

**MEMORANDUM OF UNDERSTANDING BETWEEN
LAKE COUNTY DEPARTMENT OF SOCIAL SERVICES
AND LAKE COUNTY BEHAVIORAL HEALTH SERVICES
FOR THE SHARED PROVISION OF LPS CONSERVATORSHIP SERVICES**

RECITALS

WHEREAS, Welfare and Institutions Code section 5351 authorizes the Board of Supervisors to designate the agency to act as the office providing conservatorship investigation pursuant to applicable provisions of the Lanterman-Petris-Short Act (Welfare and Institutions Code sections 5000 et seq.) ("LPS Act") and further authorizes the Board of Supervisors to designate that conservatorship services be provided by the public guardian or agency providing public guardian services; and

WHEREAS, with the acquiescence of the Lake County Behavioral Health Department, (hereinafter, "BHS"), the Lake County Board of Supervisors has authorized the Department of Social Services (hereinafter, "DSS"), by and through the Public Conservator, (hereinafter, "DSS-PC") to provide public conservatorship services; and

WHEREAS, historically, the DSS-PC has made arrangements with BHS for the provision of mental health services to public conservatees and DSS-PC is paid a remuneration by BHS for its oversight and administration of those services, including but not limited to, the necessary preparation for and attendance at all public conservatorship proceedings.

NOW THEREFORE, the parties agree as follows:

This Memorandum of Understanding (MOU) is made and entered into by and between DSS and BHS to memorialize the long history of a successful partnership in regard to the provision of public conservatorship services. The DSS Director shall administer this MOU on behalf of the parties thereto.

I. PURPOSE

The Public Conservator provides mental health conservatorship services for Lake County residents who are gravely disabled (unable to provide for their food, clothing, or shelter) due to mental disease and who have been found by the superior court to be unable or unwilling to accept voluntary treatment. The purpose of this MOU is to establish a dual agency collaborative process to support timely level of care decisions for appropriate treatment and care of public conservatees.

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II. PROCEDURAL TERMINOLGY

“Petition” The initial documentation which must be filed with the superior Court in order to initiate the conservatorship process.

“Temporary Conservatorship”: Pursuant to Welfare & Institutions Code section 5352.1, a temporary conservatorship may be established by the Court for a period not to exceed 30 days and a temporary conservator may be appointed on the basis of a comprehensive report of the officer providing the conservatorship investigation or on the basis of an affidavit of the professionally qualified person who recommended conservatorship, stating the reasons for his or her recommendation. During this 30-day period, the DSS-PC shall continue to investigate the disability of the temporary conservatee and shall protect and care for the person and his/her finances if temporary conservatorship of estate is court ordered.

“LPS Conservatorship”: Prior to the conclusion of the 30-day temporary conservatorship, the DSS-PC shall file a report with the superior court containing all the elements required pursuant to Welfare and Institutions Code section 5354(a).

After hearing, if the Court determines that the person with mental illness is gravely disabled, the Court may establish an LPS Conservatorship and appoint the DSS-PC to serve as conservator. The LPS Conservatorship lasts for a period of one year.

“Annual Review”: A conservatorship must be reviewed annually.

“Renewal/Reappointment”: If the DSS-PC determines that a conservatorship will be required beyond the one-year period, the DSS-PC may petition the superior Court for reappointment as conservator for a succeeding one-year period. The petition must include the opinion of two physicians or licensed psychologists as required by Welfare and Institutions Code section 5361.

“Discharge Planning”: To coordinate a transition from one level of care to another, with the following aims in mind:

- Assisting with re-entry to the community
- Providing the support needed to sustain the progress that was achieved during the in-patient care
- Achieving continuity and coordination of care and treatment
- Providing and mobilizing a level of support that corresponds to what the patient would need for community living
- Minimizing the chances of relapse or immediate return to the hospital by making appropriate placement referrals.
- Preventing homelessness, suicide and/or being criminalized
- Ensuring early intervention during crisis and relapse

- Optimal health and well-being of the patient

III. DESCRIPTION OF SERVICES TO BE PROVIDED BY DSS-PC

A. Filing for a Temporary Conservatorship (hereinafter referred to as a “T-Con”)

1. A T-Con may originate as a referral from an acute psychiatric facility or other facility in which psychiatric treatment has been provided, or from a superior Court. When the DSS-PC or BHS receives a referral from the treating psychiatric facility, upon approval from the BHS Discharge Planner, DSS-PC will coordinate with staff at the facility regarding required documentation, including the physician's declaration, justification, and recommendation for conservatorship that establishes the presence of grave disability. It is the responsibility of the DSS-PC to schedule T-Con hearings.

