

Dear Commissioners,

Unfortunately, I am traveling and unable to attend the October Commission meeting. However, I want to share my recommendation and background regarding **Item 12: Innovation Partnership Fund**.

Recommendation

As the head of the Board's Strategic Planning process, I recommend **postponing any action on the Innovation Partnership Fund** until we have addressed the broader questions surrounding the Commission's **Strategic Plan** in the post-Proposition 1 environment and its related implications.

Executive Summary

Item 12 of the October Commission agenda concerns potential grants for the Innovation Fund established under Proposition 1, with funding to begin on **July 1, 2026**.

Given that these grants would not start for another nine months and have a year to make them, there is no urgency to act immediately. More importantly, this issue represents a small part of a much larger question facing the Commission—**our overall strategic priorities**.

Since our last Strategic Plan was adopted prior to Proposition 1, we must first examine how Prop 1 affects our priorities before taking any new actions, such as those related to the Innovation Fund, which remains the smallest fund the Commission administers to support counties. I also wonder whether this fund is the most appropriate category for the current Program Committee recommendations.

I do not believe we need to start over; the existing plan is **structurally sound**. However, it must be updated to reflect Prop 1's new mandates and our significantly changed Commission composition. In the past seven months, **14 new Commissioners** have been appointed, giving us an entirely different collective perspective. We have not yet taken time as a full group to discuss our shared priorities or to integrate new perspectives—such as substance use disorder (SUD), veterans affairs, aging, and housing—that are now represented on the Commission.

I recommend that we **use the January Commission meeting to begin developing a modified Strategic Plan**. This will allow us to align around collective priorities and ensure that both the **Program Committee** and the **Budget Committee** can integrate this input into

their respective work. The Budget Committee, in particular, is still reviewing current and future funding commitments to determine available resources.

Wearing my second hat as the leader of our **Sustainable Finance Initiative**, I am also concerned that the Program Committee's current proposal could inadvertently limit our ability to secure broader funding—both to support its recommendations and to expand the reach of other Commission programs.

If approached strategically, the Innovation Fund's **\$100 million** could be leveraged into **billions of dollars of potential impact** through tax-advantaged debt facilities—far beyond traditional grantmaking models. This opportunity builds directly on my presentation to the Commission in February and my ongoing work on sustainable finance strategies. For that reason, I believe it is prudent to **defer action** until we can fully evaluate all strategic and financial options in context.

Additionally, the Federal government's recent actions have disrupted traditional healthcare and finance systems, creating both uncertainty and opportunity. The Commission must take time to understand this evolving landscape and determine how we can respond effectively.

Finally, I recommend we **engage with the Legislature, the Governor, and HHS** to understand their perspectives on the Commission's priorities for implementing Prop 1 within this rapidly changing policy environment.

Background

Our current **Strategic Plan (2024–2027)** was developed before Proposition 1 was proposed or approved. There remains an open question about whether Prop 1 alters the Commission's authority. Attached is an analysis concluding that while Prop 1 appears to **expand our authority**, it does not fundamentally change our core mandate.

Before making any decisions related to Prop 1—including actions on the Innovation Partnership Fund—it is essential that the full Commission clearly understand what Prop 1 **requires of us** and how we intend to respond.

Prop 1 significantly changes how the state prioritizes and funds mental health initiatives. Yet, as a group, Commissioners have not had an opportunity to be fully briefed on these changes or to discuss what priorities we want to advance collectively. This is partly because the final appointments resulting from Prop 1 were completed only recently. We conducted a deep dive in March, but many Commissioners joined afterward, with the most recent appointment just this August.

