







California Elder and Disability Justice Coordinating Council

7/20/2022 1:00pm - 4:00pm



Meeting Logistics

Telephone or webinar (Zoom) only - No in-person meeting

Closed Captioning can be activated via Zoom

ASL interpreting streamed through webinar

Meeting slides, transcript, and recording will be posted on <u>CalHHS's</u> <u>Committees webpage</u>.

Public Comment

Attendees joining by **phone**, press *9 on your dial pad to join line. The moderator will announce the last 4 digits of your phone number and will unmute your line.

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For additional public comment, email Engage@aging.ca.gov

Council Purpose

The goal of the Elder and Disability
Justice Coordinating Council is to
increase coordination and develop
recommendations to prevent and
address the abuse, neglect,
exploitation, and fraud perpetrated
against older adults and adults with
disabilities.

Welcome & Opening Remarks

Susan DeMarois

CA Department of Aging
State EDJCC Co-Chair

Eric Dowdy

CA Department of Justice
Stakeholder EDJCC Co-Chair

Welcome: Stakeholder Members

- Tony Anderson, Valley Mountain Regional Center
- Diana Boyer, County Welfare Directors Association
- Leza Coleman, California LTC Ombudsman Association
- Akiles Ceron, San Francisco Adult Protective Services
- Eric Dowdy, Alzheimer's Association
- Gloria Echevarria, Family Voices of CA
- Jo Ann Gines, Advocate
- Andrea Higgens, San Mateo County District Attorney's Office
- Scarlet Hughes, CA State Association of Public Administrators, Public Guardians and Public Conservators
- Sherry Johnson-Alvarez, Advocate
- Liz Logsdon, Disability Rights California

Welcome & Introductions

Stakeholder Members

- Vivianne Mbaku, Justice in Aging
- Howard McBroom, Advocate
- Lisa Nerenberg, California Elder Justice Coalition
- Marty Omoto, CA Disability Action Network
- Dr. Carla Perissinotto, University of California, San Francisco
- Scott Pirrello, San Diego District Attorney's Office
- Ellen Schmeding, CA Commission on Aging
- Edwin Smith, Department of Rehabilitation (retired)
- Valerie Smith, Adult Protective Services, Santa Clara County
- Janie Whiteford, CA IHSS Consumer Alliance
- Astrid Zuniga, United Domestic Workers/AFSCME 3930

Welcome: State & Federal Representatives

State & Federal Committee Membership

- Meghan Anderson, CA Department of Justice
- Susan DeMarois, CA Department of Aging
- Dr. Tomás Aragón, CA Department of Public Health
- Aaron Carruthers, State Council on Development Disabilities
- Stephanie Clendenin, CA Department of State Hospitals
- Fay Gordon, Administration for Community Living, Region IX

Welcome: State & Federal Representatives

- Mark Ghilarducci, CA Office of Emergency Services
- Lynda Gledhill, Victims Compensation Board
- Kimberly Kirchmeyer, CA Department of Consumer Affairs
- Bob Sands, CA Department of Health Care Services
- Leslie Morrison, CA Department of Developmental Services
- Claire Ramsey, CA Department of Social Services
- Richard Ramirez, California Department of Insurance
- Kim Rutledge, CA Department of Rehabilitation

Today's Agenda

1:00 - 1:10 Welcome, Opening Remarks, Agenda

1:10 – 1:20 Gap Analysis: System Challenges & Opportunities

1:20 – 1:30 Proposed Council Priorities: Opportunities for Reform

1:30 – 2:00 Priority #1: Adult Protective Services

2:00 - 2:10 Public Comment

2:10 – 2:20 Break

2:20 – 2:50 Priority #2: Legal Services

2:50 – 3:20 Priority #3: Conservatorship

3:20 – 3:40 CA for ALL Ages & Abilities Day of Action: EDJCC Recommendations

3:40 – 3:50 Public Comment

3:55 - 4:00 Closing & Next steps

Gap Analysis:

3 Scenarios
Illustrating
Systems
Challenges &
Opportunities

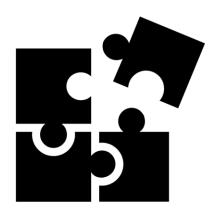
Andrea Higgens

San Mateo County District Attorney's Office

Akiles Ceron

San Francisco Human Services Agency

Gap Analysis Subcommittee Update



We are examining three person-centered scenarios as a way of identifying gaps in response to reports of abuse related to older adults or people living with disabilities. These scenarios will ultimately help us make policy recommendations to improve outcomes for older adults and people living with disabilities by improving responses across disciplines.

