Better Health for All

COUNTY OF SANTA CLARA
Health System

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DATE: January 25, 2022

TO: Honorable Members of the Board of Supervisors
Jeffrey V. Smith, M.D., J.D., County Executive

FROM: René G. Santiago, Deputy County Executive/Director, Health System
Sherri Terao, Director of Behavioral Health Services

SUBJECT: Assisted Outpatient Treatment (AOT) Policies and Procedures (P&P) Updates

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During the Board of Supervisors Meeting on December 14, 2021 (Item No. 42), Supervisor Ellenberg requested that the BHSD provide an off-agenda memo to address questions that arose from the review of the AOT P&P. The information provided is meant to clarify the AOT P&Ps to ensure the operational plans are consistent with the Board of Supervisor's goal to implement an effective program.

Question: If a person referred might meet eligibility for Lanterman-Petris Short (LPS) conservatorship, how will those cases be distinguished from those that will go through the AOT program?

- The LPS Act provides specific guidelines for the commitment and treatment of mental health patients and provides protections for the legal rights of such individuals. Mental health evaluations by court-recognized, licensed psychiatrist are required by the LPS Act. Although AOT program staff will not be conducting LPS conservatorship assessments, designated AOT program staff will have the ability to evaluate referred individuals for meeting 5150 criteria and write holds where appropriate. When AOT individuals are hospitalized, AOT program staff will collaborate with hospital staff on treatment and discharge planning. If the individual is hospitalized and referred for a LPS conservatorship, the AOT program would not close the individual's services until the outcome of the conservatorship investigation and hearing are final. If an individual was referred for conservatorship prior to the referral to the AOT program, the AOT referral would not proceed until the outcome of the conservatorship investigation is finalized. Once conserved, it would be up to the conservator to decide the individual's treatment. If the conservator decides to have the individual considered for the AOT program, then the AOT screening would continue.

Question: The policies document notes that the AOT program will work with the civil court, not criminal courts. Specifically, which courts will be assigned these cases, and what steps will be taken to support the court partners in the implementation of AOT? For example, the Mental Health Treatment Court has specialized processes and staff to play a unique role within the criminal court system.

- AOT cases will be assigned to the Mental Health Treatment Court (Department 61)

on a specific day and time of the week. However, depending on the size of the calendar and other needs of the Court, the presiding Judge may at any time decide that these cases should be heard in another Department. Collaboration through partner workgroups that include County Counsel, the Santa Clara County Courts and the Public Defender's Office is ongoing and will continue to discuss the needs of the AOT program as it evolves.

Question: Regarding outreach, the document states (page 3): "If the referred individual does not meet criteria, they will be referred to the appropriate level of care within county behavioral health services."

- **What steps will be taken to follow up on the referral and support the individual connecting to care?**
  - The County AOT triage team will make a direct referral to intensive level of services (i.e., Assertive Community Treatment [ACT] or Intensive Full Service Partnership [IFSP]). The AOT team will also have regular check-ins and schedule case conference meetings as needed with ACT and IFSP providers to follow up on the referrals to ensure that non-AOT individuals are engaged and connected to services.
- **What if any information will be provided to the person who initiated the referral, especially if a family member, on whether contact is made with the client and if they are deemed eligible for AOT or routed to another resource?**
  - If an individual referred to AOT can consent to information sharing, the AOT triage team will obtain a release of information to share referral disposition as appropriate. The petitions for AOT services and associated treatment records will be protected by the same laws that protect mental health treatment information including other civil commitment documents like 5150s, 5250s, and conservatorship proceedings.

Question: Regarding notice, the document states (page 3): "The petitioner or their counsel shall promptly serve a copy of the petition, together with written notice of the hearing date, personally on the individual who is the subject of the petition and shall send a copy of the petition and notice to the County Office of Patients' Rights." If the petitioner is the Behavioral Health Services Director or designee, who specifically will contact the individual to serve the notice? Will law enforcement be involved in serving notice in the AOT program?

- The County AOT triage team will collaborate with AOT contracted providers (i.e., Mental Health Systems and Telecare Corporation) to determine on a case-by-case basis which team would be most appropriate to serve the notice to the individual. In the absence of immediate safety issues or crisis, no law enforcement involvement is needed as this is not a criminal case.

Question: Regarding noncompliance, the document states (page 4): "Failure to comply with an order of AOT alone is not grounds for involuntary civil commitment or a finding that the individual who is the subject of the petition is in contempt of court."

- **What are the specific clinical criteria for involuntary civil commitment?**

- An individual needs to meet clinical criteria for inpatient civil commitment; not complying with an AOT order is not grounds for such commitment if clinical criteria is not met. Criteria for 5150 evaluations for inpatient commitment include imminent danger to self or others, or inability to provide basic care for self-such as food, clothing, and shelter (i.e.: grave disability).

