

BOARD OF SUPERVISORS, COUNTY OF LAKE, STATE OF CALIFORNIA

RESOLUTION 2013-54

A RESOLUTION TO AMEND RESOLUTION 2010-177 "A RESOLUTION AUTHORIZING MENTAL HEALTH DIRECTOR TO PARTICIPATE IN THE CALIFORNIA MENTAL HEALTH SERVICES AUTHORITY AND APPROVAL OF THE JOINT EXERCISE OF POWERS AGREEMENT."

RECITALS

WHEREAS, the Mental Health Services Act (MHSA) has funding available for statewide and/or regional initiatives when multiple counties collaborate; and

WHEREAS, the California Mental Health Services Authority (CalMHSA) Joint Exercise of Power (JPA) Agreement provides the most direct and efficient way for the County of Lake and the Behavioral Health Department to directly participate in and benefit from statewide mental health funding projects; and

WHEREAS, now the CalMHSA JPA wishes to amend the Resolution 2010-177 to include amendments which allow CalMHSA's programs to include additional mental health and/or behavioral health programs.

NOW THEREFORE, BE IT RESOLVED, ORDERED, AND DECREED:

1. The Second Amended and Restated Joint Exercise of Powers Agreement of the CalMHSA is approved, and the Behavioral Health Director is authorized to sign said Agreement.

THIS RESOLUTION was passed and adopted by the Board of Supervisors of the County of Lake at a regular meeting thereof on the 4th day of June 2013, by the following vote:


AYES: Supervisors Rushing, Farrington, Brown and Smith

NOES: None

ABSENT OR NOT VOTING: None

ATTEST: **MATT PERRY**
Clerk of the Board of Supervisors

COUNTY OF LAKE

By: 
Deputy


Chair, Board of Supervisors

APPROVED AS TO FORM:
ANITA L. GRANT
County Counsel

By: 

**RESTATED JOINT EXERCISE OF POWERS AGREEMENT
CALIFORNIA MENTAL HEALTH SERVICES AUTHORITY**

This **Agreement** is executed in the State of California by and among those **Members**, organized and existing under the Constitution of the State of California, which are parties signatory to this **Agreement**. All such **Members** shall be listed in Appendix A, which shall be attached hereto and made a part hereof.

RECITALS

WHEREAS, Article 1, Chapter 5, Division 7, Title 1 of the California **Government Code** (the "Joint Exercise of Powers Act," **Government Code** section 6500 *et seq.*) permits two or more public agencies by **Agreement** to exercise jointly powers common to the contracting parties; and

WHEREAS, various provisions of the California Welfare and Institutions Code allow California counties to jointly conduct or administer mental and/or behavioral health programs; and

WHEREAS, counties are authorized to jointly contract for state hospital beds (WIC § 4330 *et seq.*); and

WHEREAS, Division 5 of the Welfare and Institutions Code authorizes counties to jointly implement various mental health services governed by that division (including but not limited to §5600 *et seq.*, §5800 *et seq.*, §5840 *et seq.* and §5850 *et seq.*); and

WHEREAS, Chapter 6.3 of Division 3 of Title 3 of the Government Code authorizes joint county contracts with the state for administration of programs, services, or activities including the Drug Medi-Cal Treatment Program (GC §30029.7); and

WHEREAS, Division 9 of the Welfare and Institutions Code (including but not limited to WIC §14712) authorizes joint county implementation of managed mental health care for Medi-Cal beneficiaries and joint county delivery of specialty mental health services; and

WHEREAS, statewide program risk pools for mental health plan (MHP) services are authorized under Division 9 of the Welfare and Institutions Code (including but not limited to WIC § 14718); and

WHEREAS, the **Members** executing this **Agreement** desire to join together for the purpose of jointly exercising their powers under any or all of the statutes referenced above, or any other statute governing county provision of mental and/or behavioral health programs, services or activities.

NOW THEREFORE, the parties agree as follows:

ARTICLE 1
PURPOSES

This **Agreement** is entered into by the **Members** in order to create a separate public entity to provide administrative and fiscal services in support of the **Members'** Mental/Behavioral Health Departments acting alone or in collaboration with other such Departments, which may include operation of Programs to:

- (a) Administer prevention and early intervention services under the Mental Health Services Act;
- (b) Contract and/or negotiate with the State or other providers of mental hospital beds and similar or related services;
- (c) Contract and/or negotiate with the State or federal government for administration of mental health services, programs or activities including but not limited to the Drug Medi-Cal Treatment Program, managed mental health care, delivery of specialty mental health services;
- (d) Operate program risk pools;
- (e) Provide any other similar or related fiscal or administrative services that would be of value to **Members** such as group purchasing, contract management,

research and development, data management, maintenance of a research depository, training, technical assistance, capacity building, education and training; and

- (f) Research, develop, and execute any appropriate policy requests from the the California State Association of Counties ("CSAC") or its affiliates.

