

IMPLEMENTATING “LAURA’S LAW”
(ASSISTED OUTPATIENT TREATMENT)

THE NEVADA COUNTY EXPERIENCE
ROD PENCE, NAMI - NEVADA COUNTY

PURPOSE:

It is the purpose of this document to assist other counties who may choose to implement AB 1421, “Laura’s Law” (Assisted Outpatient Treatment), using funding from their Mental Health Services Act Community Services and Supports (MHSA–CSS) Three Year Plan. Note that it is not necessary to use MHSA–CSS funding to implement AB 1421. However, this is the process being used by Nevada County, with the approval of the State Department of Mental Health (DMH). Note also that Nevada County must fully meet the requirements of AB 1421 and the DMH before obtaining DMH approval to implement Assisted Outpatient Treatment (AOT), as discussed further below.

BACKGROUND:

AB 1421 (Reference A) was passed in 2002 as an alternative to existing Lanterman-Petris-Short (LPS) statutes, which have not been effective in the long term. LPS requires inpatient treatment in a locked psychiatric hospital when a person with serious mental illness (SMI) meets specified criteria under Section 5150 of the Welfare and Institutions Code (W&IC). This criteria is generally referred to as “a danger to self or others, or gravely disabled”. AB 1421 offers Assertive Community Treatment (ACT) in conjunction with Assisted Outpatient Treatment (AOT) when a person with SMI meets or is at risk of meeting these 5150 criteria. See Reference B, “A Guide to Laura’s Law,” for more information.

Evidence-based ACT offers integrated treatment of a person in his/her own community, in the least restrictive manner possible, using a mobile, multidisciplinary team of mental health professionals and specialists (psychiatrists, psychologists, psychiatric nurses/technicians, marriage and family counselors, social workers, peer specialists, vocational specialists, substance abuse specialists, etc.). Team members are available 24 hours per day, 7 days per week to do “whatever, wherever and whenever it takes” in the treatment, rehabilitation and support of clients. Teams are “staff rich”, with a ratio of no more than 10 clients per staff member. Treatment plans are “client-driven”, meaning the plans are tailored to individual client needs and are prepared with the full participation of the client and (when appropriate) family members. See Reference C, “A Manual for ACT Start Up” for a complete description of how to staff and operate an Assertive Community Treatment (ACT) team.

Assisted Outpatient Treatment (AOT), as envisioned in Laura’s Law, is sustained and intensive court mandated outpatient treatment in the community. The intent is to stop the “revolving door” of repeated hospitalizations, jailings, and homelessness. Severe psychiatric illnesses greatly impair self-awareness for many people to the extent that they may not realize they are sick and in need of treatment. Some key requirements for AOT qualification are when the person is 1) known to be substantially deteriorating, 2) considered a potential danger to themselves or others, 3) non-compliant with past treatment, and 4) likely, in the opinion of a mental health professional, to benefit from AOT. Only county mental health directors, or their designee, may petition the court for AOT. However, a variety of persons, including law enforcement and family members, may request that the mental health director initiate an investigation on the need for an AOT court order. The consequences of noncompliance with the AOT court order could be treatment in a locked psychiatric hospital under existing 5150 regulations, if the LPS criteria are met (i.e., the same as if AB 1421 was not available).

Laura's Law has not been widely implemented in California. Due to State budget constraints, the funding originally attached to Laura's Law was eliminated. Counties have the option to fund it themselves. However, under the existing law, funds for AOT cannot come from sources that would otherwise have been used for existing services. Consequently, new funding would be required for the implementation of Laura's Law. The sunset date for Laura's Law was extended from 2008 until 2013 with the passage of AB 2357 last year (in 2006).

Laura's Law is modeled after Kendra's Law in New York State. Kendra, like Laura, was an innocent victim of a man with untreated mental illness. New York has documented the stunning success of Kendra's Law. Patients who engaged in AOT in New York experienced 77% less hospitalization, a 74% reduction in homelessness and 87% fewer incarcerations when compared to the three years prior to participation in the program. One could assume that Laura's Law would show similar results in Nevada County when it is implemented here.