Scenarios:

- Report of suspected financial abuse of a community-dwelling older adult.
- Report of suspected physical abuse of a person with a disability in a licensed care facility.
- Report of possible self-neglect by a community-dwelling older adult.

Proposed Council Priorities:

Opportunities for Reform

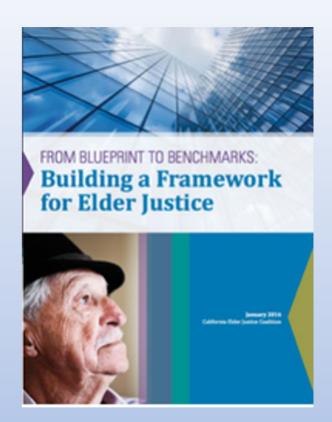
Vivianne Mbaku

Justice in Aging

Lisa Nerenberg

CA Elder Justice Coalition









https://www.elderjusticecal.org



Follow us on Twitter at https://twitter.com/elderjusticecal

Priorities Presentation & Discussion#1:

Adult Protective Services

Leza Coleman

CA Commission on Aging

Valerie Smith

Adult Protective Services, Santa Clara County

Valerie Smith, LCSW
Program Manager
Adult Protective Services
County of Santa Clara, CA

A BRIEF INSIGHT INTO ADULT PROTECTIVE SERVICES

ADULT PROTECTIVE SERVICES OVERVIEW

- The Adult Protective Services (APS) program helps elder and dependent adults who are victims of abuse, neglect, or financial exploitation.
- APS programs receive reports, investigates cases and may provide and link victims to services to prevent and remedy the abuse, neglect or financial exploitation
- Elder and dependent adult abuse is a critical public health issue. According to the Administration on Community Living, abuse survivors report higher rates of depression. Some victims of elder abuse and neglect often withdraw from social interactions, and may blame themselves, which results in shame and silence, magnifying these effects.

APS POPULATIONS AND INTERVENTIONS

The APS program serves two populations defined as:

- Elders: residents of California age 60 and older
- Dependent Adults: residents of California between the ages of 18 to 59 who have physical or mental limitations that restrict their ability to carry out activities or to protect their rights

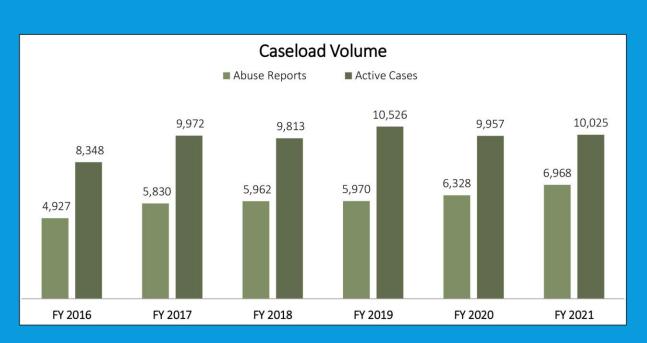
Interventions may include:

- Consultation: When a mandated reporter or community member is concerned that abuse may be occurring, APS can provide consultation, information, and referral to other agencies.
- Investigation: focus is on an assessment of the elder or dependent adult's well-being which includes the living environment, support system; and their strengths. The allegations are examined, and level of risk is assessed. A plan is developed with the client's participation, which may include arranging for emergency services, shelter, or medical care.
- Collaboration: APS social workers or case workers may provide referrals or linkage to community services, benefits, advocacy, or health care. They may also coordinate with family, friends, and other professionals to assist in meeting the needs.

