

BOARD of SUPERVISORS



City Hall  
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## MEMORANDUM

### RULES COMMITTEE

#### SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Matt Dorsey, Chair  
Rules Committee

FROM: Victor Young, Assistant Clerk *Victor Young*

DATE: January 8, 2024

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**  
Tuesday, January 9, 2024

The following file should be presented as a **COMMITTEE REPORT** at the Board Meeting on Tuesday, January 9, 2024. This item was acted upon at the Rules Committee Meeting on Monday, January 8, 2024, at 10:00 a.m., by the votes indicated.

**Item No. 24**                      **File No. 231076**

[Administrative Code - Composition of Behavioral Health Commission]

Ordinance amending the Administrative Code to reduce the membership of the Behavioral Health Commission from 17 to 12 seats; provide that the full Board of Supervisors rather than individual Supervisors makes these appointments; require that at least one seat be held by a veteran or veteran advocate; reduce the minimum number of seats reserved for consumers and families of consumers from nine to six; provide two seats for mental health professionals; update staggered terms for all seats; and retain existing members.

RECOMMENDED AS AMENDED AS A COMMITTEE REPORT

Vote: Supervisor Shamann Walton - Aye  
Supervisor Ahsha Safai - Aye  
Supervisor Matt Dorsey - Aye

c: Board of Supervisors  
Angela Calvillo, Clerk of the Board  
Alisa Somera, Legislative Deputy Director  
Anne Pearson, Deputy City Attorney

File No. 231076

Committee Item No. 2

Board Item No. \_\_\_\_\_

# COMMITTEE/BOARD OF SUPERVISORS

## AGENDA PACKET CONTENTS LIST

Committee: Rules Committee

Date Jan 8, 2024

Board of Supervisors Meeting

Date \_\_\_\_\_

### Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- Memorandum of Understanding (MOU)
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 - Ethics Commission
- Award Letter
- Application
- Form 700
- Information/Vacancies (Boards/Commissions)
- Public Correspondence

### OTHER (Use back side if additional space is needed)

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Completed by: Victor Young

Date Jan 4, 2024

Completed by: \_\_\_\_\_

Date \_\_\_\_\_

1 [Administrative Code - Composition of Behavioral Health Commission]

2

3 **Ordinance amending the Administrative Code to reduce the membership of the**  
4 **Behavioral Health Commission from 17 to 11 seats; provide that the full Board of**  
5 **Supervisors rather than individual Supervisors makes these appointments; require that**  
6 **at least one seat be held by a veteran or veteran advocate; reduce the minimum**  
7 **number of seats reserved for consumers and families of consumers from nine to six;**  
8 **provide two seats for mental health professionals; reset update staggered terms for all**  
9 **seats; and retain existing members; and remove seat requirements for child advocates**  
10 **and certain mental health professionals.**

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

15

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

17

18 Section 1. The Administrative Code is hereby amended by revising Sections 15.12 and  
19 15.13, to read as follows:

20

21 **SEC. 15.12. BEHAVIORAL HEALTH COMMISSION – COMPOSITION AND**  
22 **APPOINTMENT OF MEMBERS.**

23 (a) There is hereby established a mental health board pursuant to the requirements  
24 of California Welfare and Institutions Code Sections 5604 et seq., to be known as the  
25 Behavioral Health Commission (“Commission”).

1 (b) The Commission shall consist of ~~17~~ 12 members. ~~Each member of the Board of~~  
2 ~~Supervisors shall appoint a member of the Commission.~~ The Board of Supervisors shall appoint  
3 ~~all the remaining six~~ members, one of whom shall be a member of the Board of Supervisors.

4 (c) As required by California Welfare and Institutions Code Section 5604, at least  
5 ~~nine~~ six members of the Commission shall be consumers or the parents, spouses, siblings, or  
6 adult children of consumers, with at least ~~four~~ three members being consumers and at least  
7 ~~four~~ three other members being family of consumers. For purposes of this subsection (c),  
8 “family of consumer” includes domestic partners and significant others. For purposes of this  
9 ~~subsection~~ Section 15.12, a “consumer” is a person who has received mental health and/or  
10 substance use services in San Francisco from any program operated or funded by the City,  
11 from a State hospital, or from any public or private nonprofit mental health agency. The Board  
12 of Supervisors member position shall not count in determining whether the “consumer” and  
13 “family of consumer” requirements of this subsection are met.

14 ~~—(d) In addition to the requirements of subsection (c), one member of the Commission shall be~~  
15 ~~a child advocate (a family member or consumer advocate for minors who use mental health services);~~  
16 ~~one member shall be an older adult advocate (a family member or consumer advocate for persons 60~~  
17 ~~years of age or older who use mental health services); and two members shall be from the following~~  
18 ~~professions: psychiatry, psychology, mental health social work, nursing with a specialty in mental~~  
19 ~~health, marriage and family counseling, psychiatric technology, or administrator of a hospital~~  
20 ~~providing mental health services or of a community mental health facility.~~

21 (d) In addition to the requirements of subsection (c), one member of the Commission shall be  
22 a veteran or veteran advocate. For the purposes of this subsection (d), a “veteran advocate” includes  
23 a parent, spouse, or adult child of a veteran, or an individual who is part of a veteran organization  
24 including but not limited to the Veterans of Foreign Wars or the American Legion. Additionally, one  
25 member shall be a child advocate. For purposes of this subsection (d), a “child advocate”

1 includes a family member of a child consumer or consumer advocate for minors who use  
2 mental health services. A member may satisfy the requirements of both subsection (c) and this  
3 subsection (d) concurrently. The Board of Supervisors member position shall not count in determining  
4 whether the “veteran” or “veteran advocate” requirements of this subsection (d) isare met.

5 (e) In addition to the requirements of subsections (c) and (d), on or after July 1,  
6 2024 two members shall be from the following professions: psychiatry, psychology, mental  
7 health social work, nursing with a specialty in mental health, marriage and family counseling,  
8 psychiatric technology, or administration of a hospital providing mental health services or of a  
9 community mental health facility.

10 ~~(e)~~(f) Any positions on the Commission not allocated to specific types of members  
11 may be filled by persons with experience and knowledge of the mental health system  
12 representing the public interest, which may include, but need not be limited to, people who  
13 engage with individuals living with mental illness in the course of daily operations, such as  
14 representatives of county offices of education, large and small businesses, hospitals, hospital  
15 districts, physicians practicing in emergency departments, city police chiefs, county sheriffs,  
16 and community and nonprofit service providers.

17 ~~(f)~~(g) The Commission membership shall reflect the ethnic diversity of the client  
18 population in the City. The composition of the Commission shall, to the extent feasible,  
19 represent the demographics of the City as a whole. Except as provided in subsection ~~(g)~~(h),  
20 no member of the Commission or the member’s spouse shall be a full-time or part-time  
21 County employee of a County mental health service, an employee of the State Department of  
22 Health Care Services, or an employee of, or a paid member of the governing body of, a  
23 mental health contract agency.

24 ~~(g)~~(h) A consumer who has obtained employment with an employer described in  
25 subsection ~~(f)~~(g), and who holds a position in which the consumer has no interest, influence,

1 or authority over any financial or contractual matter concerning the employer may be  
2 appointed to the Commission. Such a member shall not participate in any matter concerning  
3 the member's employer if prohibited by state or local law.

4 ~~(h)~~(i) References in the Administrative Code or any other part of the Municipal  
5 Code, or any City ordinance, to the Advisory Board of the Community Mental Health Services,  
6 or to the San Francisco Mental Health Board shall be deemed references to the Commission.

