

Wynship W. Hillier, M.S.
3562 20th Street, Suite 22
San Francisco, California 94110
(415) 505-3856
wynship@hotmail.com

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Shamann Walton, Chair
San Francisco Board of Supervisors
City Hall
1 Dr. Carlton B. Goodlett Place, Suite 244
San Francisco, California 94102-4689

Sent via email to Board.of.Supervisors@sfgov.org

RE: REJECT ITEM NO. 17 ON TOMORROW'S AGENDA!

Honorable Chair Shamann Walton:

I strongly urge the Board of Supervisors to REJECT Item No. 17 on the agenda for tomorrow's regular meeting, retroactively approving the San Francisco Mental Health Plan ("MHP"), because one of the assurances within the contract is FALSE.

In the Plan document, Attachment 2 to file No. 221054, "DRAFT Standard Agmt 22-20129," Exhibit E, ¶ 6.B., p. 12 of 17, p. 161 of pdf, states, "The Contractor [DPH Community Behavioral Health Services] agrees to comply with all applicable federal and state law, including but not limited to the statutes and regulations incorporated by reference in Sections D, G, and H . . ." DPH Community Behavioral Health Services ("BHS") has NOT complied with all applicable state law. Specifically, one of the incorporated sections, ¶ 6.H., p. 16 of 17, p. 165 of pdf, states, "The Contractor shall comply with all State and federal statutes . . ." It then lists among these, ¶ 6.H.(1), p. 17 of 17, p. 166 of pdf, "Division 5, Welf. & Inst. Code, to the extent that these requirements are applicable to the services and functions set forth in this contract." Chapter 2 of Part 2 of Division 5, Welf & Inst. Code, deals specifically with the MHP. § 5651 thereof requires BHS to comply with the terms of the MHP, and subd. (b)(4) thereof states that the MHP shall include a provision "[t]hat the local mental health advisory board has reviewed and approved procedures ensuring citizen and professional involvement at all stages of the planning process pursuant to Section 5604.2." This provision is included by reference in the MHP and BHS has NOT complied with it. The Behavioral Health Commission has NOT reviewed and approved ANY procedures ensuring citizen and professional involvement at ANY stages of the planning process pursuant to Section 5604.2. I have been attending their meetings since May of 2018. In that time, I have missed only one regular and one special meeting, among

those posted to the public, and they have never even discussed any procedures ensuring citizen and professional involvement in any stages of the planning process of the community mental health system in all of that time. Far less have they ever approved any.

Therefore, the Board of Supervisors should REJECT the MHP. Because of this defect, the California Department of Health Care Services (“DHCS”) reserves the right to terminate the contract. ¶ 2.C.(2), p. 3 of 17, p. 152 of pdf (“DHCS reserves the right to cancel or terminate this Contract if DHCS finds that Contractor fails to comply with contract requirements, [or] state or federal law . . .”). DHCS *shall* impose sanctions upon BHS for noncompliance with the terms of the MHP and with state law. ¶ 5.I., p. 11 of 17, p. 160 of pdf (“The Department shall . . . impose sanctions on the Contractor for violations of the terms of this contract, and applicable federal and state law . . .”). Sanctions may include temporarily or permanently suspending enrollment and marketing activities; requiring BHS to suspend or terminate personnel or subcontractors; imposing temporary management; suspending default enrollment of enrollees who do not select BHS for the delivery of health care services; and imposing civil monetary sanctions. *Cal. Welf. & Inst. Code* § 14197.7(d)(1)-(d)(2) and (d)(4)-(d)(6).

If the Board of Supervisors does not REJECT this item, I will inform DHCS that you approved it despite this warning. Regardless of whether the Board of Supervisors rejects this item, I will inform DHCS of this defect in BHS’s assurances, and their failure to abide by state law and the MHP.

I did not appear at the hearing before the Budget and Finance Committee on Nov. 1 on this item because I did not know about it at that time. I informed Dr. Hillary Kunins, Director, and Elissa Velez, Regulatory Affairs Manager, at DPH Community Behavioral Health Services, as well as the Behavioral Health Commission, of this omission via email at appx. 1:47 pm on Friday, Nov. 4, and none of them had anything to say.

Very truly yours,

/s/
Wynship Hillier

cc: Dr. Hillary Kunins, Director, BHS
Elissa Valez, Regulatory Affairs Manager, BHS
Behavioral Health Commission