Recent Appointments Include:

- **August:** Governor Newsom appointed **Tumboura Hill** (family member of an adult or older adult peer with substance use disorder).
- **April:** Appointments included
 - **Amy Fairweather, J.D.** – Veteran or veterans’ organization representative
 - **Brandon Fernandez** – Substance use disorder peer
 - **Jay’Riah Thomas-Beckett** – Mental health peer
 - **Jevon Wilkes** – Representative of a children and youth organization
- **February:** Appointments included
 - **Pamela Baer** – Experience in community-defined evidence practices
 - **Michael S. Bernick** – Representative of an aging or disability organization
 - **Robert Callan, Jr.** – Family member with a history of substance use disorder
 - **Chris Contreras** – Expert in housing and homelessness
 - **Makenzie Cross** – Individual age 25 or younger with lived experience
 - **Karen Larsen** – Individual with a substance use disorder
 - **Marvin Southard** – Current or former county behavioral health director
 - **John Harabedian** – Member of the California Assembly (with **Rosielyn Pulmano** as designee)
 - **Marjorie Swartz** – Designee for Senate representative (for Senator Cortese)

In conclusion, I believe the Commission should take this moment to reflect, align, and build a shared strategic vision before taking any action on the Innovation Partnership Fund. This approach will ensure that our decisions are coherent, forward-looking, and aligned with both Prop 1’s requirements and the broader priorities of the State.

Thank you for your consideration.

Sincerely,

Steve Carnevale

Chair, Strategic Planning Process
California CBH

An Analysis of the Commission Authority Post Prop 1

For Steve Carnevale

Some foundational issues to keep in mind:

The Governor and Legislature have the authority to be very specific in legislation. At times they have a general sense of what they want to accomplish, but they provide discretion in how to pursue those goals. Because they recognize the need for discretion, they often use general language and direct state agencies to determine the “how” part of a program. For example, the DHCS has the authority to determine what qualifies as “early intervention” under the terms of Prop. 1. Previously, the Commission had that authority.

Most of the state government is organized into departments, which are led by a director who reports to the Governor – often through an agency or other organizational structure. In some areas of government, the role of “discretion” is left up to a Commission.

Board and Commissions, which are “multi-member” bodies, are generally used when a topic requires discretion, deliberation and some level of agreement, particularly when standards and expectations are supposed to adjust over time. Licensing boards, for example, have discretion to change rules, so that legislators do not need to constantly amend the law.

Board and Commission also are intended to bring decision-making authority “closer to the people” because they operate in public, represent a range of constituencies, and have requirements to obtain public input. Departments run by an individual director don’t face those requirements, although some public process often is encouraged or required for some decisions – but those are more the exception than the rule.

The Commission was formed under Prop. 63 as an oversight and accountability Commission. It is primarily an advisory body formed to ensure that the funds are well spent and that the mission of the MHSA is being pursued. It has no enforcement authority. Its authority is to advise and guide the Governor and the Legislature. As such, when Chat GPT is asked whether it has “authority over” some aspect of our mental health system, the answer is no.

The Commission has authority over its voice and its funding. Its voice is how it provides advice and guidance. Its funding is how it learns, leads, and operates its voice.

The Governor and Legislature determined that the Commission would be independent, not the voters. That was not addressed in Prop. 63. Prop. 63 was silent on the Commission’s independence or where it should be located as part of the State’s organizational structure. Initially, the Commission was embedded inside the CA Dept. of Mental Health. Its personnel system and its Legal Counsel were from the Department. The Commission was not independent. The Department of MH told the Commission what it could do and what it could not do.

The Commission’s independence was established through a vote of the Legislature with agreement from the Governor. Its independence was discussed as part of the SB 326

discussion – which led to Prop. 1 – and its independence was maintained as a foundational aspect of its authority over its voice. In other words, the Governor and Legislature considered whether the Commission's voice should be constrained by the Governor and decided that it should not.

In fact, the Governor and Legislature decided that the Commission's voice should be expanded, to include new members, growing from 16 to 27 and adding in voices that in the past were commenting on the Commission's work, but not making decisions about how to use the Commission's voice and its funding.

The Commission's members in the past were limited to clients, family members, providers, and public sector members (education, public safety), with seats for business and labor. With the passage of Prop. 1, the Commission's membership has been expanded to include voices that are less involved with the county behavioral health system, but equally important to the work of achieving the goals of the renamed BHSA – veterans, housing advocates, youth, etc. Its number of public members is also larger (county BH leader), but its non-public, community voice has grown the most.