7  
8 **SEC. 15.13. BEHAVIORAL HEALTH COMMISSION – TERMS OF REMOVAL**

9 ~~(a) Except for the Board of Supervisors member, the term of each member of the~~  
10 ~~Behavioral Health Commission (“Commission”) shall be three years. All member terms shall~~  
11 ~~be reset to begin at noon on January 1, 20212024. Thereafter, members’ terms shall be~~  
12 ~~staggered as determined by the Clerk of the Board of Supervisors by no later than 30 days~~  
13 ~~after the effective date of the ordinance in Board File No. \_\_\_\_\_ amending this Section~~  
14 ~~15.13December 31, 20202023. The Clerk of the Board of Supervisors shall determine by lot~~  
15 ~~the initial terms for all 1711 seats. FiveFour seats shall have an initial one-year term expiring~~  
16 ~~January 1, 20222025, sixthree seats shall have an initial two-year term expiring January 1,~~  
17 ~~20232026, and sixthree seats shall have three-year terms expiring January 1, 20242027. After~~  
18 ~~the initial terms expire, subsequent terms for all seats shall be three years.~~

19 (a) Except for the Board of Supervisors member, the term of each member of the  
20 Behavioral Health Commission (“Commission”) shall be for three years. No member shall  
21 serve more than two consecutive full terms. A member shall be deemed to have served a full  
22 term only if the member serves at least half of a full term. The clerk of the Commission in  
23 consultation with the Clerk of the Board of Supervisors, shall, upon the effective date of the  
24 ordinance in Board File No. 231076, change the number of the seats on the Commission, and  
25 assign existing Commission members, including members with expired terms serving as

1 holdover appointees, to Seats 2-12 in accordance with the requirements of Section 15.12.  
2 Their terms of office shall be aligned with the terms of office extant prior to the effective date  
3 of the aforementioned ordinance; with the understanding that holdover appointees shall not  
4 thereby acquire any permanent or other special status. The Clerk of the Board of Supervisors  
5 shall equitably stagger the appointments so that approximately one-third of the appointments  
6 expire in each year, as required by California Welfare and Institutions Code Section 5604(c).  
7 Seats occupied by holdover appointees shall expire June 30, 2024. New appointments made  
8 to Commission Seats 2-12 following the effective date of the aforementioned ordinance shall  
9 be made in accordance with Section 15.12. The Board of Supervisors member shall be  
10 appointed to Seat 1.

11 ~~—(b) No member shall serve more than two consecutive full terms. A member shall be~~  
12 ~~deemed to have served a full term only if the member serves at least half of a full term. For~~  
13 ~~the purpose of this term limit, the terms ending January 1, 20212024, and the initial terms~~  
14 ~~beginning January 1, 20212024 shall count as full terms. Provided however, that a member~~  
15 ~~whose term ends January 1, 20212024, and who has served for six months or less, will not be~~  
16 ~~deemed to have served a full term under this subsection (b).~~

17 ~~—(c) The term of office of a member appointed by an individual Board of Supervisors member~~  
18 ~~is not affected by the Board of Supervisors member no longer continuing in that office.~~

19 ~~(d)~~(e)(b) A member shall be removed from office if the member is absent for four  
20 meetings in one 12-month period ~~year~~, unless the Commission grants that person a leave of  
21 absence. The Commission may grant leaves of absence for one or more meetings. Upon  
22 determining that a member has been absent for four meetings in a 12-month period and that  
23 no leave of absence had been granted for these meetings, the Commission shall provide  
24 written notification to the Board of Supervisors. Upon receipt of the notification, the position  
25 shall be deemed vacant.

1           ~~(e)-(d)(c)~~ The Commission may recommend to the Board of Supervisors that a  
2 member be removed from the Commission on the grounds that the member's conduct is  
3 seriously disruptive of the functioning of the Commission. ~~Once the Commission makes such a~~  
4 ~~recommendation,~~ The Board of Supervisors may remove a member from the Commission for  
5 cause or upon the Commission's recommendation if it determines that the member's conduct is  
6 seriously disruptive of the functioning of the Commission.

7  
8           Section 2. Effective Date. This ordinance shall become effective 30 days after  
9 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
10 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
11 of Supervisors overrides the Mayor's veto of the ordinance.

12  
13           Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
14 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
15 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
16 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
17 additions, and Board amendment deletions in accordance with the "Note" that appears under  
18 the official title of the ordinance.

19  
20 APPROVED AS TO FORM:  
21 DAVID CHIU, City Attorney

22 By: /s/ Charles Bruce  
23 CHARLES L. BRUCE  
24 Deputy City Attorney

25  
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**LEGISLATIVE DIGEST**

(Revised 1/8/2024)

[Administrative Code –Composition of the Behavioral Health Commission]

**Ordinance amending the Administrative Code to reduce the membership of the Behavioral Health Commission from 17 to 12 seats; provide that the full Board of Supervisors rather than individual Supervisors make these appointments; require that at least one seat be held by a veteran or veteran advocate; reduce the minimum number of seats reserved for consumers and families of consumers from nine to six; provide two seats for mental health professionals; update staggered terms for all seats; and retain existing members.**

Existing Law

California Welfare and Institutions Code Section 5604 provides that each County shall have a mental health board. Chapter 15 of the Administrative Code provides for 17 members of the Behavioral Health Commission (“Commission”). Each member of the Board of Supervisors appoints one member to the Commission. The remaining six seats are appointed by the Board of Supervisors. The Commission members consist of consumers, family of consumers, a child advocate, two members from defined mental health professions, and members representing the public interest with experience and knowledge of the mental health system. At least nine seats are reserved for consumers or family of consumers. Each seat has a maximum three-year term with approximately one-third of seats expiring each successive year.

Amendments to Current Law

The amendment to Chapter 15 of the Administrative Code would provide for 12 members of the Behavioral Health Commission. All 12 seats would be appointed by the Board of Supervisors. The Commission members would consist of consumers, family of consumers, a veteran or veteran advocate, mental health professionals, and members representing the public interest with experience and knowledge of the Mental Health system. At least six seats would be reserved for consumers or family of consumers. Two seats would be reserved for defined mental health professionals. One seat would be reserved for a veteran or veteran advocate. Each seat would have a maximum three-year term with approximately one-third of seats expiring each successive year.

Background Information

This ordinance was amended by the Rules Committee of the Board of Supervisors on January 8, 2024 to reinstate the child advocate membership requirement. This ordinance was

amended by the Rules Committee of the Board of Supervisors on December 11, 2023 to increase the total number of seats from 11 to 12, to allow incumbent Commissioners to retain a seat on the Behavioral Health Commission for the remainder of their existing term after this amendment becomes effective, and to designate that two seats be reserved for defined mental health professionals. Welfare and Institutions Code Section 5604 was amended effective January 1, 2023. The amendments to the statute revised the description of the composition of mental health boards. This amendment to Chapter 15 of the Administrative Code aligns the composition of the Behavioral Health Commission with the requirements of Welfare and Institutions Code Section 5604.

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## MEMORANDUM

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Date: January 8, 2024 (revised)  
To: The Honorable Members, Board of Supervisors  
From:  Angela Calvillo, Clerk of the Board  
Subject: Revisions to the Behavioral Health Commission (File No. 231076 V3)

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Board of Supervisors Rules of Order 2.21 establishes certain criteria that must be included in legislation creating and establishing, or reauthorizing, new bodies (boards/commissions/task forces/advisory bodies) and requires the Clerk of the Board to advise the Board on certain matters. In order to fulfill these requirements, the following is provided:

File No. 231076 Administrative Code - Composition of Behavioral Health Commission (Version 3)

- Does a current body address the same or similar subject matter?