It shall be the intent of the **Authority** that all such **Programs** are fiscally self-contained requiring no additional funding from **Members**. Accordingly, no **Member** shall be obligated to fund the **Authority** or any **Program** in an amount greater than the amount to which the **Member** has previously agreed. The indirect costs to operate the **Authority** shall be allocated to each of the **Programs** operated by the **Authority** as directed by its **Members**.

ARTICLE 2 PARTIES TO THE AGREEMENT

Each **Member**, as a party to this **Agreement**, certifies that it intends to and does contract with all other **Members** as parties to this **Agreement** and, with such other **Members** as may later be added as parties to this **Agreement**. Each **Member** also certifies that the withdrawal, expulsion, or other removal of any party from this **Agreement** shall not terminate this **Agreement** or the **Member's** obligations hereunder.

ARTICLE 3 CREATION OF THE AUTHORITY

Pursuant to the Joint Powers Act, there is hereby created a public entity separate and apart from the parties, hereto, to be known as the California Mental Health Services Authority, with such powers as are hereinafter set forth.

Pursuant to the Government Code, Section 6508.1, the assets, debts, liabilities, and obligations of the **Authority** shall not constitute assets, debts, liabilities, or obligations of any

party to this **Agreement**. However, a party to the Agreement may separately contract for, or assume responsibility for, specific debts, liabilities, or obligations of the **Authority**.

ARTICLE 4

POWERS OF THE AUTHORITY

The **Authority** shall have all of the powers common to General Law counties in California and all additional powers set forth in the Article 1, Chapter 5, Division 7, Title 1 of the California **Government Code** (beginning with Section 6500), and is hereby authorized to do all acts necessary for the exercise of said powers. Such powers include, but are not limited to, the following:

- (a) To make and enter into contracts.
- (b) To incur debts, liabilities, and obligations.
- (c) To acquire, hold, or dispose of property, contributions and donations of property, funds, services, and other forms of assistance from persons, firms, corporations, and government entities.
- (d) To sue and be sued in its own name, and to settle any claim against it.
- (e) To receive and use contributions and advances from **Members** as provided in **Government Code** Section 6504, including contributions or advances of personnel, equipment, or property.
- (f) To invest any money in its treasury that is not required for its immediate necessities, pursuant to **Government Code** Section 6509.5.
- (g) To carry out all provisions of this **Agreement**.
- (h) To define fiscal and **Program** participation and withdrawal provisions of **Members**.
- (i) Said powers shall be exercised pursuant to the terms hereof and in the manner provided by law.

ARTICLE 5
TERM OF THE AGREEMENT

This **Agreement** shall become effective on July 1, 2009. This Agreement shall continue in effect until lawfully terminated as provided herein and in Bylaws.

ARTICLE 6
BOARD OF DIRECTORS

The **Authority** shall be governed by the **Board of Directors**, which shall be composed of the local county or city mental health director from each **Member**, appointed or designated, and acknowledged in writing, by the **Member** governing body and serving at the pleasure of that body. Each director shall also designate an alternate director who shall have the authority to attend, participate in and vote at any meeting of the **Board** when the director is absent. A Director or alternate director, upon termination of office or employment with the county, shall automatically terminate membership on the **Board**.

The **Board** shall exercise all powers and conduct all business of the **Authority**, either directly or by delegation except to the extent prohibited by this **Agreement**, the Bylaws, or applicable law.

The **Board** shall elect officers, consisting of a president, vice-president, treasurer, and secretary, according to procedures specified in Bylaws. The **Board** may create committees, including an **Executive Committee**, consistent with the procedures set forth in Bylaws.

To adhere to the regulations of the Fair Political Practices Commission (Title 2, Division 6, California Code of Regulations), each Director and alternate shall file with the **Authority** the required Fair Political Practices Commission (FPPC) forms upon assuming office, during office, and upon termination of office.

Any vacancy in a director position shall be filled by the appointing governing body, subject to the provisions of this Article.

The presence of a majority of the membership of the Board shall constitute a quorum for the transaction of business. Following the establishment of a quorum, measures may normally be passed by a simple majority of **Members** present and voting. As to an action that affects only one of the **Authority's Programs**, only those **Members** who represent counties participating in that **Program** will be counted in determining whether there is a quorum and whether there is approval by a majority.

