

1 [Health Code - Assisted Outpatient Treatment (“Laura’s Law”)]

2

3 **Ordinance amending the Health Code to authorize the implementation of court-ordered**
4 **Assisted Outpatient Treatment (AOT) for individuals with mental illness who meet the**
5 **criteria established by California Welfare and Institutions Code, Sections 5345-5349.5**
6 **(“Laura’s Law”), to require the County Mental Health Officer to create a Care Team to**
7 **try to engage individuals referred for AOT in voluntary treatment prior to the imposition**
8 **of court-ordered treatment; and making a finding that this authorization will not result**
9 **in a reduction of current adult and juvenile mental health programs.**

10 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
11 **Additions to Codes** are in *single-underline italics Times New Roman font*.
12 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
13 **Board amendment additions** are in double-underlined Arial font.
14 **Board amendment deletions** are in ~~Arial font~~.
15 **Asterisks (* * * *)** indicate the omission of unchanged Code
16 subsections or parts of tables.

17 Be it ordained by the People of the City and County of San Francisco:

18 Section 1. The Health Code is hereby amended by adding to Article 41 a Division II,
19 consisting of Sections 4111-41179, to read as follows:

20 **ARTICLE 41. MENTAL HEALTH**

21 ********

22 **DIVISION II: ASSISTED OUTPATIENT TREATMENT.**

23 **SEC. 4111. FINDINGS REGARDING ASSISTED OUTPATIENT TREATMENT.**

24 (a) California Welfare and Institutions Code §§5345-5349.5, also known as “Laura’s Law,”
25 authorizes counties to implement Assisted Outpatient Treatment (“AOT”) to obtain court-ordered

1 mental health treatment for individuals with mental illness for whom other methods of entering and
2 maintaining treatment have been unsuccessful.

3 (b) AOT provides treatment through community-based, mobile, recovery-oriented,
4 multidisciplinary, highly trained mental health teams with a staff-to-client ratio of no more than 10
5 clients per team member.

6 (c) Several independent studies of similar programs in other states cited in a background paper
7 prepared by the Treatment Advocacy Center show that AOT promotes long-term treatment compliance,
8 and reduces the incidence and duration of hospitalizations, homelessness, arrests, incarcerations,
9 violent episodes, and the victimization of individuals with mental illness by others, while also relieving
10 caregiver stress.

11 (d) These same studies show that states and municipalities that have successfully implemented
12 AOT realized cost savings in their respective mental health, criminal justice, and emergency care
13 systems.

14 (e) According to research cited in The Resident's Journal, a publication of The American
15 Journal of Psychiatry, almost half of the individuals with a severe mental illness in the United States
16 are untreated, and almost half of those individuals suffer from anosognosia (the inability to recognize
17 one's own mental illness) and possess significant deficits in self-awareness.

18 (f) This same research also finds a clear link between lack of insight regarding one's own
19 mental illness and the inability to adhere to treatment, which results in poorer clinical outcomes, illness
20 relapse, hospitalization, and suicide attempts.

21 (g) For severely mentally ill individuals who are unable to maintain a consistent voluntary
22 treatment regime, AOT provides a means to assist and support them through a structured treatment
23 program.

24 (h) Before an AOT program may be implemented in a county under California Welfare and
25 Institutions Code §§5345-5349.5, the county must authorize the application of the program in the

1 county by appropriate legislation and make a finding that no voluntary mental health program serving
2 adults, and no children’s mental health program will be reduced as a result of implementing AOT.

3 **SEC. 4112. AUTHORIZING ASSISTED OUTPATIENT TREATMENT; REQUIRED**
4 **PROGRAMS.**

5 (a) The City and County of San Francisco (“City”) authorizes the implementation of California
6 Welfare and Institutions Code §§5345-5349.5 through court-ordered Assisted Outpatient Treatment
7 (“AOT”) within the City as provided in this Division II. The City finds that no voluntary mental health
8 program serving adults, and no children’s mental health program within the City will be reduced as a
9 result of implementing AOT.