*No. There are no other bodies that currently perform the same function as the Behavioral Health Commission.*

- Language requiring the body to meet at least once every four months

*No. There is no requirement to meet at least once every four months. As you have for other bodies, consider adding the following: "The Commission shall hold a regular meeting not less than once every four months."*

- Language indicating members serve at the pleasure of the appointing authority

*Yes. Section 15.13, entitled "Behavioral Health Commission – Terms of Removal," states "the board of supervisors may remove a member from the commission for cause or upon the commission's recommendation."*



- Language establishing attendance requirements

*Yes. Section 15.13, entitled “Behavioral Health Commission – Terms of Removal,” states “A member shall be removed from office if the member is absent for four meetings in a one 12-month period.”*

- Number of seats and qualifications

*The Ordinance proposes to amend the Commission’s membership to reduce the number of members from 17 down to 12, as follows:*

- *Seat 1: One member of the Board of Supervisors*
- *At least six members shall be consumers or parents, spouses, siblings, or adult children of consumers;*
  - *Seats 2-4: At least three members shall be consumers*
  - *Seats 5-7: At least three members shall be family of consumers*
- *Seats 8-12: Must be a person with experience and knowledge of the mental health system representing the public interest, which may include, but need not be limited to, people who 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.*

*At least two members of the BHC shall be from the following professions: psychiatry, psychology, mental Health Social Work, nursing with a specialty in mental health, marriage and family counselling, psychiatric technology, or administration of a hospital providing mental health services or of a community mental health facility (can be fulfilled by any members from seats 1-11). This is a “**Floating Requirement**” not assigned to specific seats.*

*At least one member of the BHC shall be a veteran or veteran advocate (a parent, spouse, or adult child of a veteran, or an individual who is part of a veteran organization including but not limited to the Veterans of Foreign Wars or the American Legion); and may fulfill both the requirements to be a veteran or veteran advocate and the requirement to be a consumer or the parent, spouse, sibling, or adult child of a consumer (can be fulfilled by any member from seats 2-12). This is a “**Floating Requirement**” not assigned to a specific seat.*



*At least one member of the BHC shall be child advocate (includes a family member of a child consumer or consumer advocate for minors who use mental health services. A member may satisfy the requirements of both child advocate and the requirement under subsection c to be a consumer or parent, spouse sibling, or adult child of a consumer (can be fulfilled by any member from seats 2-12). This is a "Floating Requirement" not assigned to a specific seat.*

*The California Welfare and Institutions Code, Section 5604, requires: 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 percent of the total membership shall be consumers, and at least 20 percent shall be families of consumers.*

*In counties with a population of 100,000 or more, at least one member of the board shall be a veteran or veteran advocate. In counties with a population of fewer than 100,000, the county shall give a strong preference to appointing at least one member of the board who is a veteran or a veteran advocate. A county shall notify its county veterans service officer about vacancies on the board, if a county has a veteran's service officer.*

- Term limits (i.e., commencement date? staggered terms?)

*Terms shall be adjusted as follows:*

*No member shall serve more than two consecutive three-year terms. A member shall be deemed to have served a full term only if the member serves at least half of a full term.*

The clerk of the Commission in consultation with the Clerk of the Board of Supervisors, shall, upon the effective date of the ordinance in Board File No. 231076, change the number of the seats on the Commission, and assign existing Commission members, including members with expired terms serving as holdover appointees, to Seats 2-12 in accordance with the requirements of Section 15.12.

Their terms of office shall be aligned with the terms of office extant prior to the effective date of the aforementioned ordinance; with the understanding that holdover appointees shall not thereby acquire any permanent or other special status. The Clerk of the Board of Supervisors shall equitably stagger the appointments so that approximately one-third of the appointments expire in each year, as required by California Welfare and Institutions Code, Section 5604(c). Seats occupied by holdover appointees shall expire June 30, 2024. New appointments made to Commission Seats 2-12 following the effective date of the aforementioned ordinance shall be made in accordance with Section 15.12. The Board of Supervisors member shall be appointed to Seat 1.

- Administering department



*No. There is no administering department listed in the Ordinance. As you have for other bodies, consider adding the following: "The Department of Public Health shall provide administrator support to the Commission."*

- Reporting requirements

*The Commission shall review and evaluate the City and County's behavioral health needs, services, facilities and special problems and other duties as stated in Administrative Code, Section 15.14.*

*Reports: An Annual Report shall be submitted to the Board of Supervisors on the needs and performance of the City and County's mental health system.*

- Sunset date

*The Behavior Health Commission does not currently have a sunset date nor will it be suggested since this Commission is also governed and effectuated by California Welfare and Institutions Code, Section 5604 et seq.*

\*Revised to reflect amendments made at the January 8, 2024, Rules Committee Meeting.

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## MEMORANDUM

TO: Geoffrey Grier, Behavioral Health Commission  
Amber Gray, Behavioral Health Commission

FROM: Victor Young, Assistant Clerk *Victor Young*

DATE: October 23, 2023

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee received the following proposed legislation:

**File No. 231076**

**Ordinance amending the Administrative Code to reduce the membership of the Behavioral Health Commission from 17 to 11 seats; provide that the full Board of Supervisors rather than individual Supervisors makes these appointments; require that at least one seat be held by a veteran or veteran advocate; reduce the minimum number of seats reserved for consumers and families of consumers from nine to six; reset staggered terms for all seats; and remove seat requirements for child advocates and certain mental health professionals.**

If you have comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: [victor.young@sfgov.org](mailto:victor.young@sfgov.org).

**Wynship W. Hillier, M.S.**  
3562 20<sup>th</sup> Street, Apartment 22  
San Francisco, California 94110  
(415) 505-3856  
wynship@hotmail.com

January 3, 2024

Aaron Peskin, Chair  
San Francisco Board of Supervisors  
City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, California 94102

*Sent via email to [Victor.Young@sfgov.org](mailto:Victor.Young@sfgov.org)*

**RE: THE VERY LAST WORD ON FILE NO. 231076, RESIZING, ETC., THE  
BEHAVIORAL HEALTH COMMISSION**

Honorable Chair Peskin:

There is no need for a sophisticated theory of cognitive bias to explain why the Behavioral Health Commission has had difficulty obtaining quorum this year. The causes are much more mundane: Lack of appointments to the Commission and poor attendance among current appointees. The latter is in turn caused by rescission of the Governor's Emergency Order. The solutions to these are straightforward and do not call for reducing the size of the Commission, which has been at 17 members since state law required this in 1977, 46 years ago.

**The Board of Supervisors and Individual Supervisors Have Not Been Making Adequate Appointments to the Commission During and After the Governor's Emergency Order.**

An analysis of the membership roster of the Behavioral Health Commission and other data over the past five years shows a gradual but severe decline in the number of active members of the Commission.