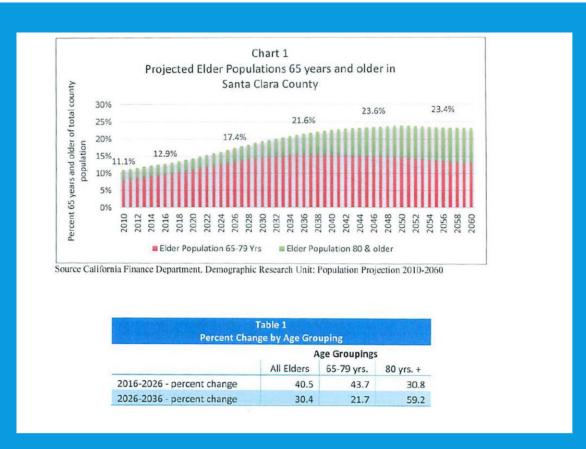
APS PRINCIPLES

- The concerns of elders and dependent adults are the starting point of any intervention.
- Elders and dependent adults have the right the right to accept or refuse services at any time.
- The APS program is intended to provide intervention activities directed toward safeguarding the well-being of elders and dependent adults suffering from or at risk of abuse or neglect, including self-neglect
- The APS program is not intended to be a long-term, on-going "case management" activity.
- The APS program will offer appropriate adult protective services in accordance with client's individual needs and acceptance
- APS shall be aimed at preventing or remedying elder or dependent adult abuse or neglect
- APS shall promote self-sufficiency and reduce the need for further reliance on the adult protective services program

SNAPSHOT OF APS DATA IN SANTA CLARA COUNTY



41% increase in reports and 20% increase in cases for investigation



40.5% change within the next decade from 12.9% in 2016 to 17.4% in 2026. Greater increase is expected among elders 80 years and older between 2026-2036.

APS legal mandate in the <u>Welfare and</u> <u>Institution Code section 15763</u> states in part:

Each county shall establish an emergency response adult protective services program that shall:

- 1) provide in-person response, 24 hours per day, seven days per week, to reports of abuse of an elder or a dependent adult,
- 2) for the purpose of providing immediate intake or intervention, or both, to new reports involving immediate life threats and to crises in existing cases.

POLICY

MANDATED REPORTERS

California law requires certain persons to report known or suspected abuse of dependent adults or elders, known as "Mandated Reporters" which includes:

- Care custodians and any person who has assumed full or intermittent responsibility for care or custody of an elder or dependent adult, whether paid for that responsibility (Welfare and Institutions Code (WIC) Section 15630(a)).
- Care custodian means an administrator or an employee of most public or private facilities or agencies, or persons providing care or services for elders or dependent adults, including members of the support staff and maintenance staff (WIC Section 15610.17).

Any mandated reporter, who in his or her professional capacity, or within the scope of his or her employment, has observed or has knowledge of an incident that reasonably appears to be abuse or neglect, or is told by an elder or dependent adult that he or she has experienced behavior constituting abuse or neglect, or reasonably suspects that abuse or neglect occurred, shall make the report to the county Adult Protective Services program.

TYPES OF ABUSE THAT APS INVESTIGATES

Self Neglect

Financial Abuse

Physical Abuse, including Sexual Abuse

Neglect

Mental Suffering

Abduction

Isolation

Abandonment

APS STATEWIDE EXPANSION

- AB 135 (Chapter 85, Statutes of 2021) expands California's APS program effective January 1, 2022:
- Changes definition of elder for purposes of APS from age 65 to age 60
- Changes definition of dependent adult to any person residing in this state between 18 and 59 years of age who has a combination of a disability and the inability to protect their own interest, or who has an inability to carry out normal activities to protect their rights, including, but not limited to, persons who have physical or developmental disabilities, or whose physical or mental abilities have diminished because of age.