- **In the AOT workflow, which individuals in the AOT program team would make a determination if clinical criteria is met, or would the AOT team refer these individuals over to Emergency Psychiatric Services (EPS) to make these assessments?**
  - The AOT triage team (e.g., the Psychiatrist, Psychologist and/or Licensed or Licensed Waivered Social Worker, or Licensed or license Waivered Marriage and Family Therapist [MFT]) will make the determination to initiate 5150 holds. EPS will make the determination if they choose to extend the hold.
- **In the operational plan of the AOT team, could an individual be referred directly by the AOT program team to an inpatient hospitalization on a 5150 hold, assuming that a member of the AOT team has the certification to apply a 5150, or would all individuals go through EPS?**
  - Yes, designated AOT program staff can initiate 5150 holds, but EPS will need to continue evaluating to extend the hold.

Question: Regarding AOT program criteria, the document states (page 5): "Within the last 36 months, [the individual] has been hospitalized at least twice in the mental health unit of a state hospital or local correctional facility due to mental illness". Would hospitalization in an LPS-designated inpatient mental health facility, such as the Barbara Aarons Pavilion (BAP) meet this criterion or is it limited specifically to a state hospital and correctional facility?

- Yes, any mental health hospital (including custody health) or LPS designated inpatient mental health facility (i.e., BAP), would be seen as meeting hospitalization criteria.

Question: The document states (page 6) that a "peace officer" may initiate an AOT referral. Can this be any officer in a law enforcement agency, or do you expect that there would be policies or procedures within partner law enforcement agencies that would route, coordinate and manage these referrals, including to streamline processes and avoid duplicate referrals?

- The language in the P&P references "peace officer, parole officers, or probation officers assigned to supervise the individual." This provision primarily applies to probation and parole officers that provide supervision of an individual. Since such supervision is usually assigned to one department, the likelihood of duplication is low. Partner law enforcement agencies will not be able to refer just any person that they encounter in the community.

Question: Can a physician in an Emergency Department or in the Valley Homeless Healthcare Program submit a referral to AOT?

- Yes, physicians in an Emergency Department or Valley Homeless Healthcare setting will be able to submit a referral for AOT assessment.

Question: What tracking mechanism will be put in place to monitor referrals, deduplicate, and analyze information such as who is referring, characteristics of who is referred, outcomes of referrals, etc.? Will this information be included in the evaluation plan referenced on page 15 of the document?

- The AOT team has been working with the BHSD Analytics & Reporting team creating surveys and incorporating metrics to collect information at the pre-admission, admission and at the exit of the AOT program to ensure that referrals, outcomes, and data required by the Department of Health Care Services (DHCS) are tracked. This data will be entered and tracked in the electronic health record system to easily look up, prevent duplication and run reports. The AOT team will have regular meetings with the BHSD Data Analytics & Reporting team to review data to improve training and awareness of the program in the community.

Question: The document notes (page 6) that the Call Center is staffed 24/7, but will referrals for AOT be received 24/7?

- All referrals will be processed within two business days from the day they are received. Calls will be received during business hours, Monday-Friday, 8:00 AM - 5:00 PM. The Call Center will route calls received after business hours to a secure voicemail. Any messages received after business hours will be retrieved the following business day.

Question: If a law enforcement officer wants to make an AOT referral and the AOT team is not available to accept a call, what options would be available to the officer to connect to AOT rather than to EPS or jail?

- AOT is a referral-based program that requires an individual to meet AOT criteria to be eligible to receive AOT services. The AOT team is not a crisis response team. Individuals in crisis will be prompted to utilize BHSD crisis response programs, such as the Mobile Crisis Response Team, Psychiatric Emergency Response Team, Sobering Center, or the Crisis Stabilization Unit.

Question: How would the officer know if an individual has already been referred to AOT and the outcome of that referral (eligible for program, connected to provider)? Could some mechanism for verification of AOT status be included in the Administrative Booking process at jail?

- An individual's AOT order, the voluntary treatment plan, and the individualized plan itself is protected mental health information, which law enforcement does not have access to. During the jail booking process, if a mental health need is identified, an assessment will be performed at that time.

Question: Regarding outreach, the document states (page 7) "When the individual is located, the County Triage Team will screen to determine whether the individual meets the AOT criteria. If the individual does not meet the AOT criteria, then s/he will be referred directly to Adult and Older Adult (AOA) Programs for the most appropriate level of care such as Intensive Full-Service Partnership (IFSP), ACT or the FACT".

- **What will happen if a treatment slot is not currently available for an individual at**

the time ofreferral?

- The AOT team will receive weekly capacity reports from ACT and IFSP providers to triage referrals accordingly. If there are no available slots, the AOT Triage team will continue to outreach and engage with the individual until a slot becomes available.

