

MEMORANDUM

To: Alameda County Mental Health Advisory Board (MHAB)
From: Ad Hoc Bylaws Committee
Re: Proposed Amendments to MHAB Bylaws
Date: January 11, 2021

The Ad Hoc Bylaws Committee (Julie Leftwich, Marsha Mclinnis and Loren Farrar) has reviewed and analyzed the current bylaws of the MHAB, approved by the MHAB on May 9, 2016 and ratified by the Alameda County Board of Supervisors on September 26, 2017, together with relevant state and local law and the model bylaws published by the California Association of Local Behavioral Health Boards and Commissions. We have also consulted with Theresa Comstock, Executive Director of that Association.

The Ad Hoc Bylaws Committee accordingly recommends that the bylaws be amended in the following ways:

SUBSTANTIVE CHANGES

1. Reduce the number of board members from 17 to 16. Article I, Section IV(a), on p. 1 of the bylaws, states that the board shall have 17 members, one of whom shall be the Chair of the Board of Supervisors or his/her designee. Section 2.68.020 of the Alameda County Administrative Code states that the board shall consist of 17 members. Welfare and Institutions Code Section 5604(a)(1) states that boards shall have 10-15 members, but are permitted to increase that number. The model bylaws state that there shall be 15 members.

We recommend that the MHAB amend the bylaws to reduce the number of board members from 17 to 16, which will allow each supervisor to appoint three board members and the Chair of the Board of Supervisors to appoint his/her designee. The bylaws could also be amended to provide that in the event a motion receives a tie vote, the motion will fail. The Administrative Code Section should be amended to reflect any change in the number of board members.

2. Amend the provisions regarding the composition of the board to reflect state law requirements and be less prescriptive about occupational representation on the board. As set forth below, Article I, Section IV(c), on p. 2 of the bylaws, includes very specific requirements about board composition, e.g., that two members must be physicians engaged in private practice, one of whom shall specialize in psychiatry.

Welfare and Institutions Code Section 5604(a)(2)(B) states that: "Fifty percent of the board membership shall be consumers, or the parents, spouses, siblings, or adult children of

consumers, who are receiving or have received mental health services. At least 20% of the total membership shall be consumers, and at least 20% shall be families of consumers.”

Section 5604(a)(2)(C) provides that:

In addition to consumers and family members referenced in subparagraph (B), counties are encouraged to appoint individuals who have experience with and knowledge of the mental health system. This would include members of the community that engage with individuals living with mental illness in the course of daily operations, such as representatives of county offices of education, large and small businesses, hospitals, hospital districts, physicians practicing in emergency departments, city police chiefs, county sheriffs, and community and nonprofit service providers.

Finally, Section 5604.5(b) provides that mental health boards shall develop bylaws to be approved by the governing body which shall “ensure that the composition of the mental health board represents and reflects the diversity and demographics of the county as a whole, to the extent feasible.”

Our bylaws don't include any of this state law language. The bylaws provide instead that:

Board members shall be as follows: two members shall be physicians engaged in the private practice of medicine, one of whom shall specialize in psychiatry; nine members shall be persons representative of the public interest in mental health and of those nine, five shall be persons or the parents, spouse, or adult children of persons who have received mental health services; the other five members of the advisory board representative of the public interest shall be selected from the disciplines of psychology, social work, nursing, education, marriage and family counseling, psychiatric technology, criminal justice, hospital or community mental health facility administration and fiscal management.

Similar language is contained in Administrative Code Section 2.68.030.

We recommend that the MHAB revise the bylaws to reflect state law and add language to encourage, but not require, that certain professions (e.g., physicians in private practice and psychiatrists) be appointed to the board. The Administrative Code should be amended to reflect any changes in this regard.