In 2004, California voters approved the Mental Health Services Act (Proposition 63). See Reference D. The MHSA will provide a significant source of new funds to expand mental health services throughout the state, using a 1% tax on income above One Million Dollars. The MHSA specifically envisioned an ACT program (also referred to as a full service partnership) for adult, older adult and transitional age youth that is functionally equivalent to the ACT program in Laura's Law using AOT. The DMH issued their requirements for implementing the MHSA CSS program per Reference E. This program is available to those who would participate voluntarily, as well as those whose participation is court ordered such as under Laura's Law. Nevada County has successfully proposed that MHSA funds will be used to implement Laura's Law, and has DMH approval to do so (subject to meeting other DMH requirements for AOT, as discussed further below).

DISCUSSION :

A. HOW NEVADA COUNTY DID IT.

On January 10, 2001, a client at Nevada County Behavioral Health Department (BHD) went on a shooting spree at the BHD facility and then in a local restaurant that resulted in the deaths of three people and the serious injury of several more. One of the three who were killed was Laura Wilcox, a young college student and at the time a part time worker at BHD. It became known that the client had been refusing treatment and was having a psychotic breakdown at that time. The Wilcox family sued Nevada County for the wrongful death of their daughter, Laura, and one of the outcomes of that court suit settlement was a commitment by Nevada County to implement Laura's Law when funding became available under MHSA (Proposition 63). The Nevada County Board of Supervisors issued a resolution to that effect. Assemblymember Helen Thomson, author of AB 1421, named the bill "Laura's Law" in memory of Laura Wilcox.

Consequently, the Nevada County Mental Health Services Act (MHSA) Three Year Program and Expenditure Plan for Community Services and Supports (CSS) proposed inclusion of Laura's Law under MHSA-CSS funding at the initial submittal and ultimately the negotiated final DMH approved version of the County Plan.

The initial submittal of the County Plan, dated April 17, 2006 (Reference F), had twelve (12) Work Plans, including Work Plan # 4, Assertive Community Treatment (ACT) and Work Plan # 6, Laura's Law. The August 15, 2006 DMH Letter to Nevada County Behavioral Health (Reference G) transmitted DMH comments on the April 17, 2006 County Plan after a joint DMH/BHD meeting on July 11, 2006. The DMH suggested combining of the 12 work plans into fewer work plans, and specifically integrating

Work Plan #6 into Work Plan #4, as an example. The intent was to simplify the Plan primarily for administrative purposes. One of the DMH concerns was whether the Laura's Law program was involuntary. The county response was that the assertive community treatment program (ACT) is voluntary to all age groups. It would not exclude conservatees or any other court ordered treatment individuals from participating in ACT, even though the ACT program itself is voluntary for all participants. The DMH has clearly stated that participation in the ACT Program is available to all that qualify, regardless of their legal status. The Nevada County MHSA-CSS Three Year Plan was resubmitted (dated March 13, 2007) in its final form (Reference H) with only two Work Plans (Wraparound for children and Youth, and Assertive Community Treatment for adults and older adults - transitional age youth (TAY) could access either program. All of the original 12 work plans were integrated into one of the 2 revised work plans, including Work Plan #6 (Laura's Law) into Work Plan #4 (ACT). Note: the original April 17, 2006 County Plan included an Addendum IV which reflects a total of 17 original proposals, 5 of which were not included in the County Plan request for funds. These additional 5 proposals might be reviewed again for inclusion when/if more funding becomes available.

In addition to the ACT team, which provides the bulk of the mental health services for Laura's Law (AOT) participants, the County Plan includes a part time (0.5 FTE, or full time equivalent) licensed mental health professional as an integrated part of the ACT team who, in addition to the other duties shared by the ACT team providers, will perform the specialty functions of providing assisted outpatient treatment services to those consumers referred to the team by the court. It is the description of the duties of this individual (previously referred to as the "court liaison" member of the ACT team) which was the final resolution needed to obtain DMH approval of the Nevada County Plan (see page 30 of the current County Plan and the page 83 revision to that page).