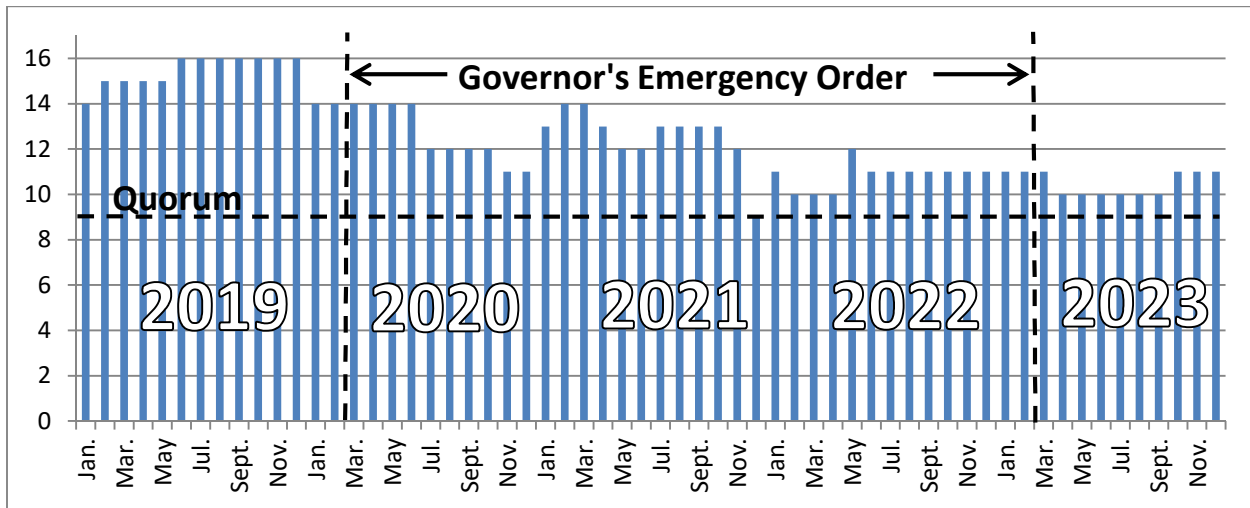


Fig. 1 – Graph showing the number of active members of the Commission over the past five years, noting the duration of the Governor’s Emergency Order and the quorum requirement.

Prior to the Governor’s Emergency Order, the Commission was appointed nearly to capacity and very comfortably above quorum. After the Emergency Order, it has had barely more active members than the quorum requirement.

The Board of Supervisors and individual Supervisors have had plenty of applications from which to make appointments. It is often said at Commission meetings that there are seven or eight applications pending, yet the Board of Supervisors and individual Supervisors rarely make appointments. As of this writing, there are only six members of the Commission with current appointments. Four of these will expire at the beginning of 2024. Meanwhile, seven viable applications are pending. Last year, during which the Commission could hardly meet with quorum, only one appointment to the Commission was made.

There are currently two family-member-of-a-consumer seats available on the Commission, one seat that could go to a consumer or a family member, two seats for the general interest, and one seated Supervisor seat. Of the three consumer or family-member-of-a-consumer seats, one must be an older adult advocate under current law. Under recent state law, one member must be a veteran or veteran advocate. The seven viable pending applications contain four general interest applicants (Humphrey, Kelsen, Leonardi, and Lucas), one of whom (Kelsen) is ethnically Asian when there is a directive in local law that the membership of the Commission must reflect the ethnic diversity of the client population of the City, *S.F. Admin. Code* section 15.12(f) (first sentence), and there are currently no ethnically Asian active members, and a large proportion of clients of Behavioral Health Services are Asian. Humphrey, Kelsen, and perhaps Leonardi all reside in districts the Supervisors of which have not had an active member appointed to the Commission for years. As for family members of consumers, there is an applicant (Zepeda) who claims this designation. As for consumers, there are three applicants (Leslie, Zepeda, and

Giannelli) who claim this designation. Humphrey or perhaps Leonardi could be appointed by Supervisor Preston to Seat 7. Kelsen could be appointed by Supervisor Chan to Seat 9, Zepeda could be appointed by the Board to Seat 15 or 16, either Leslie or Giannelli could be appointed by the Board to Seat 16 or 15, and the Board could appoint any member thereof to Seat 17, for a total of five additional active members. This would put the membership of the Commission at 15, allowing for one current member to drop out, no matter who that member is. The Commission would then have two active members short of the current maximum of 17, and this would solve the membership aspect of its quorum problems as well as shrinking it to size 13 and appointing members.

The needed appointments are easily made. In 2022, Geoffrey Grier, then staff for the Commission, asked the Board of Supervisors for two appointments solely for the purpose of bringing attendance up to 12 active members so that the Commission could amend its bylaws. Right away, the Board made the needed appointments. Now this Committee pretends that it cannot do the same with seven viable applications pending, when five of the seats over which it has power lack current appointments, three of which have sat vacant for almost two years. On Dec. 11, Dorsey said putting all of the seats under the control of the Board would help the Commission to attain quorum. Indeed, the Board has done a lot worse than individual Supervisors, with responsibility for half the seats!

**Two Thirds of the Current Active Members of the Commission Were Appointed During the Governor's Emergency Order and Are Reluctant to Meet in Person.**

At the meeting of the Rules Committee on Dec. 11, 2023, Committee Chair Dorsey said that the Commission has had difficulty attaining quorum for a long time. This is false! Even as recently as 2022, while the Commission had between ten and 12 active members, the Commission attained a quorum of nine at *nine* of its 11 meetings that year. The Behavioral Health Commission is not a Charter board or commission. Consequently, it was required to meet remotely during the entire period of the Governor's Emergency Order. The higher attendance during the Emergency Order was because remote meetings were easier to attend. Since it has begun meeting in person, the Commission has attained a quorum of nine at but *one* of its six meetings.

Only three of its 11 current active members were members before the Emergency Order, and two of them had perfect attendance at in-person meetings in 2023. Of the seven active members who were appointed during the Emergency Order, two had perfect attendance at in-person meetings in 2023, and four of the remaining five attended but half of in-person meetings of the Commission in 2023.

Seat No.	Name	Mar. 15	Apr. 19	May 17	Jun. 21	Jul. 19	Aug. 16	Sep. 21	Oct. 19	Nov. 16	ABSENCES		
1	Vigil (h)	Canceled due to Unconstitutional interference by Behavioral Health Services	A	P	A	Canceled due to "ongoing security concerns and inability to make quorum"	Summer recess	P	P	A	3		
2	Vasconez		P	P	A			A	P	A	3		
3	Jackson-Lane (h)		A	P	P			A	P	A	3		
4	(vacant)												
5	(vacant)/Murphy										A	A	2
6	Mason		A	A	P					A	P	P	3
7	(vacant)												
8	Banuelos		P	P	P					P	P	P	0
9	(vacant)												
10	Stevens (h)		P	P	P					P	P	P	0
11	Williams		A	P	A					A	P	P	3
12	Parks (h)		P	P	P					P	P	P	0
13	Wynn (h)		A	A	P					P	P	P	2
14	Murawski		P	P	P					P	P	P	0
15	(vacant)												
16	(vacant)												
17	(vacant)												
Appointed			10	10	10			10	11	11			
Present			5	8	7			6	10	7			
Quorum			9	9	9			9	9	9			
% of quorum			56%	89%	78%			67%	111%	78%	80%		
% of appointed			50%	80%	70%			60%	91%	64%	69%		

Table 1 – Attendance at meetings of the Behavioral Health Commission in 2023 since the recession of the Governor’s Emergency Order. (h) = In 2023, this member served beyond the expiration of their appointment.

Of the five who were absent for half of the in-person meetings, at least four appear to have also triggered the penalty for dismissal for four unexcused absences in a 12-month period set by *San Francisco Administrative Code* § 15.13(d). The same four also either were serving on expired appointments in 2023 or are serving on expired appointments now. Thus, they may be replaced by making new appointments. These and appointments to two vacant seats would also improve the Commission’s quorum problem.