- **What steps will the AOT team and BHSD staff take to monitor availability of these treatment slots to assure good connections for those that are determined not to be eligible for AOT at the time of patient contact?**
  - Projections based on past and current data reflect that ACT and IFSP programs would be capable of meeting future needs. The AOT team will continue to have regular meetings with contract managers and service providers to coordinate service delivery and begin short- and long-term planning should any program exceed 80% capacity.
- **Given the 50 ACT and FACT treatment slots added in support of the AOT program, will these slots be held only for individuals who meet all criteria and become part of the AOT program?**
  - Yes, these 50 slots are allocated to support individuals specifically participating in the AOT program.
- **Would AOT eligible individuals that accept voluntary treatment be added to an already existing treatment slot to reserve these 50 just for individuals under a court order?**
  - The AOT program will use the 50 slots for voluntary and involuntary AOT individuals. If utilization exceeds 80% capacity, BHSD will re-evaluate the need and expand slots if necessary.
- **Given the critical importance of stable housing to effective treatment for people with mentalillness, how will housing resources be assessed and coordinated within the overall workflow?**
  - At the time of screening, if the individual is unhoused, the County AOT triage team will conduct a housing needs assessment (VI-SPDAT) and connect them with existing housing resources in the County. BHSD is also working with existing providers to create a Master Lease Housing pilot program to house those individuals in need of assistance.
- **Will the County intake team or the provider of the treatment slot bear responsibility for meeting the housing needs of the** individual**?**
  - The County AOT triage team and provider team will work collaboratively to ensure that AOT individuals are provided assistance to meet housing needs.
- **How will this be monitored and supported throughout the treatment period?**
  - The AOT contract manager will monitor housing supports provided for AOT individuals.

Question: Regarding legal representation, the document states (page 9) "That the individual who is the subject ofthe petition has the right to be represented by counsel in all stages of an AOT proceeding." Can an individual refuse the right to Counsel or will this be like an IST trial where that right is denied (*Indiana v. Edwards*)?

- Yes, the individual can decline the right to counsel.

Question: Regarding care coordination, the document states (page 13) "The Program will provide continuity of care during inpatient episodes and incarcerations, including acute care and after-care planning. Contacts and supports should continue with AOT adult and older adult individuals admitted at local hospitals and locked facilities to ensure that AOT teams maintain a connection with the individuals to help their transition back to the community." If a patient is enrolled in AOT and compliant with their plan, what steps can be taken to assure law enforcement routes these individuals to their care team or crisis services rather than jail whenever possible?

- The AOT team will provide ongoing collaboration with law enforcement agencies to coordinate treatment. The core of AOT is to focus on only a few individuals at a time to provide intensive support. The AOT team will collaborate with Custody Health Services on release and placement planning for any AOT individual who is taken to jail. However, if an AOT individual is in the community and arrested for committing a crime, there is currently no system in place for the arresting officer to know that the individual is an AOT recipient since their treatment is confidential. Further, an AOT treatment plan is not an alternative to criminal consequences of an individual's behavior. AOT treatment plans will be tailored to "reduce or eliminate serious antisocial or criminal behavior, and thereby reduce or eliminate the individuals contact with the criminal justice system." (WIC 5348 (a)(4)(H).

Question: Regarding discharge criteria, the document states (page 13) an individual may be discharged from the AOT program "Upon a good faith determination by the AOT team that the program cannot effectively serve the individual."

- **Please clarify the scenarios that would meet this criterion.**
  - An example could be when the clinical determination indicates a need for higher level of care. This provision in the law refers to individuals who are institutionalized for an extended period. This could happen through the LPS process or the criminal process. If a person commits a crime and is sentenced to an extended period of incarceration, the AOT program would be unable to effectively serve the individual's needs. The individual would be served through services provided for those who are incarcerated through the Custody Health Services and BHSD Criminal Justice Services system.
- **Would this include if there is a lack of available AOT treatment slots to receive care?**
  - No, this is not related to slot availability. It is related to clinical determination that AOT cannot effectively serve the individual's need.
- **As ACT and FACT are the most intensive outpatient treatment programs offered by the BHSD, if an individual needed a higher level of care that might be available through AOT, what would happen?**
  - The AOT team will regularly re-evaluate the individuals in the AOT program and will make additional referrals to programs that are able to provide the appropriate level of care.

Question: Please outline the scope and goals of the AOT evaluation plan and how the AOT advisory body and/or the Board of Supervisors will be engaged in the evaluation plan development and review of evaluation reports for the AOT program.

- The AOT team is working with the advisory committee to develop an evaluation plan and bring it back to the Board of Supervisors for review. The state requires an evaluation plan which includes 14 different metrics under 5348 (d) and will be evaluated in greater detail after the launch of the program and initial data is collected.

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