2. Upon receipt of a physician's declaration, justification, and recommendation for conservatorship, the DSS- PC will review such documents and contact BHS if any questions arise. DSS-PC will contact BHS when all conservatorship paperwork has been received and forward all necessary conservatorship documents to BHS.

B. Management of the Calendars of the Proceedings and Provision of Notice

1. *Calendars.* It is the DSS-PC's responsibility to manage calendars.'

2. *Notification:* DSS-PC will provide reasonable advance notice to BHS of all hearing dates. DSS-PC will timely notify clients regarding all hearings and court procedures. DSS-PC will locate and notify relatives as required by law.

3. *Annual Conservatorship Review.* DSS-PC will notify BHS no less than ninety (90) days before the impending annual conservatorship review hearing date

C. Participation in Court Proceedings.

1. DSS-PC shall participate in all Court conservatorship proceedings. DSS-PC shall notify BHS of all Court approvals as they occur throughout the conservatorship process.

D Contested Hearings:

1. The DSS-PC shall rely upon mental health information received by BHS in the preparation of reports to be submitted in the course of a contest hearing.

2. DSS-PC will notify BHS within seventy-two hours of its receipt of notice that a contested hearing has been requested.

E. Penal Code Section 1370 Proceedings.

1. When DSS-PC is informed that a criminal defendant may be incompetent to stand trial, DSS-PC shall notify BHS.

2. DSS-PC shall rely upon the information derived from the evaluation scheduled by BHS in making its required report response to the superior Court. DSS-PC can request an additional evaluation or second opinion if necessary.

F. Other Services:

1. *Inventory and Appraisals.* If a client has personal property, DSS-PC will request an appraiser to conduct an investigation and submit an inventory report to them.

2. *Accountings.* DSS-PC will keep regular accountings of revenue and expenses of the conservatee's estate, take the lead role in audits instituted by the Internal Revenue Service, the State of California, and/or the Social Security Administration, and supply accountings to the superior Court when required by law or otherwise requested by the superior Court. DSS-PC shall ensure that all bills of conserved clients are paid in a timely manner, including the monthly share of cost billing from BHS. DSS-PC shall obtain all necessary W-9 forms from vendors.

3. *Medical Consent.* DSS-PC will provide medical consent forms to appropriate doctors, agencies or hospitals when necessary for the client.

4. *Application for Medical Benefits.* When necessary, DSS-PC will apply for medical benefits for the client, complete redetermination paperwork, and find supplemental coverage when needed. DSS-PC will notify client of all changes with their medical coverage.

5. *Social Security Coverage.* When applicable, DSS-PC will complete Social Security Administrative (SSA) applications for clients and participate in clients' ongoing SSA audits.

6. *Spending Allowances.* DSS-PC will approve spending allowances, approve purchases, and shop for clients who are unable to do so themselves. If a client does not have sufficient funds to cover additional items, other funding sources will be identified by BHS.

7. *Managing Resources.* With proper documentation of monthly Share of Cost billing received from BHS, DSS-PC will manage and disperse funding as necessary from client accounts to ensure client resources remain under the \$2,000.00 value limit so they are not at risk of losing their Social Security and medical benefits.

8. *Client Interaction.* DSS-PC will interact with clients at a minimum of once a month to check in and address their needs.

9. *Day Passes.* If an In-County facility requests a day pass for a client, DSS-PC will contact BHS and together both parties will determine if it is appropriate for the client to have a day pass. If an Out-of-County facility requests a day pass for a client, the determination will be made between DSS-PC and the facility's Case Manager. In all cases, the facility's recommendation will be taken into consideration before final decision. Once approved, DSS-PC will execute any necessary paperwork for the facility.

10. *Third-Party Assistance.* When DSS-PC receives notice of intent to provide third party assistance, DSS-PC will complete the assessment to determine the ability of that party to provide for basic needs of food, clothing, and shelter.

11. *BHS Assessment.* In the event DSS-PC desires a Behavioral Health perspective as to the ability of the client to provide for his/her basic needs of food, clothing, and shelter, DSS-PC will make a referral to BHS for such a professional assessment.

