clinical services.

14045.20. The department shall closely collaborate with the Office of Statewide Health Planning and Development (OSHPD) and its associated workforce collaborative, and regularly consult with interested stakeholders, including peer support and family organizations, mental health and substance use disorder services providers and organizations, the County Behavioral Health Directors Association of California, health plans participating in the Medi-Cal managed care program, the California Behavioral Health Planning Council, and other interested parties in developing, implementing, and administering the peer, parent, transition-age, and family support specialist certification program established pursuant to this article. This consultation shall initially include, at a minimum, bimonthly stakeholder meetings, which may also include technical workgroup meetings. The department may seek private funds from a nonprofit organization or foundation for this purpose.

14045.21. The department may contract to obtain technical assistance for the development of the peer, parent, transition-age, and family support specialist certification program, as provided in Section 4061.

14045.22. (a) The department shall amend its Medicaid state plan to do both of the following:
(1) Include each category of peer, parent, transition-age, and family support specialist listed in subdivision (b) of Section

14045.14 certified pursuant to this article as a provider type for purposes of this chapter.

(2) Include peer support specialist services as a distinct service type for purposes of this chapter, which may be provided to eligible Medi-Cal beneficiaries who are enrolled in either a Medi-Cal managed mental health care plan or a Medi-Cal managed care health plan.

(b) The department may seek any federal waivers or other state plan amendments as necessary to implement the certification program provided for under this article.

(c) Medi-Cal reimbursement for peer support specialist services shall be implemented only if and to the extent that federal financial participation under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.) is available and all necessary federal approvals have been obtained.

14045.23. To facilitate early intervention for mental health services, community health workers may partner with peer, parent, transition-age, and family support specialists for engagement, outreach, and education.

14045.24. It is not the intent of the Legislature in enacting this article to modify the Medicaid state plan in any manner that would otherwise change or nullify the requirements, billing, or reimbursement of the "other qualified provider" provider type, as currently authorized by the Medicaid state plan.

14045.25. The department may utilize Mental Health Services Act funds under subdivision (d) of Section 5892 and any designated Workforce Education and Training Program resources, including funding, as administered by OSHPD pursuant to Section 5820, to develop and administer the peer, parent, transition-age, and family support specialist certification program. Further, these Mental Health Service Act funds may then serve as the state's share of funding to develop and administer the peer, parent, transition-age, and family support specialist certification program and shall be available for purposes of claiming federal financial participation under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.) once all necessary federal approvals have been obtained.

14045.26. The department may establish a certification fee schedule and may require remittance as contained in the certification fee schedule for the purpose of supporting the

department's activities associated with the ongoing state administration of the peer, parent, transition-age, and family support specialist certification program. The department shall utilize all funding resources as made available in Section 14045.25 first, prior to determining the need for the certification fee schedule and requiring the remittance of fees. It is the intent of the Legislature that any certification fees charged by the department be reasonable and reflect the expenditures directly applicable to the ongoing state administration of the peer, parent, transition-age, and family support specialist certification program.

14045.27. For the purposes of implementing this article, the department may enter into exclusive or nonexclusive contracts on a bid or negotiated basis, including contracts for the purpose of obtaining subject matter expertise or other technical assistance. Contracts may be statewide or on a more limited geographic basis.

14045.28. 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 this article by means of plan letters, plan or provider bulletins, or similar instructions, without taking regulatory action, until the time regulations are adopted. The department shall adopt regulations by July 1, 2021, 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. Commencing July 1, 2019, the department shall provide semiannual status reports to the Legislature, in compliance with Section 9795 of the Government Code, until regulations have been adopted.

SEC. 2. The Legislature finds and declares that this act clarifies procedures and terms of the Mental Health Services Act within the meaning of Section 18 of the Mental Health Services Act.

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