And to be clear, renaming the BHSA has no impact on its authority. They could have called it the Steinberg Commission. The name is not a factor other than it signals the underlying changes to its actual authority around addiction services. In reality, the Commission has always had authority over addiction, SUD, or AOD services, as those fall under the recognized definitions of mental health, as outlined in the Diagnostic and Statistical Manual of the American Psychiatric Association, which is the recognized authority for defining mental health. Prop 1 reinforced that authority over addiction, and made it more specific.

What we are really talking about here is the level of discretion the Commission has in terms of how it uses its voice and the level of discretion it has in terms of how it uses its funding.

With regard to its "authority":

Welfare and Institutions Code 5845, as amended by Prop. 1, is very clear:

(a) The Behavioral Health Services Oversight and Accountability Commission is hereby established to promote transformational change in California's behavioral health system through research, evaluation and tracking outcomes, and other strategies to assess and report progress. The commission shall use this information and analyses to inform the commission's grant making, identify key policy issues and emerging best practices, provide technical assistance and training, promote high-quality programs implemented, and advise the Governor and the Legislature, pursuant to the Behavioral Health Services Act and related components of California's behavioral health system. For this purpose, the commission shall collaborate with the California Health and Human Services Agency, its departments and other state entities.

This sentence alone demonstrates that the Commission's voice is unconstrained by the county mental health system.

First, in the top line, in green, it references California's behavioral health system. If policymakers intended the Commission to focus on county behavioral health programs, they had the opportunity to do so. The statute does not say transformational change in "county behavioral health systems." It says "California's behavioral health system."

Next, in yellow above, this authorizing language outlines the Commission's functions and says the Commission can use them pursuant to the BHSA, and related components of California's behavioral health system. That language reflects the reality that the BHSA is a component of the state's behavioral health statute; it is not the entire governing authority over the state's behavioral health system. Most of the statutes that impact public behavioral health systems are not in the BHSA.

And this sentence clearly points to "related components" of California's behavioral health system. Again, this section does not say "county" or even "publicly funded" behavioral health system. If the Governor and Legislature intended the Commission to focus solely on county behavioral health programs, or county programs related to behavioral health, they had the opportunity to provide that clarity. They did not.

Next, in blue above, this sentence directs the Commission to work with the California Health and Human Services Agency, its departments, and other state entities. This language is expansive, and authorizes the Commission to work with UC, CSU, the CA Department of Education, the Office of Emergency Services, the California Highway Patrol, and any "other state agency" that it needs to work with to pursue its goals of:

- 1) grant making
- 2) identifying key policy issues
- 3) identifying emerging best practices
- 4) providing technical assistance and training
- 5) promoting high-quality programs
- 6) advising the Governor and the Legislature

As outlined above – in olive.

Lastly, in purple – this sentence says the Commission "shall." In statute, the word shall means it is required. The Governor and Legislature had the option of saying the Commission "may" do these things – at its discretion. They chose instead to use the word "shall." Shall is not optional.

What is optional is how the Commission pursues its mission, but its authority over its voice is clear. This single section of Code authorizes the Commission to apply its voice and vision – through its advice and guidance role – to "California's behavioral health system."

At issue is how "California's behavioral health system" defined.

I am not aware of a specific definition of "behavioral health system" in the California state statutes. I do recognize that there are references to behavioral health services in the authority of the Department of Managed Health Care – which regulates health insurance plans and the CA Department of Insurance.

Behavioral health is referenced in laws and regulations governing the operations of hospitals, schools, jails, insurance plans, prisons, workforce programs, colleges and universities, etc.

As mentioned above, state statutes are often written in ways to be intentionally vague to provide opportunities for discretion. The Commission is an independent entity so that it can exercise its discretion.

To be clear, the Commission has the authority to define its area of focus, but that area of focus can be expansive or narrow. As an independent entity, the Commission makes that determination based on its priorities and approach to “transformational change.”

Innovation Partnership Fund

Here is the statement on the Innovation Fund from the Senate Floor Analysis for SB 326, which put Prop. 1 on the ballot:

Establishes the BHSA Innovation Partnership Fund in the State Treasury, administered by the BHSOAC, to award grants to promote development of innovative MH and SUD programs and practices, and improving BHSA programs and practices for underserved populations, low-income populations, communities impacted by other BH disparities, and other populations, as determined by the BHSOAC.