12. *Medical Placements.* DSS-PC and BHS will meet to collaborate regarding medical placements when determined by a treating physician to be necessary.

IV. DESCRIPTION OF SERVICES TO BE PROVIDED BY BHS

A. Referrals to the DSS-PC for LPS Conservatorship

1. Upon notification from the treating psychiatric facility, BHS will refer to the DSS-PC the recommendation to initiate conservatorship proceedings.
2. BHS will send an email to the DSS-PC notifying them of a pending referral from psychiatric facility.
3. Subsequently, BHS will follow up with a phone call to the DSS-PC to provide client details.
4. While a T-Con is being initiated, BHS will continue with mental health discharge planning services and advise the DSS-PC of any change in client status.

B. BHS Duties Once T-Con Has Been Granted.

1. Upon notification by the DSS-PC that a T-Con is in place, BHS will begin to search for an appropriate psychiatric placement
2. Once an appropriate psychiatric placement is found and approved by the DSS-PC, BHS will notify the DSS-PC of the psychiatric placement so that the DSS-PC can coordinate the necessary authorization for treatment with the placement;
3. BHS will coordinate with the psychiatric placement and the treating psychiatric facility to arrange and/or ensure the transfer of the client to the psychiatric placement;
4. BHS will arrange transportation of the client to the psychiatric placement;

C. LPS Conservatorship Hearing.

1. Once notified by the DSS-PC of the conservatorship hearing date, BHS shall attend all hearings and coordinate transport of the client to the hearing as needed.
2. BHS will ensure that all necessary documentation, including but not limited to medical/treatment records and declarations of treatment personnel, is provided to the DSS-PC no less than the two weeks before the conservatorship hearing.

D. Annual Conservatorship Review

1. BHS will ensure that all necessary documentation, including but not limited to psychiatric medical/treatment records, is provided to the DSS-PC no less than 30 days before said review. DSS-PC will promptly provide for the appropriate Release of Information (ROI) paperwork if necessary.

2. *For clients placed within Lake County:*

a. When notified of an upcoming annual conservatorship review hearing date, BHS will arrange the evaluations conducted by two licensed psychologists or psychiatrists, Evaluations will be completed in person or via a HIPAA-compliant TeleHealth platform.

b. BHS will ensure that all relevant treatment and psychiatric placement records are forwarded to the evaluators.

c. BHS will notify the psychiatric placement of the hearing date, and coordinate transport of the client to and from the evaluation appointment;

d. BHS will ensure that the written evaluation reports are forwarded to the DSS-PC at least thirty (30) days prior to the hearing;

e. If the initial evaluator's report recommends the dropping of the conservatorship, BHS will notify the DSS-PC in writing as soon as possible.

f. BHS will coordinate transportation of the client to and from the hearing should the client choose to attend the hearing.

3. *For clients placed outside of Lake County:*

a. BHS will respond to the DSS-PC's notification of any challenges related to scheduling the required evaluations and assist as needed;

b. If necessary, BHS will schedule the evaluation with a BHS contracted psychologist or psychiatrist and transport the client to and from the evaluation when needed;

c. If a second evaluator is not available, BHS will locate a second licensed psychologist or psychiatrist and arrange for client transport if necessary.

E. Contested Hearings.

1. Once notified by the DSS-PC of a contested hearing, BHS will arrange an evaluation, conducted by a licensed psychologist or psychiatrist, to determine the appropriateness of a Lanterman-Petris-Short (LPS) conservatorship. BHS will submit report to DSS-PC within two weeks of notification.

2. BHS will transport the client to and from the evaluation as needed;

3. BHS will ensure that all written reports are forwarded to the DSS-PC two weeks prior to the hearing for inclusion in its report to the Court;

4. BHS will attend all hearings and coordinate transport of the client to the hearing as needed.

F. Penal Code Section 1370 Proceedings

1. When a client is deemed to be incompetent to stand trial, and unlikely to be restored to competency, the Court will initiate a conservatorship investigation. Once notified by the DSS-PC of that action, BHS will then schedule an evaluation by a professional meeting all statutory qualification requirements who is experienced in identifying a grave disability due to mental illness;

2. BHS will ensure that all written reports are forwarded to the DSS-PC two weeks prior to the hearing for timely filing with the Court.