Notwithstanding the preceding paragraph, upon the motion of any Board **Member**, seconded by another, passage of a measure by the Board will require approval through a weighted voting procedure. For weighted voting purposes there shall be a total of 75 votes. Each **Member** shall have one vote. The remaining votes shall be allocated among the **Members** based on the most recent census. This calculation shall be performed and reviewed annually in June, prior to the next fiscal year. Any weighted vote will be a roll call vote. Weighted votes must be cast in whole by the voting county and may not be split.

At any meeting at which a quorum is initially present, the **Board** may continue to transact business notwithstanding the withdrawal of enough **Members** to leave less than a quorum, provided that each action is approved by at least a majority of the number required to constitute a quorum, and is taken subject to the above-stated proviso concerning actions restricted to one **Program** and to special voting requirements, if any, stated elsewhere in this **Agreement**. If a quorum of the **Board** is not present, the **Executive Committee** may act in the **Board's** stead if a quorum of the **Executive Committee** is present, except as to those actions listed in the Bylaws as requiring action of the full **Board**.

ARTICLE 7

ACCOUNTS AND RECORDS

- (a) Annual Budget. The **Authority** shall annually adopt an operating budget which shall include a separate budget for each **Program** under development or adopted and implemented by the **Authority**.

- (b) **Funds and Accounts.** The **Authority** shall establish and maintain such funds and accounts as may be required by Generally Accepted Accounting Principles, or by any provision of law or any resolution of the **Authority**. Books and records of the **Authority** shall be open to inspection at all reasonable times by authorized representatives of **Members**. Additionally, the **Authority** shall adhere to the standard of strict accountability for funds set forth in **Government Code Section 6505**.
- (c) **Annual Audit.** Pursuant to **Government Code Section 6505**, the **Authority** shall either make or contract with a certified public accountant to make an annual **Fiscal Year** audit of all accounts and records of the **Authority**, conforming in all respects with the requirements of that section. By unanimous request of the Board, the audit may be biennial as permitted by **Government Code section 6505**, subdivision (f). A report of the audit shall be filed as a public record with each of the **Members** and also with the county auditor of the county where the home office of the **Authority** is located and shall be sent to any public agency or person in California that submits a written request to the **Authority**. The report shall be filed within twelve months of the end of the **Fiscal Year** or years under examination. Costs of the audit shall be considered a general expense of the **Authority**.

ARTICLE 8

RESPONSIBILITIES FOR FUNDS AND PROPERTY

The Treasurer of the **Board** shall have the custody of and disburse the **Authority's** funds. He or she may delegate disbursing authority to such persons as may be authorized by the **Board** of Directors to perform that function consistent with **Government Code Section 6505.6**, subject to the requirements of (b) below.

Pursuant to **Government Code Section 6505.5**, the Treasurer of the **Board** shall:

- (a) Receive and acknowledge receipt for all funds of the **Authority** and place them in the treasury so designated by the Treasurer of the **Board** to the credit of the **Authority**.
- (b) Be responsible upon his or her official bond for the safekeeping and disbursements of all **Authority** funds so held by him or her.
- (c) Be responsible for oversight of payment, when due, out of money of the **Authority** so held, all sums payable by the **Authority**. The **Board** of Directors may delegate authority to anybody or person to make such payments from **Authority** funds.
- (d) Verify and report in writing to the **Authority** and to **Members**, as of the first day of each quarter of the **Fiscal Year**, the amount of money then held for the **Authority**, the amount of receipts since the last report, and the amount paid out since the last report.

Pursuant to **Government Code Section 6505.1**, the **Authority** shall designate the public office or officers or person(s) who shall have charge of, handle, and have access to the property of the **Authority** and shall require such officer(s) or person(s) to file an official bond in amount fixed by the contracting parties.

ARTICLE 9

WITHDRAWAL

- a) A **Member** may withdraw as a party to this **Agreement** upon written notice no later than December 31 of the **Fiscal Year**, effective the end of the **Fiscal Year**, to the **Authority** if it has never become a participant in any **Program** or if it has previously withdrawn from all **Programs** in which it was a participant.
- b) A **Member** Withdrawal from **Programs** will be defined in the specific **Program** Bylaws.

ARTICLE 10

EXPULSION

Notwithstanding the provisions of Article 8, the **Board** of Directors may:

- (a) Expel any **Member** from this **Agreement** and membership in the **Authority**, on a two-thirds (2/3) vote of the **Board Members** present and voting. Such action shall have the effect of terminating the **Member's** participation in all **Programs** of the **Authority** as of the date that its membership is terminated.
- (b) Expel any **Member** from participation in a **Program** of the **Authority**, without expelling the **Member** from the **Authority** or participation in other **Programs**, on a majority vote of the **Board Members** present and voting who represent participants in the **Program**.