DMH approval of the Nevada County MHSA-CSS Three Year Program and Expenditure Plan was provided by DMH letter to Nevada County Behavioral Health dated May 22, 2007 (Reference I). In that letter, DMH made it clear that "The Department would like to assure you that those individuals eligible for Mental Health Services Act (MHSA) programs, such as the approved Assertive Community Treatment Team may have voluntary or involuntary legal status. However, the provision of services to individuals with Assisted Outpatient Treatment (AOT) status does not constitute approval of an AOT program. Although implementation of an AOT program is a local option, counties that choose to implement are required to comply with all statutory provisions, as well as the information requested by the Department in DMH Letter No.: 03-01, dated March 20, 2003" (Reference J, including enclosures). These DMH statements are consistent with DMH Letter No.: 05-05, August 1, 2005 (Reference E), which transmits the DMH requirements for the Mental Health Services Act Community Services and Supports – Three Year Program and Expenditure Plan. Enclosure 1 to that letter, Page 1, last paragraph states "Individuals accessing services funded by the Mental Health services Act may have voluntary or involuntary legal status which shall not affect their ability to access the expanded services under this Act. Programs funded under the Mental Health Services Act must be voluntary in nature."

The tragic shooting event of January 10, 2001 notwithstanding, it was the formation of the Nevada County Forensic Task Force on Mental Illness that started the movement towards collaborative community stakeholder participation in transforming the county mental health system. This Forensic Task Force was initiated by NAMI Nevada County in 1999, with the full support of the County Board of Supervisors and many stakeholders from the justice system and county mental health (we call it behavioral health, as it includes substance abuse as well as serious mental illness), as well as others in the community who are directly affected by the mental health service system (or lack thereof). The Forensic Task Force led to the formation of the Nevada County Mental Health Court, and became the foundation for the MHSA Steering Committee.

B. HOW OTHER COUNTIES CAN DO IT:

1. In order to implement Laura's Law in your county, you must first have an Assertive Community Treatment team that will meet all of the requirements of Proposition 63 (Reference D, the Mental Health Services Act) and Laura's Law (AB 1421, Reference A), including all of the requirements imposed on these statutes by the DMH per References E and J. NAMI strongly recommends that your county ACT program will meet all of the requirements of the Reference C Manual for ACT Start-Up as well, since fidelity to this ACT Manual has been consistently successful in achieving desired outcomes. For example, it is most important that the client to staff ratio does not exceed 10 to 1.
2. Whether or not your county now has an ACT team that meets the criteria specified in 1 above, you must obtain DMH approval for your intent for that team to serve all clients that meet qualification requirements, regardless of legal status, and including clients who are court ordered to receive Assisted Outpatient Treatment (AOT) under Laura's Law. However, it must be made clear that all services under the ACT team shall be voluntary. If the client refuses to participate voluntarily on the ACT team, the alternative would be inpatient treatment in a locked psychiatric facility, if the client meets W&IC 5150 criteria.
3. Nevada County has also included in their MHSA CSS plan, as approved by DMH, a part time (0.5 FTE) licensed mental health professional staff member, as a member of the ACT team, who will perform the specialty functions of providing assisted outpatient treatment services to those consumers referred to the team by the court. See Page 30 of the Nevada County Plan (Reference H) as amended by Page 83 of that Plan. Other counties may choose to add this option to their County Plan. Please note, however, that MHSA funds may only be used for direct mental health services. Additional direct court costs are not covered under MHSA funds.
4. Please pay particular attention to the Reference J DMH Letter No.: 03-01, dated March 20, 2003 and its enclosures, detailing the DMH requirements for implementing assisted outpatient treatment and Laura's Law.
5. In order to ensure ongoing community stakeholder support for Laura's Law and all other services provided under MHSA, it is strongly recommended that each county establish and maintain a Mental Health Criminal Justice Collaboration Community Project (which we call our Nevada County Forensic Task Force on Mental Illness) as well as a MHSA Steering Committee for oversight and accountability.
6. See Reference K for DMH requirements to make changes to the MHSA-CSS Plan to add Laura's Law, whether or not the existing Plan is approved and has Assertive Community Treatment (ACT).