Of the five who have attended only three of the six in-person meetings since the rescission of the Emergency Order, four of them have exceeded the maximum number of absences in *S.F. Admin. Code* § 15.13(d). (The remaining two automatic dismissal members had perfect attendance and 2-in-3 attendance during the in-person meetings.) Given recommendations by the Commission, these six could be replaced exactly with the current applicants (meaning no change in the current distribution of types of members) except that the Commission would lose a mental health professional. This would “use up” all of the applications but one to replace existing members,

and would increase the probability of obtaining quorum from 18% to 34% with no change in the number of active members (except one. We do not know who this is, but Dorsey said on Dec. 11 that there would be ten active members on the proposed new Commission with no dismissals, requiring one voluntary departure.).

### **The Board of Supervisors and Individual Supervisors Have a Responsibility to Keep the Behavioral Health Commission Fully Appointed.**

*San Francisco Administrative Code* § 15.12(b) states that individual Supervisors and the Board of Supervisors “shall appoint” all members of the Commission. Individual Supervisors and the Board of Supervisors are thus willfully failing, refusing, or neglecting to perform duties enjoined upon them by law by not making these appointments from viable applications. This is a misdemeanor under *California Government Code* § 1222.

### **There Is a Political Reason Why Individual Supervisors and the Board of Supervisors Would Willfully Fail, Refuse, or Neglect to Make the Necessary Appointments.**

There is a plausible political reason why the Board and its members would fail, refuse, or neglect to make appointments in order to use the resultant lack of quorum to size the Commission down. They may want to size it down in order to make it as unlikely as possible for the Commission to accomplish its duties because its duties are thought to be politically intolerable.

The first and oldest task of the 65-year-old Commission is to review and evaluate the City and County’s mental health needs, services, facilities, and special problems. *S.F. Admin. Code* § 15.14(a)(1). They are to provide an independent and objective view of the mental health situation in San Francisco,<sup>1</sup> and this may be thought to be politically intolerable. The first step in such a task would be an assessment of the mental health needs of San Francisco. The Commission cannot do this because it would mean asking who is considered to be mentally ill, who is being currently being treated, and how. Even Behavioral Health Services is going through violent convulsions over this issue, now claiming that their active patient census is appx. 20,000. Just four years ago, they were claiming that it was appx. 30,000. They cannot account for a one-third decline in their patient population in just four years! That is because one third or 10,000 of their patients are politically sensitive and their very status as patients cannot be openly acknowledged.

Mental health is inherently political. This was the reason for the Short-Doyle Act in 1957 and the beginning of deinstitutionalization in California. What is considered mentally ill should be determined as a matter of local politics, and this will differ depending on the community. Behaviors that are considered to be evidence of mental illness in San Francisco are not considered to be such in San Joaquin County. This is both because they cause stress to others in San Francisco that they don’t cause in San Joaquin County, and are themselves caused by stress

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<sup>1</sup> Jane P. Schubert, p. 2 of letter to Marcia C. Buck dated Feb. 20, 1975, “Conflicts of interest in Mental Health Advisory Boards, and in sub-boards,” file no 78-75.

that is imposed on residents of San Francisco that is not imposed residents of San Joaquin County.<sup>2</sup> The causes and manifestations of stress in San Francisco were to be the subject of the Commission's deliberations when it was first created.

Democratic systems have weaknesses, and these were stressed by a Nazi legal theorist Carl Schmitt. Unfortunately, Schmitt's theses have since been taken up by prominent political theorists on both the left and the right. They seem to be supported by the legacy of political violence in the United States, violence that came to a head in the 1990's in the cases of Timothy McVeigh and, with particular relevance to involuntary mental health treatment, both because his violence was intended in part to combat it and because a court adjudicated him to be in need of it, Ted Kakzynski. Others have recognized these weaknesses in a more pragmatic fashion. In their book, *Tragic Choices*, Calabresi and Bobbitt discussed phenomena such as the distribution of kidney dialysis machines when the technology was in its infancy and the number of available machines was badly inadequate to serve the number of patients who needed them. Some body (such as the "God committee" in Seattle) literally had to decide who would live and who would die by allocating access to the machines, and these decisions obviously had to be made in secret. While the choices in involuntary mental health treatment are not as stark as this, Kakzynski made them one of the subjects of his political violence, and there is other supporting evidence. In the hearings in the California Legislature on A.B. 1800 in 2000, the LPS Dialogue Project was mentioned, a large and roving event involving thousands of Californians across the state, including San Francisco, seeking to find common ground on the subject of involuntary treatment. It was disclosed to have been a failure. No common ground could be found. The topic was not discussable. It remains so today, and the Commission's primary task cannot be achieved without extraordinary effort.

On the legal level, open meetings laws do not allow the Behavioral Health Commission to have any deliberations in secret, except those extremely narrow categories enumerated in *California Government Code* § 54954.5, and does not allow the Commission to keep any of its actions in secret whatsoever. *Id.* §§ 54953(c)(2) and 54957.1(a). However, since a connection was admitted between mental health and political violence, i.e., terrorism, by the one of the nation's top experts on them, Nicholas Kittrie, *see* his *The War against Authority*, both have become the subject of official secrecy, which springs from federal law, *Exec. Order No.* 13,526, which preempts all contrary state and local law, *U.S. Const.* Art. VI, Section 2. By the same token, the President's war powers under the Authorization for the Use of Military Force of Sept. 18, 2001, allow him to detain, i.e., involuntarily treat, i.e., as a mental health outpatient, anyone whom they find to be dangerous to the public. Although there was U.S. Supreme Court precedent, narrowly split along party lines, from the Civil War era, requiring judicial review of such decisions, *Ex*

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<sup>2</sup> The examples of San Francisco and San Joaquin County are made up, but this principle of the Short-Doyle Act is stated in a legislative report, *Improving California's Mental Health System: Policy Making and Management in the Invisible System* (1978), available at the Public Library, Call No. REF L500 H248 1978 no. 2.

*Parte Milligan*, this appears to have been effectively overruled *sub silentio* by *Bush v. Gore* and *Gore v. Bush*, also narrowly decided upon party lines, this time to the advantage of the other party. As a consequence, involuntary mental health patients are no longer inducted through court procedures to which the patient is summoned, and Supreme Court precedent regarding involuntary treatment, as well as the LPS Act, no longer apply. Both remain “on the books,” like the Behavioral Health Commission, as window-dressing. Thus, they may be used to invalidate the complaints of involuntary mental health patients about their involuntary treatment, and turn the same complaints against the patients who made them, as supposed evidence of their mental illness, thus to coerce them to substitute voluntary mental health treatment for involuntary. Meanwhile, it cannot be said that Behavioral Health Services acts without democratic oversight because the Behavioral Health Commission exists, and the Board of Supervisors has even assigned it additional tasks beyond the state minimum.