APS HOME SAFE PROGRAM

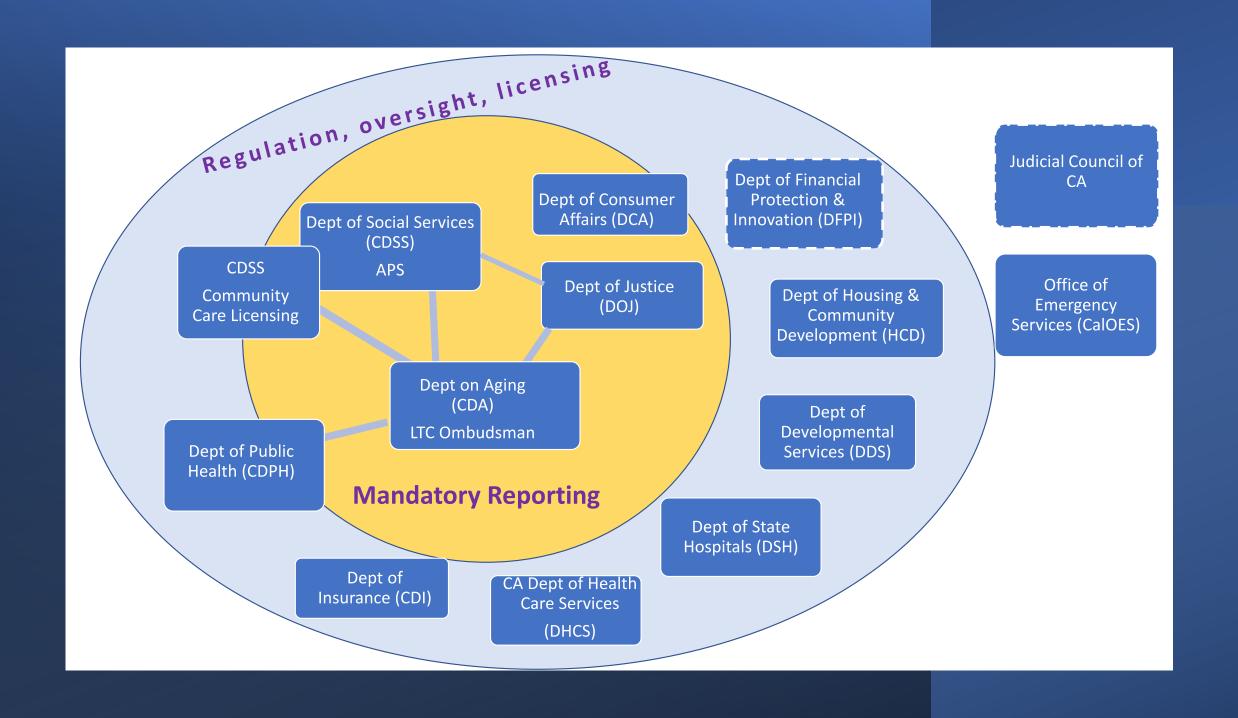
- The Home Safe pilot began as a pilot grant program and was developed to serve clients referred to the APS program for investigation of elder and dependent adult abuse and neglect and for services to protect, prevent and remedy abuse and neglect.
- The California State Budget for FY 2019 appropriated \$15 million General Fund (one-time) to fund Home Safe over a three-year period, beginning July 1, 2018 and ending June 30,2021. Service to clients began in July 2019 as per the grant.
- The goal of the Home Safe Program is to support the safety and housing stability of individuals involved in APS by providing housing-related assistance using evidence-based practices for homeless assistance and prevention.
- Based on the success of the pilot grant in approximately 25 counties, the California Budget Act of 2021 appropriated \$92.5 million and established Home Safe as a permanent program in APS.

Caregiving Incentives

Enhanced partnerships

Health/Mental Health Liaisons

OPPORTUNITIES TO TRANSFORM



Focus on the Problem: Focus on the Goal:

No	X Complicated system for providers and consumers
Wrong Door	Improve the coordination of services
	Program services vary by region
Consistency	Inconsistency in criteria for investigating cases
	Up-to-date training opportunities
	Routinely review, identifying emerging issues

Workforce

High turnover, large case loads

Provide student loan forgiveness grants









Broker of Services or Provider of Services?