3. Add the state law consumer exception to the prohibition on board members who are employed by mental health services agencies. Welfare and Institutions Code Sections 5604(e)(1) and (2) provide that no board member or spouse of a board member shall be employed by a county mental health service, by the State Department of Health Care Services or by the governing body of a mental health contract agency, unless that person is a consumer of mental health services and he/she holds a position which has no interest or influence regarding financial or contractual matters concerning that employer.

Article I, Section IV (c) and (f) of the MHAB bylaws, on p. 2, contain duplicative, but not identical, provisions prohibiting employment by mental health services agencies. They do not, however, include the consumer exception of state law. That exception should be added to the bylaws and this issue should only be addressed once.

4. Reduce term limits for board members from 12 years to 9 years. Article I, Section IV(e), on p. 2 of the bylaws, states that board members shall serve no more than 4 consecutive (3-year) terms, not to exceed 12 years total. Welfare and Institutions Code Section 5604(c) states that board members shall serve for a term of 3 years. The model bylaws state that board members shall be limited to 2 consecutive 3-year terms unless waived by a majority of the Board of Supervisors.

We recommend that the bylaws be amended to reduce board member terms to 3 consecutive 3-year terms.

5. Eliminate the office of secretary. Article I, Section VI, on p. 3 of the bylaws, states that there shall be a chair, vice-chair and secretary. Section X, also on p. 3, states that the secretary is responsible for confirming the accuracy of the minutes and shall assist the chair and vice-chair in the performance of their duties. The model bylaws, in contrast, state that board members shall serve as chair and vice-chair, and that the director of the county mental health services agency shall designate staff to serve as secretary for the board. We recommend that the bylaws be amended to be consistent with the model bylaws.

Section 2.68.050 of the Alameda County Administrative Code states that the board shall annually elect a chairman and if the chairman is absent from a meeting, the members who are present shall elect one member to serve as a temporary chairman. That section states further that the board may appoint a secretary who need not be a member of the board, to serve without compensation. The Administrative Code should be amended to reflect the bylaws and any changes thereto.

6. Delete the requirement that committees develop annual work plans that are to be reviewed by the full board. We recommend this requirement, set forth in Article I, Section XIV(h), on p.4, be deleted and that the bylaws be amended to require that the board hold an annual strategy meeting which includes a discussion of committee goals.

7. Add provisions stating that standing committees must comply with the Brown Act and include at least 2 board members. These provisions should be added to Section XIV, on p. 4.

8. Clarify the role of committees. Article I, Section XIV(h), on p. 4, states that "any action recommended by a committee shall be acted upon by the full" board. This language is vague and could be interpreted to require committees to obtain board approval for all of their actions (e.g., inviting speakers to meetings, etc.). The model bylaws do not contain anything on this topic.

We recommend that the MHAB delete this provision and add language stating that: 1) the function of a committee is to study an issue and advise the board; and 2) committees shall not make recommendations to the Board of Supervisors independently.

9. Clarify the circumstances under which a board member may be removed from the MHAB.

Section XV(a), on p. 5, states that a board member may be removed after being absent at “three consecutive board and/or committee meetings... without just cause and advance notice of such cause prior to the meeting to be missed.” Removal is also authorized for the circumstances outlined in Administrative Code Section 2.68.060 (providing that the Board of Supervisors may remove a board member in cases of misconduct, inability or willful neglect in the performance of his/her duties).

Because Section XV(a) does not specify to whom advance notice of an absence must be given, we recommend that it be amended to clarify that such notice must be provided to the chair and to staff designated by the Director of Behavioral Health Care Services to serve as secretary to the board. We also recommend that reference to “committee meetings” be deleted, so that removal is only appropriate where a board member has failed to attend three consecutive MHAB meetings without just cause and advance notice.

NONSUBSTANTIVE CHANGES

The Ad Hoc Committee also recommends that the bylaws be amended to make nonsubstantive changes (e.g., to remove duplicative provisions, change certain subject headings, etc.). Those changes will be reflected in the draft amended bylaws which will be provided to the board.