*Bush v. Gore* and *Gore v. Bush* ostensibly had nothing to do with *Ex Parte Milligan*, and the 2000 Presidential election nothing to do with involuntary mental health treatment, but this may have been an illusion. While involuntary mental health treatment was never mentioned as an issue in the 2000 Presidential election, it was very much on the mind of the public. There were several indicia of this, but one of the most prominent was A.B. 1800, which was to lower the standard for involuntary treatment in California, whose flagship LPS Act had set the standard for the civilized world and which the U.S. Supreme Court gave Constitutional status in 1975 through *O'Connor v. Donaldson*. A.B. 1800 passed the California State Assembly in 2000 by a 3 to 1 majority, but was never voted by the California Senate, nor was it reintroduced the following year. This was because presidential candidate George W. Bush was a proxy for the use of Presidential war powers to involuntarily treat mental health patients below then-current standards (this was inevitable) but without any of the usual lawmaking, court procedure, or even any open acknowledgement of the relationship. By contrast, Al Gore was a proxy for the position of involuntarily treating patients through the traditional and relatively open procedures of legislation and confidential induction by courts. By declaring George W. Bush to be the winner of the 2000 Presidential election, the Supreme Court effectively placed their Constitutional seal of approval on both the rollback of the right to refuse mental health treatment and the use of authoritarian and antidemocratic methods to implement it. The theory of prominent Constitutional scholar Bruce Ackerman, *see his We the People*, which theory was subsequently approved by the U.S. Supreme Court, states that Constitutional change may occur through means other than formal amendment. I.e. Constitutional change may occur through a proxy decision, such as a Presidential election. The authoritarian approach also contributed to the “therapeutic” goal of giving involuntary patients nothing, absolutely nothing, on the basis of which to lodge any complaint, stake any identity, or take any form of political action, thus to resist treatment. It was a conspiracy of silence, and this is what stands to be threatened by the accomplishment of its duties by the Behavioral Health Commission.

The U.S. Congress rejected authoritarian responses to the Oklahoma City bombing in the Antiterrorism and Effective Death Penalty Act of 1996, and no major terrorist incidents on U.S.

soil followed, so the election of George W. Bush had to have been motivated by the promise of therapy for the patients, at least among democratic-leaning constituents. Take it from me, a prisoner of involuntary outpatient mental health treatment for decades running, these benefits are completely illusory. This and other canards need the sunshine that the Behavioral Health Commission was intended to work within, not a continuation of Nazi-era *nacht und nebel* (“night and fog”). The Board of Supervisors should reject downsizing the Behavioral Health Commission and instead solve the Commission’s quorum problem by appointing at least some of the many eager applicants thereto.

There are Constitutional arguments that can be raised against the authoritarian methods being used to treat involuntary mental health patients. However, they currently cannot even be raised because the members of the public who have been subjected to involuntary treatment under the new norm have been excluded from the conversation thereby. This offends another theory of Constitutional law. *See, generally, John Hart Ely, Democracy and Distrust.*

### **Errata**

In my previous correspondence of Oct. 29, 2023, I said that the Behavioral Health Commission had responsibility for reviewing 334 pages of performance contracts. I forgot to include the Mental Health Services Act Plan! This brings the total to 532 pages. I also said that the proposal would bring the size of San Francisco’s local mental health board to those of Alpine and Sierra Counties. Actually, counties such as these with populations below 80,000 have a lower minimum size for their mental health boards, so a more apt comparison would have been with Mendocino and Yuba Counties, each of which have appx. 1/10 the population of San Francisco. Supervisor Dorsey has subsequently increased the size of the Commission in his proposed ordinance by one member to twelve, one above the minimum for San Francisco under state law.

Very Truly Yours,

/s/

Wynship Hillier

### Attachments:

- Application of Alexander Humphrey
- Application of Aage Keldsen
- Application of Dominique Leslie
- Application of Francesca Zepeda
- Application of Joseph Leonardi
- Application of Joel Giannelli
- Application of Marvellus Lucas

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
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Fax No. (415) 554-5163  
TDD/TTY No. (415) 554-5227

## Application for Boards / Commissions / Committees / Task Forces INSTRUCTIONS AND APPLICATION

San Francisco is a diverse City and County with a wide range of people and issues affecting it. In order to take advantage of the extensive experience and knowledge available throughout our communities, various Boards/Commissions/Committees/Task Forces have been established to bring that knowledge together. These groups and their membership requirements are established by legislation approved through the local, state, and/or federal government.

In addition to setting up the purpose and goals of the various groups, the governing legislation outlines the type of person - in terms of desirable skills and/or knowledge - who can contribute their knowledge and perspective. In this manner, a group of San Franciscans, who are representative of the City and County, can be active participants in addressing issues affecting the entire City and County.

If you are interested in serving the City and County of San Francisco, the following procedures are provided:

1. A list of vacancies and expected vacancies, with their qualifications, can be found at the Office of the Clerk of the Board of Supervisors, at the San Francisco Main Public Library, and online on the Board of Supervisors' website (<http://www.sfbos.org/vacancy>). Please review this list for positions of interest.
2. Submit an application ([http://www.sfbos.org/vacancy\\_application](http://www.sfbos.org/vacancy_application))  
*(List all of the appropriate seat number(s) and/or category/categories for which you qualify. We request applications be received ten (10) days before the scheduled hearing.)*

Applicants may also need to submit a Form 700, Statement of Economic Interests (<https://www.fppc.ca.gov/Form700.html>), along with their application for all bodies listed in [Campaign and Governmental Conduct Code, Section 3.1-103\(a\)\(1\)](#).

3. If the seat(s) you are applying for is vacant and requires the Board of Supervisors' confirmation, the Rules Committee may schedule your application for review. Applicants should expect to appear before the Rules Committee to speak on their qualifications and answer questions during a public hearing.  
*(There are no set instructions on what you are expected to present to the Rules Committee; however, a brief description of how your qualifications distinguish you from other applicants, reasons for your interest in the subject, and/or a short summarization on why you would make a good candidate is appropriate.)*
4. The Rules Committee may or may not make a recommendation for appointment. If a recommendation is made by the Rules Committee, the recommendation is forwarded to the Board of Supervisors for approval. It generally takes approximately 15 days from the date the Rules Committee makes their recommendation, for the individual to become officially appointed.
5. Depending on the type of organization, a new appointee may need to take an Oath of Office.

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If you have any further questions, please contact the Rules Committee Clerk at (415) 554-5184. If you require detailed information concerning the operations of a particular Board/Commission/Committee/Task Force, please contact the administering department directly.

(Applications must be submitted to [BOS-Appointments@sfgov.org](mailto:BOS-Appointments@sfgov.org) or to the mailing address listed above.)



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Application for Boards, Commissions, Committees, & Task Forces

Name of Board/Commission/Committee/Task Force: \_\_\_\_\_

Seat # (Required - see Vacancy Notice for qualifications): \_\_\_\_\_

Full Name: \_\_\_\_\_



Zip Code: \_\_\_\_\_

Occupation: \_\_\_\_\_

Work Phone: \_\_\_\_\_ Employer: \_\_\_\_\_

Business Address: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Business Email: \_\_\_\_\_ Home Email: \_\_\_\_\_

Pursuant to Charter, Section 4.101(a)(2), Boards and Commissions established by the Charter must consist of residents of the City and County of San Francisco who are 18 years of age or older (unless otherwise stated in the code authority). For certain appointments, the Board of Supervisors may waive the residency requirement.

Resident of San Francisco: Yes [ ] No [ ] If No, place of residence: \_\_\_\_\_

18 Years of Age or Older: Yes [ ] No [ ]

Pursuant to Charter, Section 4.101(a)(1), please state how your qualifications represent the communities of interest, neighborhoods, and the diversity in ethnicity, race, age, sex, sexual orientation, gender identity, types of disabilities, and any other relevant demographic qualities of the City and County of San Francisco:

Large empty rectangular box for providing qualifications.

**Business and/or Professional Experience:**

**Civic Activities:**

Have you attended any meetings of the body to which you are applying? Yes  No

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An appearance before the Rules Committee may be required at a scheduled public hearing, prior to the Board of Supervisors considering the recommended appointment. Applications should be received ten (10) days prior to the scheduled public hearing.