REFERENCES:

- A. AB 1421 (Thomson), Chaptered 9/28/02, “Laura’s Law”
Website: www.leginfo.ca.gov/pub/01-02/bill/asm/ab_1401-1450/ab_1421_bill_20020928_chaptered.html
- B. A Guide to Laura’s Law, California’s Law for Assisted Outpatient Treatment, Second Edition, January 2003 prepared by the California Treatment Advocacy Coalition and the Treatment Advocacy Center, Randall Hagar, Chuck Sosebee and Carla Jacobs.
Website: www.psychlaws.org/StateActivity/California/Guide-Lauras-Law-AB1421.htm
- C. A Manual for ACT Start-Up, 2003 Edition, by Deborah J. Allness, M.S.S.W. and William H. Knoedler, M.D. No website. Order copy via the NAMI Website at www.nami.org, click “NAMI Store”, then click “Books and Booklets.” If you need help in obtaining a copy, call the NAMI National office in Arlington, VA at 703-524-7600 or 1-800-950-NAMI (6264).
- D. Proposition 63, The Mental Health Services Act.
www.dmh.cahwnet.gov/mhsa/docs/Mental_Health_Services_Act_Full_Text.pdf
- E. DMH Letter 05-05, 8/1/05, MENTAL HEALTH SERVICES ACT COMMUNITY SERVICES AND SUPPORTS – THREE-YEAR PROGRAM AND EXPENDITURE PLAN REQUIREMENTS, FISCAL YEARS 2005, 2006, 2007. Website: www.dmh.ca.gov/mhsa/docs/05-05CSS.pdf
- F. NEVADA COUNTY MENTAL HEALTH SERVICES ACT COMMUNITY SERVICES AND SUPPORTS THREE-YEAR PROGRAM AND EXPENDITURE PLAN, April 17, 2006. No Website. Contact Nevada County Behavioral Health Department, (530) 265-1437.
- G. DMH Letter dated August 15, 2006 to Nevada County Behavioral Health commenting on Reference F Nevada County MHSA – CSS Three-Year Program and Expenditure Plan dated April 17, 2006. No website.
- H. NEVADA COUNTY MENTAL HEALTH SERVICES ACT (MHSA) THREE-YEAR PROGRAM and EXPENDITURE PLAN COMMUNITY SERVICES AND SUPPORTS Fiscal Years 2005-06, 2006-07, and 2007-08, revised March 13, 2007. See pages 16, 28-30, 52, 53, 57, 59, 68 and 83 (last page –unnumbered).
Website: <https://docs.co.nevada.ca.us/dsweb/Get/Document-415624>
- I. DMH Letter dated May 22, 2007 to Nevada County Behavioral Health, approving Reference H Nevada County MHSA – CSS Three-Year Program and Expenditure Plan dated March 13, 2007. Website: <http://docs.co.nevada.ca.us/dsweb/Get/Document-447591/MHSAPlanApprovalLetterfromDMH>
- J. DMH Letter No.: 03-01, dated March 20, 2003, stating the requirements for implementation of an Assisted Outpatient Treatment (AOT) program, “Laura’s Law”. This letter and its enclosures may be found at website: <http://www.dmh.ca.gov/DMHDocs/default.asp?view=letters> by scrolling down to “03-01”.
- K. DMH INFORMATION NOTICE NO.: 06-15, dated December 7, 2006, on the performance contract amendment process for the MHSA-CSS Plan. Website: <http://www.dmh.ca.gov/DMHDocs/docs/notices06/06-15.pdf>