3. If, after the professional evaluation is completed and reviewed, it appears reasonably foreseeable that a State Hospital placement will be recommended, BHS will initiate the application process as soon as reasonably possible.

4. Once a conservatorship is established, BHS shall take all necessary steps to finalize psychiatric placement efforts for the client.

G. Other Services.

1. *Discharge Planning.* For all conserved clients, BHS will provide mental health case management and mental health discharge planning services as required. Mental health case management includes mental health discharge planning as described in Section II hereinabove and will require BHS' regular contact with the psychiatric placement to ensure the client remains at the appropriate level of care.

2. *Services for Clients Placed In Lake County.*

a. BHS will arrange client housing as needed and as appropriate, after consultation with current psychiatric placement, DSS-PC and client.

b. BHS will coordinate client's enrollment in treatment services including mental health services, substance use services, medication management, independent living skills, and referrals to outside providers as need indicates;

c. BHS will notify the DSS-PC within twenty-four (24) hours of a client's relocation

d. BHS will provide housing subsidies based upon the client's financial need and eligibility to receive housing services.

e. BHS shall provide crisis services as needed and notify DSS-PC as soon as they become aware that a client becomes unstable in the community.

f. *Assistance to Psychiatric Placement.* BHS shall assist the psychiatric placement in determining when a higher or lower level of care is indicated and BHS shall arrange and assist in effecting a transfer. BHS will confirm to the DSS-PC that a transfer or placement change has taken place within 24 hours, if possible, but in no event later

than 48 hours after such transfer or placement change has occurred. BHS shall also assist the psychiatric placement in providing client transportation to and from appointments as needed.

3. Services for Clients Placed Outside of Lake County:

- a. BHS shall make quarterly face-to-face or telehealth contact with the client and the treatment team to review the treatment needs and discharge plans of the client and notify DSS-PC of changes;
- b. When BHS becomes concerned about a client's out-of-County placement or when BHS is notified by the DSS-PC of the DSS-PC's concerns in that regard, BHS shall respond within 24 hours of becoming aware of said concerns and will work collaboratively with the DSS-PC to identify and implement proposed solutions.
- c. BHS shall provide transportation for client as needed to all hearings and DSS-PC approved home visits.
- d. BHS shall notify the DSS-PC whenever BHS becomes aware that the client is in need of money for basic necessities.

4. *Third-Party Assistance.* If BHS is notified that a third party has stepped forward to offer assistance, BHS will refer that party to the DSS-PC for an assessment of whether said third-party has the present ability to provide for client's basic needs of food, clothing, and shelter.

V. MUTUAL OBLIGATIONS OF THE PARTIES

A. Communication Between the Parties

Both DSS-PC and BHS acknowledge and agree that regular, timely, and accurate communication is necessary in order to ensure that the clients receive the comprehensive and responsive care to which they are entitled. To that end, the parties hereto agree they each have an obligation to timely share with each other all relevant information related to a client's conservatorship proceedings, treatment, placement, and service needs and each shall make all reasonable efforts to continually meet said obligation.

B. Collaborative Approach

Both DSS-PC and BHS acknowledge and agree that the overarching goal of this MOU is to develop and maintain an effective collaborative response to needs of clients and, to that end, hereby agree that each shall consistently perform their respective obligations under this MOU in such a manner as to advance that goal.

VI. GRIEVANCE

The parties agree to provide a procedure through which recipients of MOU services shall have the opportunity to grieve or complain regarding service.

VII. TERM

This MOU shall commence on February 1, 2021, and shall continue until either party wishes to revisit terms. MOU may be terminated by mutual decision of both parties, or by thirty (30) day written notice provided by either party. In the event of early termination, DSS-PC shall be compensated at a prorated amount for services provided. In the event the parties desire to temporarily continue services after the expiration of this MOU, such continuation shall be deemed on a month-to-month basis, subject to the same terms, covenants, and conditions contained herein.

VIII. COMPENSATION

BHS has agreed to compensate DSS-PC for the public conservatorship services it renders pursuant to the terms of this MOU. Compensation to DSS-PC shall not exceed one hundred two thousand seven hundred eighty dollars (\$102,780.00) per fiscal year.