Date: \_\_\_\_\_ Applicant's Signature (required): \_\_\_\_\_

*(Manually sign or type your complete name.  
NOTE: By typing your complete name, you are hereby consenting to use of electronic signature.)*

Please Note: Your application will be retained for one year. Once completed, this form, including all attachments, become public record.

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**FOR OFFICE USE ONLY:**

Appointed to Seat #: \_\_\_\_\_ Term Expires: \_\_\_\_\_ Date Vacated: \_\_\_\_\_

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Application for Boards, Commissions, Committees, & Task Forces

Name of Board/Commission/Committee/Task Force: \_\_\_\_\_

Seat # (Required - see Vacancy Notice for qualifications): \_\_\_\_\_

[Redacted] \_\_\_\_\_
\_\_\_\_\_ Zip Code: \_\_\_\_\_
\_\_\_\_\_ Occupation: \_\_\_\_\_

Work Phone: \_\_\_\_\_ Employer: \_\_\_\_\_

Business Address: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Business Email: \_\_\_\_\_ Home Email: [Redacted]

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18 Years of Age or Older: Yes [ ] No [ ]

Pursuant to Charter, Section 4.101(a)(1), please state how your qualifications represent the communities of interest, neighborhoods, and the diversity in ethnicity, race, age, sex, sexual orientation, gender identity, types of disabilities, and any other relevant demographic qualities of the City and County of San Francisco:

[Large empty box for providing qualifications]

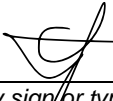
**Business and/or Professional Experience:**

**Civic Activities:**

Have you attended any meetings of the body to which you are applying? Yes  No

An appearance before the Rules Committee may be required at a scheduled public hearing, prior to the Board of Supervisors considering the recommended appointment. Applications should be received ten (10) days prior to the scheduled public hearing.

Date: \_\_\_\_\_ Applicant's Signature (required): \_\_\_\_\_



*(Manually sign or type your complete name.  
NOTE: By typing your complete name, you are hereby consenting to use of electronic signature.)*

Please Note: Your application will be retained for one year. Once completed, this form, including all attachments, become public record.

**FOR OFFICE USE ONLY:**

Appointed to Seat #: \_\_\_\_\_ Term Expires: \_\_\_\_\_ Date Vacated: \_\_\_\_\_

**Wynship W. Hillier, M.S.**  
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October 30, 2023

Matt Dorsey, Chair  
Rules Committee  
San Francisco Board of Supervisors  
City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, California 94102

*Sent via email to [bos@sfgov.org](mailto:bos@sfgov.org)*

**RE: VOTE NO ON FILE NO. 231076, “ADMINISTRATIVE CODE—COMPOSITION OF BEHAVIORAL HEALTH COMMISSION”!**

Honorable Committee Chair Dorsey:

File No. 231076 will harm the Behavioral Health Commission by making it too small, badly hampering its ability to carry out its work.

This proposed legislation would reduce the Commission’s size by six seats or roughly 1/3 its current size, from 17 to 11 members, the absolute minimum prescribed by state law for San Francisco and one more than the minimum for any county in the State. But San Francisco is the thirteenth largest of 58 counties and devotes tremendous General Fund and special tax resources to its Behavioral Health Services, the division over which the Commission is charged with oversight. This division has an annual budget of \$600M, far more than the amount per-capita of other counties. It has appx. 150 subcontractors and a patient population of 30,000, over 3% of the population of the City and County. There are appx. an additional 10,000 people in its target mental health population who are not patients. The division is subject to a combined total of 334 pages of mental health performance contracts with the state, directly or indirectly, all of which contracts the Commission is responsible for reviewing. The Commission is additionally charged with review and evaluation of the City and County’s behavioral health needs, services, facilities, and special problems, review and approval of the procedures used to ensure citizen and professional involvement at all stages of the planning process for behavioral health services provided as part of the San Francisco Mental Health Plan, a \$100M contract with the State accounting for 198 of the aforementioned 334 pages of performance contracts, and monitoring of the division’s compliance and oversight over the division’s compliance program therewith. The

Commission has fulfilled none of these obligations in the last 30 years. If the proposed legislation passes, it will make it still more difficult for the Commission to perform these duties and could make it impossible. San Francisco needs and deserves a local mental health board substantially larger than those of small counties like Sierra and Alpine to deal with its far larger and more diverse target population and far larger and more complex division!

**A Poorly-Researched News Article Has Distorted the Issues in This Proposed Legislation.**

The proposed legislation is related to a newspaper article that came out a week before the proposed legislation was introduced. The *San Francisco Standard* published “San Francisco Drug Crisis Commission Doing Nothing for Lack of Members” by David Sjostedt on October 10, mentioning the proposed legislation. Not only did this article badly mischaracterize the Commission’s purpose in the headline, the title is otherwise misleading and the article rife with inaccuracies. The misnaming of the Commission is especially egregious because the Commission is San Francisco’s local mental health board, mandated by state law 65 years ago. State law allows the Board of Supervisors to graft extra duties onto the Commission, but it has not always done so in an intelligent way. In 2019, the Board changed the Commission’s name from “Mental Health Board” to “Behavioral Health Commission” and wherever the word “mental” appeared in its powers and duties, put the word “behavioral” its place, thus seeming to add oversight of overdose prevention, etc., to its mental health treatment oversight responsibilities. This ignored that the Commission’s core, nitty-gritty functions that no one currently on it wants to do, such as reviewing 334 pages of performance contracts and oversight responsibilities related to the Plan no one wants to read, pertain only to the mental-health side of behavioral health, not the substance-abuse side. As such, the Commission’s added powers and duties are like inviting your already-very-bad plumbing contractor to also dabble in electrical work.

Furthermore, it is not the case that the Commission is “Doing Nothing *for Lack of Members*,” and this error is repeated in the body of the article:

*“There are currently six active members on the 17-member Behavioral Health Commission . . .*

*“Because there are fewer than nine active members, the commission lacks a quorum and hasn’t been able to wield much of its power or hold meetings since February.”*

There are currently *ten* active members on the Commission, i.e., more than a quorum. Thus, the Commission’s inability to meet is due at least in part to Commissioners not showing up to meetings, not a lack of members alone. The attribution of inability to meet solely to lack of members is disingenuous because, while there are only six members with current appointments, the article elsewhere admits that members continue to serve, i.e., be “active” and contribute to quorum, after their appointments have expired. They often do so for periods longer than their

original appointments, which are for three years! Currently, four members are serving beyond their original appointments, bringing the total number of active members to ten. It is strictly illegal for members to serve beyond their appointments, but this illegality is supported by long-standing citywide custom, and the Behavioral Health Commission is not careful about legality.

While it was true that the Commission had not met with quorum since February when this article was written, the Commission did not meet during nearly half of the intervening months due to factors other than quorum. In March, unconstitutional interference by Behavioral Health Services caused a cancellation. In August, the Commission observed its customary recess. In July, the regular meeting was canceled due to “ongoing security concerns and inability to make quorum.” It is not clear whether the “inability to make quorum” was due to more than one Commissioner expressing that they would not be able to attend the meeting that month or general discouragement due to inability of the Commission to attain quorum at its previous three regular meetings.

As for this lack of quorum preventing the Commission from doing their work, this too is misleading. If this had been the case, there would have been a backlog of resolutions on the agenda to be proposed at the Commission’s regular monthly meeting on October 19. There was none, and the two members of the Commission who were interviewed for this article both asked to leave the meeting (which did draw a quorum – see below) early because they had other and presumably more important engagements to which to attend. (Mr. Grier was never a member of the Commission.) “People’s lives are at risk” indeed!