10 (b) As part of AOT, the City shall provide services that will conform to the requirements of
11 California Welfare and Institutions Code §5348, or any successor provisions. These services shall
12 include, but are not limited to, community-based comprehensive individual service and delivery plans,
13 which plans shall be gender, age, disability, linguistically and culturally appropriate. The plans shall
14 provide access to housing, and be designed to allow the ~~person subject to petition~~ (“Subject”)
15 individual referred to AOT (“Referred Individual”) to live in the most independent, least restrictive
16 setting possible. The City shall provide AOT services in each case through a community-based
17 multidisciplinary and highly trained mental health team (“AOT Team”) with a staff-to-client ratio of no
18 more than 10 clients per team member.

19 (c) The County Mental Health Director (“Director”) shall create a Care Team. The Care
20 Team shall work closely with the Referred Individual and the individual requesting the AOT
21 petition to maximize all opportunities within AOT to engage individuals who meet AOT criteria
22 into voluntary treatment.

23 **SEC. 4113. Definitions.**

24 For the purposes of this Division II, the following words or phrases shall mean:

1 “Care Team” means a group of program staff charged with implementing AOT and
2 shall consist of: 1) A forensic psychologist, who shall be the designated licensed mental
3 health treatment provider responsible for clinical evaluation of the Referred Individual; 2) A
4 peer specialist, who shall be a person who has lived experience with mental health recovery
5 and has been trained to provide peer support to help the Referred Individual engage into
6 treatment; and 3) A family liaison, who shall be a person who has had a family member with
7 mental illness, and has been trained to provide lived experience to educate the referring
8 source on the eligibility, benefits, limitations, and opportunities that AOT provides.

9 “City” means the City and County of San Francisco.

10 “Full Service Partnership (“FSP”)” means the collaborative relationship between the
11 City and the Referred Individual and, when appropriate, the Referred Individual’s family,
12 through which the City plans for, and provides, the full spectrum of community services so that
13 the Referred Individual can achieve the identified goals. The City shall provide FSP services
14 that conform to the requirements of California Code of Regulations Title 9, Section 3200.13c,
15 defining FSP, or any successor provisions.

16 “Referred Individual” means the person on whose behalf an AOT petition is requested.

17 **SEC. 4114. Maximizing Engagement in Voluntary Treatment**

18 (a) Referral to AOT provides two key opportunities for voluntary engagement of
19 individuals meeting AOT criteria prior to a court hearing:

20 (1) Immediately after the request for petition and before the filing of a petition
21 with the court; and

22 (2) After the filing of a petition and before the conclusion of the court hearing on
23 the petition.

24 (b) At each of the two opportunity points listed in Subsection 4114(a), the Care Team
25 shall make every attempt to engage the Referred Individual into voluntary treatment.

1 (c) The Referred Individual shall at all times have the opportunity to voluntarily
2 participate in a FSP. The Care Team shall work closely with the Referred Individual and the
3 individual initiating the petition in an effort to engage the Referred Individual into a FSP as a
4 preferred alternative to court-ordered treatment.

5 (d) All evaluations of the Referred Individual shall be conducted in the least restrictive
6 setting.

7 (e)The Referred Individual may not be transported for evaluation by a peace, probation
8 or parole officer, unless there is probable cause to believe that the individual meets the criteria
9 required by California Welfare and Institutions Code § 5150, or there is no other means to
10 safely transport the Referred Individual.

11 (f) The AOT Team shall also ensure that individuals referred for AOT who do not meet
12 AOT criteria are evaluated for, and connected to, the appropriate level of mental health
13 treatment.

14 **SEC. 41134115 PETITION.**

15 (a) The following persons may request the ~~County Mental Health Director~~ (“Director”), or the
16 Director’s designee, to file a petition with the Superior Court for AOT:

17 (1) Any person 18 years or older with whom the ~~Subject~~ Referred Individual resides;

18 (2) Any person who is the parent, spouse, adult sibling, or adult child of the ~~Subject~~
19 Referred Individual;

20 (3) The director of a facility providing mental health services where the ~~Subject~~
21 Referred Individual resides, the director of a hospital where the ~~Subject~~ Referred Individual is
22 hospitalized, or a licensed mental health treatment provider who treats the ~~Subject~~ Referred
23 Individual or supervises the treatment of the ~~Subject~~ Referred Individual; or;

24 (4) A peace, probation or parole officer assigned to supervise the ~~Subject~~ Referred
25 Individual.