IX. SUBMISSION OF INVOICES

DSS-PC shall submit a monthly IDS form to BHS requesting \$8,565, no later than the 20th of the month following the month in which services were provided, except for the months of May and June, which shall be submitted by June 5th. BHS shall review and approve DSS-PC's IDS forms and make payment within fifteen (15) days of approval.

X. COST OF LIVING EXPENSES

BHS will submit the monthly cost of living billing by the 15th of every month. In the event of delayed billing, DSS-PC reserves the right to issue payment as necessary, in order to comply with SSA payee guidelines.

XI. INFORMATION INTEGRITY AND SECURITY

The parties ensure that personal, sensitive, and confidential information is protected from inappropriate or unauthorized access or disclosure in accordance with Welfare and Institutions Code Section 10850, DSS-PC MEDS Data Privacy and Security Agreement, Lake County Information Security Policy, Health Insurance Portability and Accountability Act (HIPAA), and all other applicable laws, regulations and policies. Either party shall immediately notify the other party of any known or suspected breach of personal, sensitive, and confidential information related to work under this MOU.

XII. NON-DISCRIMINATION

The parties shall not unlawfully discriminate against any qualified worker or recipient of services because of race, religious creed, color, sex, sexual orientation, national origin, ancestry, physical disability, mental disability, medical condition, marital status or age. BHS shall comply with and annually sign the DSS-PC "Assurance of Compliance" form.

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XIII. REPORTING REQUIREMENTS – SUSPECTED OR KNOWN ABUSE

A. Child Abuse.

1. DSS-PC and BHS shall ensure that all known or suspected instances of child abuse or neglect, as defined in Penal Code Section 11165, are reported to LCDSS-PC Child Welfare Services.

B. Elder Abuse.

1. DSS-PC and BHS shall ensure that all known or suspected instances of elder abuse as defined in Welfare and Institutions Code 15610, are reported to DSS-PC Adult Protective Services.

XIV. ADHERENCE TO APPLICABLE DISABILITY LAW

The parties shall be responsible for knowing and adhering to the requirements of Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, (42 U.S.C. Sections 12101, et seq.). California Government Code Sections 12920 et seq., and all related state and local laws.

XV. HIPAA COMPLIANCE

The parties will adhere to Titles 9 and 22 and all other applicable Federal and State statutes and regulations, including the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and will make their best efforts to preserve data integrity and the confidentiality of protected health information.

XVI. CONFLICTING INTEREST

Neither BHS nor its employees shall maintain or acquire during the term of this MOU, an interest, direct or indirect, which would conflict in any manner or degree with the performance of services hereunder.

XVII. DISPUTE RESOLUTION

Although the MOU is expected to minimize disputes regarding what is a covered benefit under this agreement and what is not, it is expected that some disagreements may occur. Such disagreements should be resolved at the lowest level possible with the two departments and with a cooperative spirit. Should a dispute occur between workers of the respective departments, the next level Supervisor in each department should be consulted. It is the responsibility of these Supervisors to evaluate the case and determine the most appropriate handling of the matter.

XVIII. SEVERABILITY

If any provision of this MOU is held to be unenforceable, the remainder of this MOU shall be severable and not affected thereby.

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XIX. MODIFICATION

This MOU may only be modified by a written amendment hereto, executed by both parties; however, matters concerning scope of services which do not affect the compensation may be modified by mutual written consent of the parties.

XX. NOTICES

All notices between the parties shall be in writing addressed as follows:

DSS
P.O. Box 9000
Lower Lake, CA 95457

BHS
P.O. Box 1024
Lucerne, CA 95458

This MOU constitutes the entire agreement between the parties regarding its subject matter and supersedes all prior contracts, related proposals, oral and written, and all negotiations, conversations or discussions heretofore and between the parties.

Executed at Lakeport, California on _____.

DSS-PC

BHS


Crystal Markytan (Feb 11, 2021 16:56 PST)


Todd Metcalf (Feb 11, 2021 08:42 PST)

SOCIAL SERVICES DIRECTOR

BEHAVIORAL HEALTH DIRECTOR

COUNTY OF LAKE

ATTEST: CAROL J. HUCHINGSON
Clerk to the Board of Supervisors

CHAIR, Board of Supervisors

By: _____

APPROVED AS TO FORM:

ANITA L. GRANT

County Counsel

By: 





LPS-MOU-DSS-BHS-2021

Final Audit Report

2021-02-12

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