Furthermore, if lack of quorum at meetings could be attributed to lack of appointments to the Commission rather than Commissioners just not showing up to meetings, then the committees of the Commission, *which have been fully appointed all year long*, would have been able to meet and prepare resolutions for the Commission to pass. They have not done so. In the six months immediately before Mr. Sjodedt’s article came out, these committees noticed twelve regular meetings. Of these twelve, quora *of the committees* attended but five or less than half of them, causing the majority of meetings of committees in this period to be adjourned immediately. Resizing the Commission would have done nothing to avert this!

In fact, the Commission has made only a single advisory resolution in the past two-and-a-half years, during much of which it has been better appointed. This resolution was so appallingly bad that the Commission omitted it from their Annual Report and the Clerk of the Board of Supervisors refused to even put it on the public record, such that I had to append it to my lengthy letter lampooning it. Jan. 25, 2022, “THE SAN FRANCISCO BEHAVIORAL HEALTH COMMISSION HAS PASSED A RESOLUTION”, pp. 175-87 in file no. 220118, communications packet for the Feb. 8, 2022, meeting of the Board of Supervisors, available here: <https://sfgov.legistar.com/View.ashx?M=F&ID=10504772&GUID=4AB1E2DE-B3DE-4465-B0C4-C472F0EDAEB9>. The Commission has also conducted a pittance of site visits during the same period, the reports of which it is illegally withholding from the public even while it complains to the press about being denied information by the Department!



Shortly after this article was published and the proposed legislation introduced, the Commission met on October 19 with ten members present and conducted business normally, raising the question of whether the earlier failures had been planned all along to develop false momentum for this proposed legislation.

### **The Commission's Membership Requirements Are Not the Problem.**

The article then correctly mentioned the eight pending applications to the Commission but reported that "Victor Young [staff with the Clerk of the Board of Supervisors charged with oversight of the Commission – WH] . . . said it's difficult to find qualified members of the Commission due to the types of expertise needed for each seat." I have spoken with Mr. Young about this quotation and he said that he had been misquoted. He affirmed that membership requirements are not currently associated with specific seats. No legislative action regarding this is needed or appropriate!

In addition, the complex requirements in current legislation cannot be the cause of the current lack of appointments because the small number of current appointments relaxes the constraints posed by these requirements. Furthermore, both of the mental health professional seats and one of the two child/adult advocate requirements are currently filled, eliminating these particular requirements from the consideration of future applications. The remaining three members with current appointments are evenly distributed between a consumer, a family member of a consumer, and an interested member of the public. This means that, of the ten seats on the Commission currently available to non-Supervisors, three or four are available to consumers (because one seat may go to either a consumer or a family member of a consumer), two to four are available to family members of consumers (because of the previous ambiguity as well as uncertainty as to whether the current child/older adult advocate is a family member of a consumer or an interested member of the public), and four or three are available to interested members of the public, with the additional constraint that one of the available family-member-of-a-consumer or interested-member-of-the-public seats must go to a child/older adult advocate. While this highly complex arrangement is of doubtful utility and may make appointing members to the Commission administratively more difficult, it provides no legal constraint that would bar all eight currently-pending applicants from service, thus to continue current pressure on the quorum requirement (as if this was even the real problem)!

In further addition, and again as the article mentions, a member of the Board of Supervisors has not been appointed to the Commission, as required by law, in over a year and a half! The article failed to mention that neither of the two most recent Supervisor members attended even a single meeting of the Commission in person, a requirement under parliamentary rules. The problem in both seated Supervisor and non-Supervisor cases is that the Board and individual Supervisors are not making the needed and required appointments. Even when they do, the appointed members do not attend! Legislation shrinking the size of the Commission is not the correct response.

Committee Chair Dorsey

October 30, 2023

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The proposed legislation would make it administratively more difficult to appoint new Commissioners in a different way. *S.F. Charter* § 4.101(a) requires that the composition of the Commission be “broadly representative of the . . . neighborhoods . . . of the City and County . . .” This is currently guaranteed by the requirement that each Supervisor appoint a member of the Commission, provided that they make their appointment from among their constituents. If all of the Commissioners are appointed by the Board, per the proposed legislation, then this committee will have to look at street addresses of the homes of individual Commissioners as well as applicants, determine what districts each live in, and make sure that there are not any other current appointments from a district before making an appointment from it.

### **Conclusion**

In sum, the only result that the new legislation is sure to have besides allocating the necessary veteran seat is that it will freeze the current membership of the Commission and present a clear and insurmountable bar to any new appointments being made. Given the current lackadaisical attitude of current Commissioners, the intent seems to be to hobble the Commission by making sure that 30,000-patient, 150-contractor, and \$600M/year Behavioral Health Services has an oversight board the same size as those in California’s smallest counties, where patient populations are well under 100, contractors are nonexistent, and budgets far below \$10M!

Very Truly Yours,

/s/

Wynship Hillier

cc: Editor, San Francisco Standard  
Victor Young

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November 3, 2023

Matt Dorsey, Committee Chair  
Rules Committee  
San Francisco Board of Supervisors  
City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, California 94102

*Sent via email to [bos@sfgov.org](mailto:bos@sfgov.org)*

**RE: YOUR COMMITTEE CAN RELIEVE QUORUM PRESSURE ON THE BEHAVIORAL HEALTH COMMISSION BY APPOINTING TWO ADDITIONAL MEMBERS TO IT JUST AS WELL AS BY REDUCING ITS SIZE (RELEVANT TO FILE NO. 231076, NO. 3 ON MONDAY'S AGENDA).**

Honorable Committee Chair Dorsey:

As a correction to my letter of Oct. 30, the current vacancy announcement for the Behavioral Health Commission shows that Supervisor Joel Engardio has appointed Peter Murphy to Seat No. 5 on the Commission, bringing the number of active members to 11. Furthermore, the occupants of Seat Nos. 15 and 16 shown on the announcement, both appointed by the Board of Supervisors on recommendation from this Committee, have not attended meetings in nearly two years. Replacing them with two of the seven candidates with pending applications to the Commission would increase the number of active members to 13. This would be four greater than quorum, and one greater than needed for a 2/3 majority (required for some motions).

Using 13 active members as a comparison, reducing the size of the Commission from 17 to 11 would do nothing to reduce pressure on the quorum requirement. At 11 members, the two appointments could not be made. In addition, two of the current 11 active members would have to be *dismissed from the Commission* on the presumption that none of them meet requirements for the veteran or veteran advocate and seated Supervisor seats. At nine active members out of 11, the Commission would be three more than quorum and one member more than the requirement for a 2/3 majority. As far as pressure on the quorum and 2/3 majority requirements are concerned, these two alternatives are approximately equal.

Committee Chair Dorsey

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These two alternatives are not equal in other ways. Having four additional people to prosecute the Commission's business (and the possibility of appointments by three individual Supervisors in the future) would be of great assistance, and it would give at least four additional people the experience (or additional experience) of wielding public power. For this reason, we ask that you amend your proposed legislation to leave the size of the Commission unchanged and recommend to the Board of Supervisors appointments to Seat Nos. 15 and 16 of the Commission from the remaining seven pending applications (or a future veteran or veteran advocate application) at a future meeting of your Committee.

In addition, the memorandum from the Clerk of the Board dated Oct. 31 and also included in the communications packet for this item at the hearing on Monday contains an error. The first bullet on p. 3 says that language should be added regarding administrative support for the Commission. Such language was added by Ord. No. 229-20 and currently appears in § 15.12.5, which would be unaffected by, and does not appear in, your proposed legislation.

Very Truly Yours,

/s/

Wynship Hillier