1 **(b) If the Director or designee finds that good cause supports the request, he or she may file a**
2 **verified petition with the Superior Court that sets forth all of the following elements:**

3 **(1) That the Subject Referred Individual is at least 18 years old and is present in the**
4 **City;**

5 **(2) That the Subject Referred Individual is suffering from a mental illness as defined**
6 **in California Welfare and Institutions Code §§5600.3(b)(2) and (3), or any successor provisions;**

7 **(3) That there has been a clinical determination that the Subject Referred Individual is**
8 **unlikely to survive safely in the community without supervision;**

9 **(4) That there is a history of the Subject's Referred Individual's lack of compliance**
10 **with treatment, based on at least one of the following:**

11 **(A) twice within the last 36 months, mental illness was a substantial factor in the**
12 **Subject's Referred Individual's hospitalization or receipt of mental health services in jail, not**
13 **including any period during which the Subject Referred Individual was hospitalized or incarcerated**
14 **immediately preceding the filing of the petition, or**

15 **(B) within the last 48 months, the Subject's Referred Individual's mental**
16 **illness resulted in one or more acts of serious violent behavior toward himself or herself or others, or**
17 **the Subject Referred Individual threatened or attempted to cause serious physical harm to himself or**
18 **herself or others, not including any period in which the Subject Referred Individual was hospitalized**
19 **or incarcerated immediately preceding the filing of the petition;**

20 **(5) That the Subject Referred Individual has been offered the opportunity to**
21 **participate in a treatment plan that includes all of the services set forth in Section 4112, but continues**
22 **to fail to engage in treatment;**

23 **(6) That the Subject's Referred Individual's condition is substantially deteriorating;**

24 **(7) That participation in AOT would be the least restrictive placement necessary to**
25 **ensure the Subject's Referred Individual's recovery and stability;**

1 (8) That the Subject's Referred Individual's treatment history and current behavior
2 indicate that the Subject Referred Individual needs AOT to prevent relapse or deterioration that
3 would likely result in grave disability or serious harm to himself or herself or in a civil commitment
4 under California Welfare and Institutions Code §§5150, et seq.; and,

5 (9) That it is likely that the Subject Referred Individual would benefit from AOT.

6 (c) The Director or designee shall submit with the petition the supporting affidavit of a licensed
7 mental health treatment provider, or providers, testifying as to all of the elements identified in
8 subsection (b). The provider must be willing and able to testify at the hearing and must base the
9 affidavit on his or her personal examination of the Subject Referred Individual occurring no more
10 than 10 days prior to the filing of the petition, unless the provider attempted to examine the Subject
11 Referred Individual during that time, but the Subject Referred Individual refused to be examined, in
12 which case the affidavit shall so state.

13 (d) After the Director or designee files the petition, but before the conclusion of the court
14 hearing on the petition, the Subject Referred Individual or with the Subject's Referred Individual's
15 consent, the Subject's Referred Individual's legal counsel, may waive the Subject's Referred
16 Individual's right to the hearing, and agree to obtain treatment under a written settlement agreement,
17 provided an examining licensed mental health treatment provider states that the Subject Referred
18 Individual could survive safely in the community. The term of the settlement agreement may not exceed
19 180 days, and the agreement shall be subject to the provisions of California Welfare and Institutions
20 Code §5347.

21 (e) The Superior Court may order AOT for the Subject Referred Individual if the court finds
22 that all of the elements of the petition, as required in subsection (b), have been established by clear and
23 convincing evidence.

24 **SEC. 4144116. SUBJECT'S REFERRED INDIVIDUAL'S RIGHTS.**

25 (a) The Subject of the petition Referred Individual shall have the following rights:

1 (1) To receive personal service of all notices of hearings, as well as notice to parties
2 designated by the Subject Referred Individual;

3 (2) To receive a copy of the court ordered evaluation;

4 (3) To be represented by counsel, and if the Subject Referred Individual cannot afford
5 counsel, to be represented by the Public Defender;

6 (4) To be present at all hearings, unless the Subject Referred Individual knowingly
7 waives such right;

8 (5) To be informed of the right to judicial review by habeas corpus;

9 (6) To present evidence, call and examine witnesses, and cross-examine witnesses, at the
10 AOT hearing; and

11 (7) To be informed of the right to appeal the court's decisions.