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- 1st step: Comprehensive Program Review
- Do our current Policies & Procedures produce the desired outcomes?





Public Comment

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Break

The meeting will resume shortly

Priorities Presentation & Discussion#2:

Legal Services

James Treggiari

CA Elder Justice Coalition

& Legal Assistance for Seniors

Elder Justice through the Lens of Legal Services

James Treggiari

Executive Director, Legal Assistance for Seniors

Steering and Executive Committee Member of the California Elder Justice Coalition

Overview of the Legal System in Relation to Older Adults

- Effectively protecting Older Californians requires a highly coordinated civil and criminal legal system that is also collaborating with and integrating other social and medical support services.
- "Elder Justice" can include a broad array of legal services including advanced planning, criminal prosecution, civil litigation, restraining orders, conservatorship and family law legal remedies.
- These solutions often involve a broad range of providers including the DA, Law Enforcement, County Counsel, Legal Aid Organizations, Civil Attorneys and many non-legal providers like Adult Protective Services, Public Guardian, Case Management organizations and mental health providers.
- Legal solutions can also fall in a variety of jurisdictions including federal, state and consumer protection and regulatory agencies.
- Typical legal services from Legal Aid include housing, public benefits, immigration, estate planning and AHCDs and restraining orders. Some legal aid offer additional services.
- While there are broad statements that are accurate statewide, these issues and solutions have very unique implementation strategies in local communities.
- Even though we are specifically focused on legal solutions, there is rarely, if ever, a need for legal services and no other supports. Services often must be provided in a coordinated and timely manner to be effective.

Recent Developments in California

- ▶ Elder Courts have been dissolved in some counties due to budgetary constraints in realignment and lack of understanding of the importance of the design. This can be problematic when a case is litigated in various practice areas (family/probate/civil).
- ▶ AB 1194 gave funding for the Judicial Council to do a review of the conservatorship system.
- ► The California Bar is looking into the potential expanded use of paraprofessionals to make legal services more broadly available. While there is need for additional support, there are lots of concerns.

Challenges in the Legal System to Effectively serve Older Adults

- Concerns around working with older adults who are impaired. This leads to attorneys being unwilling to bring forward valid claims of abuse. Competent attorneys are rightfully concerned about whether they have a client to direct them or not but lack the expertise to properly analyze whether a case is still possible and how to navigate litigation.
- Prosecuting entities for abuse requires understanding of complex regulatory systems, financial systems and standards of care. There are only a small pool of attorneys who handle these cases.
- ▶ Even with opportunities for enhanced fees, it is difficult to get civil attorneys to take on these cases. Referrals from Adult Protective Services and other mandated reporters continues to be unstructured and ineffective.

Challenges (Continued)

- Connecting older adults to appropriate legal services can be daunting. A recent LAAC survey found that most older Californians do not seek out or receive legal help because they do not recognize their issues as legal or how to access help. Rural areas face additional logistical burdens in accessing help, with some areas having one attorney available to help several counties.
- In addition to the lack of access and understanding of the effectiveness of legal services, abuse is still vastly underreported and often is only reported after the abuse has been happening for some time. This can make for limited remedies to the issue.
- Deed transfers, marriage licenses and planning documents are easily executed and often used as tools of abuse that can be hard and complicated to undo once executed.
- Statutory issues around capacity declarations, lack of understanding of independent review and the financial elder abuse statute is unsettled around standards of liability

Challenges (Continued)

- Older adults with impaired capacity who do not have appropriate planning documents in place are left vulnerable to abuse, having medical wishes not followed, prolonged hospitalizations and homelessness. While conservatorship is an option for protection, less restrictive options are not being leveraged.
- Public mistrust of government agencies and law enforcement in communities that have been historically been disenfranchised has led to a lack of trust and underreporting.
- Financial abuse and the lack of appropriate support around property and homeownership have led to a gutting of equity in disenfranchised communities.
- Systems (medical, criminal, legal, social services) are still undercoordinated and siloed. This leads to disjointed and often less effective legal services for older adults.
- Gaps, shortages and disparities in access to legal services for non-affluent older Californians. Underserved groups include BIPOC and homebound elders as well as older adults with limited English proficiency, those living in long-term care facilities and rural communities.