The **Board** shall give sixty (60) days advance written notice of the effective date for any expulsion under the foregoing provisions. Upon such effective date, the **Member** shall be treated the same as if it had voluntarily withdrawn from this **Agreement**, or from the **Program**, as the case may be.

ARTICLE 11

EFFECT OF WITHDRAWAL OR EXPULSION

Except as provided below, a **Member** who withdraws or is expelled from this **Agreement** and membership in the **Authority**, or from any **Program** of the **Authority**, shall not be entitled to the return of any payment to the **Authority**, or of any property contributed to the **Authority**.

A **Member** that has withdrawn from a **Program** pursuant to Article 9 or that has been expelled from a **Program** pursuant to Article 10 shall be obligated for its prorata share of expenses incurred during the **Member's** participation in any **Program**, including any expenses

unavoidably incurred thereafter. The **Authority** will return any contribution made by the **Member** that exceeds the expenses allocated to that **Member**.

In the event of termination of this **Agreement**, a withdrawn or expelled **Member** may share in the distribution of assets of the **Authority** to the extent provided in Article 12.

ARTICLE 12

TERMINATION AND DISTRIBUTION OF ASSETS

A two-thirds vote of the total voting membership of the **Authority**, consisting of **Members**, acting through their governing bodies and the voting **Board Members** from the **Member** public entities, is required to terminate this **Agreement**; provided, however, that this **Agreement** and the **Authority** shall continue to exist after such election for the purpose of disposing of all claims, distributing all assets, and performing all other functions necessary to conclude the affairs of the **Authority**.

Upon termination of this **Agreement** and following disposition of all claims against and obligations of the **Authority**, all remaining assets of the **Authority** in each **Program** shall be distributed among those **Members** who participated in that **Program** in proportion to their cash contributions and property contributed (at market value when contributed). The **Board** of Directors shall determine such distribution within six (6) months after disposal of the last pending claim or other liability covered by the **Program**.

ARTICLE 13

LIABILITY OF BOARD OF DIRECTORS, OFFICER, COMMITTEE MEMBERS AND ADVISORS

The **Members** of the **Board** of Directors, Officers, committee members and advisors to any **Board** or committees of the **Authority** shall use ordinary care and reasonable diligence in the exercise of their powers and in the performance of their duties pursuant to this **Agreement**.

They shall not be liable for any mistake of judgment or any other action made, taken or omitted by them in good faith, nor for any action taken or omitted by the agent, employee or independent contractor selected with reasonable care, nor for loss incurred through investment of **Authority** funds, or failure to invest.

No Director, Officer, committee member or advisor to any **Board** member, Officer or committee member shall be responsible for any action taken or omitted by any other Director, Officer, committee member, or advisor to any committee. No Director, Officer, committee member or advisor to any committees shall be required to give a bond or other security to guarantee the faithful performance of their duties pursuant to this **Agreement**.

The funds of the **Authority** shall be used to defend, indemnify and hold harmless the **Authority** and any Director, Officer, committee member or advisor to any committee for their actions taken within the scope of the **Authority**. Nothing herein shall limit the right of the **Authority** to purchase insurance to provide such coverage as is hereinabove set forth.

ARTICLE 14

BYLAWS

The **Board** shall adopt Bylaws consistent with this **Agreement** which shall provide for the administration and management of the **Authority**.

ARTICLE 15

NOTICES

The **Authority** shall address notices, billings and other communications to a **Member** as directed by the **Member**. Each **Member** shall provide the **Authority** with the address to which communications are to be sent. **Members** shall address notices and other communications to the **Authority** to the Executive Director of the **Authority**, at the office address of the **Authority** as set for in the Bylaws.

ARTICLE 16
AMENDMENT

Adoption of any amendment to this **Agreement** requires approval by the **Board**, followed by ratification of the amendment by the governing boards of two-thirds of the **Members**. Such **Agreement** shall become effective upon ratification by governing boards of the requisite number of **Members**.

ARTICLE 17
PROHIBITION AGAINST ASSIGNMENT

No **Member** may assign any right, claim or interest it may have under this **Agreement**, and no creditor, assignee or third party beneficiary of any **Member** shall have any right, claim or title to any part, share, interest, fund, or asset of the **Authority**.

ARTICLE 18
DISPUTE RESOLUTION

When a dispute arises between the **Authority** and the **Member**, the following procedures are to be followed:

- (a) Request for Reconsideration. The **Member** will make a written request to the **Authority** for the appropriate committee to reconsider their position, citing the arguments in favor of the **Member** and any applicable case law that applies. The **Member** can also request a personal presentation to the governing body, if it so desires.