12 (b) If Subject Referred Individual is not present at the AOT hearing, and the court orders
13 AOT for the Subject Referred Individual, the Subject Referred Individual may file a habeas corpus
14 petition challenging the court's imposition of AOT on the Subject Referred Individual, and AOT may
15 not commence until that petition is resolved.

16 (c) During each 60-day period of AOT, the Subject Referred Individual may file a habeas
17 corpus petition to require the Director, or the Director's designee, to prove that the Subject Referred
18 Individual still meets all the criteria for AOT, as set forth in Section 4113(b).

19 (d) If the Subject Referred Individual refuses to participate in AOT, the court may order the
20 Subject Referred Individual to meet with the AOT Team designated by the Director. The AOT Team
21 shall attempt to gain the Subject's Referred Individual cooperation with the treatment plan ordered
22 by the court. If the Subject Referred Individual is still not cooperative, he or she may be subject to a
23 72- hour hold pursuant to the requirements of California Welfare and Institutions Code §5346(f).

24 (e) Except as stated in subsection (d), failure by the Subject Referred Individual to comply
25 with AOT is not a basis for involuntary civil commitment, or contempt of court.

1 (f) Involuntary medication is not authorized under AOT without a separate and specific court
2 order.

3 (g) The court may order no more than six months of AOT. If the Director, or Director's
4 designee, determines that further AOT for the Subject Referred Individual is appropriate, the
5 Director must, prior to the expiration of the initial period, apply to the court for authorization to
6 extend the time for a period not to exceed an additional 180 days.

7 (h) Every 60 days, the Director, or Director's designee must file an affidavit with the court
8 affirming that the Subject Referred Individual continues to meet the criteria for AOT, as set forth in
9 Section 4113(b). If the Subject Referred Individual disagrees with this affidavit, he or she ~~has~~ shall
10 have the right to a hearing, at which the Director shall have the burden of proving that the Subject
11 Referred Individual continues to meet the criteria for AOT.

12 **SEC. 41154117. TRAINING AND REGULATIONS.**

13 (a) The Director of Public Health shall, ~~develop a training and education program as~~
14 required by California Welfare and Institutions Code §5349.1. in consultation with the State
15 Department of Health Care Services, client and family advocacy organizations, and other
16 stakeholders, develop a training and education program for purposes of improving the delivery
17 of services to individuals with mental illness who are, or who are at risk of being, involuntarily
18 committed to AOT. This training shall be provided to mental health treatment providers and to
19 other individuals, including, but not limited to, mental health professionals, law enforcement
20 officials, and certification hearing officers involved in making treatment and involuntary
21 commitment decisions.

22 (b) The training shall include both of the following:

23 (1) Information relative to legal requirements for detaining a person for
24 involuntary inpatient and outpatient treatment, including criteria to be considered with respect
25 to determining if a person is considered to be gravely disabled.

1 (2) Methods for ensuring that decisions regarding involuntary treatment as
2 provided for in this part direct patients toward the most effective treatment. Training shall
3 include an emphasis on each patient’s right to provide informed consent to assistance.

4 ~~(b)~~The Director of Public Health is authorized to promulgate regulations to implement this
5 Division II.

6 **SEC. 41164118. REPORTS.**

7 (a) The Department of Public Health shall comply with the reporting requirements as set forth
8 in California Welfare & Institutions Code §5348(d).

9 (b) The Department of Public Health shall provide an annual report to the Board of Supervisors
10 on the number of participants in AOT, the length of their treatment, the outcome of their treatment, and
11 other matters the Department deems relevant.

12 **SEC. 41174119. UNDERTAKING FOR THE GENERAL WELFARE.**

13 In enacting and implementing this Division II, the City is assuming an undertaking only to
14 promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an
15 obligation for breach of which it is liable in money damages to any person who claims that such breach
16 proximately caused injury.

1 Section 2. Effective Date. This ordinance shall become effective 30 days after
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
4 of Supervisors overrides the Mayor's veto of the ordinance.

5
6 APPROVED AS TO FORM:
7 DENNIS J. HERRERA, City Attorney

8 By: _____
9 VIRGINIA DARIO ELIZONDO
Deputy City Attorney

10 n:\legana\as2014\1400256\00935876.doc