Focus on Access to Justice

Legal Aid

- Focus needed on outreach to disenfranchised communities to increase understanding of the legal services that are available and can help.
- ► Access to legal aid services needs to be improved in these communities (language availability, greater case capacity, mobile legal clinics, etc.)
- ▶ Building stronger, more formalized partnership with medical and social service providers should be prioritized.
- ▶ Strengthen services in estate planning and homeowner protection.

Civil Law

- California Bar referral network needs to be made more robust to give older adults access to competent civil attorneys who are trained in elder law and financial abuse.
- Increased outreach and training available to build the pool of attorneys who are able and willing to take these cases.

Access to Justice (continued)

- Criminal Law
 - Criminal prosecution of commercial predators needs to be prioritized.
 - Additional trainings for prosecutors to allow them to address issues that may arise in working with older adults.
- Restorative justice approaches to elder abuse need to be better understood and implemented as a potential strategy in appropriate cases.
- Supporting the reestablishment of elder courts which provide a central point of coordination for complex cases that cut across several practice areas and needs inside and outside the court system.
- Data collection needs to be improved to better demonstrate the impact of legal interventions in terms of outcomes, impact, disparities in access, unmet needs and trends.

CEJC's Elder Justice Blueprint

THE CALIFORNIA ELDER JUSTICE COALITION IS A CROSS DISCIPLINE GROUP OF PROFESSIONALS SERVING OLDER CALIFORNIANS WITH THE GOAL OF ADDRESSING THE MOST PRESSING NEEDS IN ELDER JUSTICE AND SUPPORTING SERVICES PROVIDERS TO ENHANCE THEIR SERVICES AND STRENGTHEN THE NETWORK OF SERVICES AVAILABLE TO OLDER ADULTS

THE BLUEPRINT REPRESENTS A CROSS DISCIPLINE EFFORT OF CEJC TO CREATE A REPORT THAT HIGHLIGHTS WHERE CALIFORNIA HAS MADE PROGRESS IN ADDRESSING A WIDE VARIETY OF ISSUES RELEVANT TO ELDER ABUSE PREVENTION. IT ALSO HIGHLIGHTS RECOMMENDATIONS IN THESE AREAS TO FURTHER ENHANCE SERVICES PROVIDED TO OLDER ADULTS.

PLEASE GO TO THE ADDRESS BELOW TO ACCESS THE FULL BLUEPRINT DOCUMENT.

CEJC PUBLICATIONS (ELDERJUSTICECAL.ORG)

Priorities Presentation & Discussion#3:

Conservatorship

Scarlet Hughes

CA State Association of Public Guardians, Public Administrators, Public Conservators



OVERVIEW OF THE CA STATE ASSOCIATION OF PUBLIC ADMINISTRATORS, PUBLIC GUARDIANS, AND PUBLIC CONSERVATORS

Scarlet D. Hughes,

Executive Director

7/20/2022



Today's Speaker – Scarlet Hughes



Scarlet Hughes was appointed the Executive Director of the California State Association of Public Administrators, Public Guardians, and Public Conservators on September 6, 2016. Prior to serving as the Executive Director of CA PA|PG|PC, she served as the San Joaquin County Public Guardian/Conservator for 13 years, where she was responsible for the day-to-day operations of the LPS and Probate conservatorship programs and the county's Representative Payee program.

Prior to her move to San Joaquin County, Scarlet worked in the Sacramento County Public Administrator/Public Guardian/Public Conservator's office for 17 years, as a Deputy Public Guardian/Public Conservator, Supervising Deputy Public Guardian/Public Conservator and eventually as a Manager.

Scarlet received a Bachelor of Science degree in Psychology in 1981 and a Masters of Social Work in May 1995, from California State University, Sacramento.