- (b) **Committee Appeal.** The committee responsible for the **Program** having jurisdiction over the decision in question will review the matter and reconsider the **Authority's** position. This committee appeal process is an opportunity for both sides to discuss and substantiate their positions based upon legal arguments and the most complete information available. If the **Member** requesting reconsideration is represented on the committee having jurisdiction, the committee member shall be deemed to have a conflict and shall be excluded from any vote.
- (c) **Executive Committee Appeal.** If the **Member** is not satisfied with the outcome of the committee appeal, the matter will be brought to the **Executive Committee** for reconsideration upon request of the **Member**. If the **Member** requesting reconsideration is represented on the **Executive Committee**, that **Executive Committee** member shall be deemed to have a conflict and shall be excluded from any vote.
- (d) **Arbitration.** If the **Member** is not satisfied with the outcome of the **Executive Committee** appeal, the next step in the appeal process is arbitration. The arbitration, whether binding or non-binding, is to be mutually agreed upon by the parties. The matter will be submitted to a mutually agreed arbitrator or panel of arbitrators for the determination. If binding arbitration is selected, then of course the decision of the arbitrator is final, and both sides agree to abide by the decision of the arbitrator. The cost of arbitration will be shared equally by the involved **Member** and the **Authority**.
- (e) **Litigation.** If, after the following the dispute resolution procedures above either party is not satisfied with the outcome of the non-binding arbitration process, either party may consider litigation as possible means of seeking a remedy to the dispute.

ARTICLE 19
DEFINITIONS

“Agreement” shall mean the Joint Powers Agreement of the California Mental Health Services Authority”

“Authority” shall mean the California Mental Health Services Authority created by this Agreement.

“Board of Directors” or **“Board”** shall mean the governing body of the Authority.

Authority “Fiscal Year” shall mean that period of twelve months which is established by the Board of Directors as the Fiscal Year of the Authority.

“Government Code” shall mean the California Government Code.

“Executive Committee” shall be defined by the bylaws, as to composition, powers, and terms.

“Joint Powers Act” shall mean the Joint Exercise of Powers Act, set forth at Article 1, Chapter 5, Division 7, Title 1 (commencing with section 6500) of the Government Code.

“Member” shall mean any county or city operating a mental health program which, through the membership of its Director of Mental Health as appointed by the governing body (pursuant to Welfare & Institutions Code Section 5751) has executed this Agreement and become a Member of the Authority.

“Program” shall mean the mental and/or behavioral health initiatives, but not limited to, that are described in this Agreement. The Board of Directors or the Executive Committee may determine applicable criteria for determining Member’s eligibility in any Program, as well as establishing Program policies and procedures.

ARTICLE 20
AGREEMENT COMPLETE

This Agreement constitutes the full and complete Agreement of the parties.

CaSonya Thomas San Bernardino County	Date	Halsey Simmons Solano County	Date
Dr. Wayne Clark Monterey County	Date	Michael Laffin Colusa County	Date
Dr. Karen Baylor San Luis Obispo County	Date	Dr. Madelyn Schlaepfer Stanislaus County	Date
Dr. Brad Luz Sutter/Yuba County	Date	Michael Kennedy Sonoma County	Date
Dr. Marvin J. Southard Los Angeles County	Date	Noel O'Neill Trinity County	Date
Anne Robin, MFT Butte County	Date	Rama Khalsa Santa Cruz County	Date
Scott Gruendl Glenn County	Date	<i>Kristy Kelly</i> 6/11/13 Kristy Kelly Lake County	Date
Dr. Karen Stockton Modoc County	Date	Meloney A. Roy Ventura County	Date
Maureen F. Bauman Placer County	Date	Kim Suderman Yolo County	Date
Mary Ann Carrasco Sacramento County	Date	Nancy Pena Santa Clara County	Date
Donna Taylor Fresno County	Date	Mary Hale Orange County	Date

Michael Heggarty
Nevada County

Date

Robin Roberts
Mono County

Date

Victor Singh
San Joaquin County

Date

Dr. Gail Zwier
Inyo County

Date

Mary Anne Ford Sherman
Kings County

Date

Dr. Karyn Tribble
City of Berkeley


Date

Aaron Chapman
Alameda County

Date

Kimball Pier
Plumas County

Date

 4/3/14
 Name Date
 Santa Barbara County

Date Adopted: July 1, 2009

Amended Effective: June 10, 2010

Amended Effective: July 1, 2013