CA PA | PG | PC Assn.

- County Officials appointed by Board of Supervisors
- Certifying body legally responsible for PA|PG|PCs accreditation
- Three programs:
 - Probate Conservatorship (PG)
 - LPS Conservatorship (PC)
 - Public Administrator (PA)

CALIFORNIA STATE ASSOCIATION OF PA PG PC

What is a Conservatorship?

- A court proceeding to appoint a legally responsible person
 - For someone who is unable to provide for his/her personal needs or properly manage his/her finances
- Two Types of Conservatorship
 - ➤ Lanterman-Petris-Short (LPS) for individuals w/severe mental health disorders who are gravely disabled
 - Probate generally for older adults w/major neurocognitive disorders, victims of elder abuse
- Public vs Private Conservatorship

Conservatorship Facts



Appointed by the County Superior Court

 Can be granted authority over "Person" and/or "Estate" or both

- Funded with County General Fund \$258 million
- County Operated Social Service Program which does not receive state or federal funding



LPS Conservatorship Basics

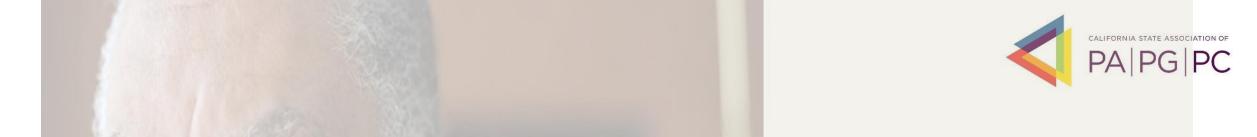


- LPS is an acronym for Lanterman-Petris-Short Act
 - Legislation passed in the 1960s
 - Mandated due process commitment criteria to protect the rights of the mentally ill and
 - > To provide involuntary mental health treatment
- Must be appointed of person, and may be for person & estate
- Conservatorship process begins with W&I Code Section 5150

LPS Conservatorship Basics



- Referrals received from designated acute mental health facilities
- Based on Grave Disability:
 - The inability to provide for basic needs of food, clothing, <u>or</u> shelter
 - > Due to a mental disorder or chronic alcoholism, <u>and</u>
 - The person is unwilling or incapable of accepting voluntary treatment
- Terminates after one year and requires yearly evaluation, and petition for reappointment



PROBATE CONSERVATORSHIP Basics

Probate Conservatorship-Basics



- Serves Individuals with Major Neurocognitive Disorders (mostly those with dementia)
- Legal Basis: lacks capacity to make decisions
- Can obtain full medical decision-making authority
- Can not authorize psychotropic medications (except with dementia powers)
- Can not place in a locked psychiatric facility
- Anyone can petition to be Conservator
- Difficult to terminate
- Duration: Lifetime (generally)



Probate Client Typically

- Is frail and elderly
- Has numerous medical problems
- Has significant cognitive and/or physical difficulties
- Can no longer manage his/her financial affairs or make prudent day-to-day life decisions

Omnibus Act of 2006



- Implemented Significant/New <u>Unfunded</u>
 Mandates
- Probate Code §2920 (Omnibus Act of 2006)
 - PG must begin investigation within 2 business days
 - Requires court to appoint PG, if it appears needed
 - PG must file if imminent threat to person or estate
 - Court can appoint PG over objections
- Increased caseloads



Current Challenges



- Critically underfunded No dedicated state/fed funding
- Diversion of justice involved cases w/psychiatric issues
 - ➤ Average 500% increase in forensic referrals between 2016-2022
 - Creates placement challenges & risks
- Shortage of placements options
 - Especially for Conservatees w/dementia & behavioral Issues
 - Conservatees w/criminal justice histories

Current Challenges



- Increase in difficult cases
 - Young, Violent, TBI/Dementia
- Critical staffing shortages
 - From 2017/2018 to 2020/2021 = 26% surge in cases
 - Average Cases load = 65-80 which are 3 to 5 times higher than similar case management functions (CPS)
 - Average caseloads are 33% above capacity
- Lack of data



Other Systems Impacted

- General acute care hospitals
- Psychiatric hospitals
- Jails
- Courts
- Adult Protective Services
- Ombudsman

Suggested Solutions



- Establish a State Department for PG/PC
 - > Enhanced oversight
 - Data collection
 - > Standardization/uniformity
 - > Technical Support
 - Allocation of funds

PAPGPC \$200 mil Budget Ask



- Increase capacity for PG/PCs to
 - Protect our most vulnerable citizens
- Enable PG/PCs to respond more quickly to emergencies & referrals
- Improve frequency of client visits to help maintain stability & avoid homelessness
- Reduce the recidivism rates

PAPGPC \$200 m Budget Ask



- Augments/not supplants \$258 mil from counties
- Funding structure hasn't changed in over 40 years
- Current system is not sustainable
- Not supported like other safety net partners
- It is time for a state/county partnership

How Can EDJCC Help?



Support and advocate for PG/PC funding

Support establishing a "State Home" for PG/PC

Develop data collection processes

Support <u>no</u> new requirements w/o funding







shughes@capapgpc.org

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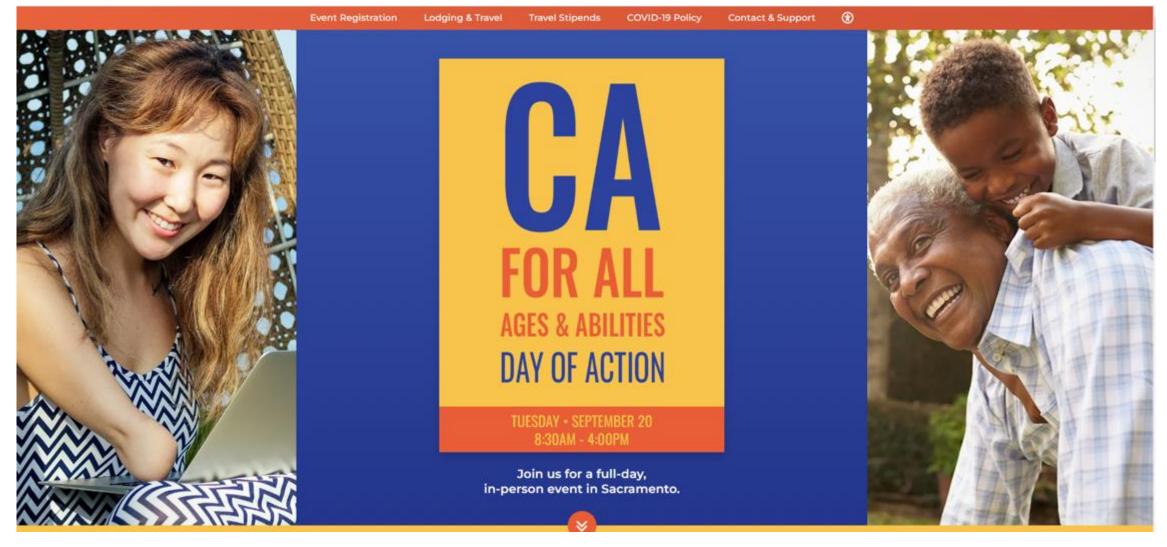
CA for ALL Ages & Abilities Day of Action

Council Recommendations

Amanda Lawrence

CA Department of Aging

Space is Filling up! Register Today!



CA for All Ages & Abilities Day of Action Role of Stakeholder Committees

Registration and Stakeholder Committee Meetings (breakout session)

*starts at 8:30am

Stakeholder Master Plan For Aging Priorities for 2023-2024

- Each Committee will have 7 mins to present its top 2-3 recommended priorities for inclusion in the MPA's 2023-2024 initiatives.

Recommendation Development Process:

- One recommendation for each of the 3 Priority Areas
- Submitted by August 31st to CDA (via SurveyMonkey)

Public Comment

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Closing & Next Steps

Susan DeMarois
CA Department of Aging

Eric DowdyAlzheimer's Association