I include this paragraph because it is an expression of the intent of the Legislature in drafting the bill. This Committee analysis is what guided the decisions of legislators for the final vote as the last step to placing Prop. 1 on the ballot.

The language in this analysis is clear. It says, these funds shall be awarded to promote the development of innovation MH and SUD programs and practices, and improving BHSA programs and practices.....

The word AND is a connector, not a limiter. This language says the Innovation Partnership Fund is to be used to support innovations in MH and SUD, and to improve BHSA programs and practices. That language clearly demonstrates that the Innovation Partnership Fund can be used to improve the implementation of the BHSA, and it can be used outside of the BHSA.

Here is the language from the statute. See my notes in **yellow**.

Welfare and Institutions Code, Section 5845.1.

(a) (1) The Behavioral Health Services Act Innovation Partnership Fund is hereby created in the State Treasury.

(2) The fund shall be administered by the state for the purposes of funding a grant program administered by the Behavioral Health Services Oversight and Accountability Commission pursuant to this section and subdivision (f) of Section 5892. **(This section references the \$20M each year for five years).**

(b) All of the following may be paid into the fund:

(1) Any private donation or grant.

(2) Any other federal or state grant.

(3) Any interest that accrues on amounts in the fund and any moneys previously allocated from private donations or grants received by the fund that are subsequently returned to the fund.

(c) (1) The Behavioral Health Services Oversight and Accountability Commission shall award grants to private, public, and nonprofit partners to promote development of innovative mental health and substance use disorder programs and practices. (No reference to counties or public programs here).

(2) The innovative mental health and substance use disorder programs and practices shall be designed for the following purposes:

(A) Improving Behavioral Health Services Act programs and practices funded pursuant to subdivision (a) of Section 5892 for the following groups:

(i) Underserved populations.

(ii) Low-income populations.

(iii) Communities impacted by other behavioral health disparities.

(iv) Other populations, as determined by the Behavioral Health Services Oversight and Accountability Commission.

(B) Meeting statewide Behavioral Health Services Act goals and objectives.

(3) The Behavioral Health Services Oversight and Accountability Commission, in determining the allowable uses of the funds, shall consult with the California Health and Human Services Agency and the State Department of Health Care Services. If the Behavioral Health Services Oversight and Accountability Commission utilizes funding for population-based prevention or workforce innovation grants, the commission shall consult with the State Department of Public Health for population-based prevention innovations and the Department of Health Care Access and Information for workforce innovations.

(d) (1) The Behavioral Health Services Oversight and Accountability Commission shall submit a report to the Legislature by January 1, 2030, and every three years thereafter. The report shall cover the three-fiscal-year period immediately preceding the date of submission.

(2) The report shall include the practices funded pursuant to this section and the extent to which they accomplished the purposes specified in paragraphs (1), (2), and (3) of subdivision (b).

(3) A report to be submitted pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

(Amended by Stats. 2024, Ch. 40, Sec. 42. (SB 159) Effective June 29, 2024.)

The Innovation Partnership Fund can provide grants to :

private, public, and nonprofit partners to promote development of innovative mental health and substance use disorder programs and practices.

There is no restriction in that sentence that says funds must go to public agencies or must be dedicated only to addressing county behavioral health programs. The statute gives the Commission broad authority to provide grants to any entity that is public, private or non-profit. I am challenged to think of any entity that does not fall into that category.

The language then says, “to promote the development of innovative mental health and substance use disorder programs and practices.”

There are three components to that phrase:

- To promote the development of innovative... This means to figure out how to do better. The verb is to promote the development of, not to fund the operations of.
- Mental health and substance use disorder... This refers to a large body of literature and definitions that has stymied all. What constitutes mental health and substance use disorders, particularly if we look at prevention, early intervention, treatment, chronic need management, awareness, financing, workforce, etc.
- Programs and practices... This language is also expansive. This language does not specify clinical care, and it does not just reference programs.

These three phrases are largely undefined. As mentioned above, if the Governor and Legislature intended to restrict the Commission’s authority to use these funds, they had the opportunity to do so. Instead, they said left them undefined and preserved the Commission’s independence, while adding new voices and perspectives to the Commission.

Populations of Focus

You asked,

The Behavioral Health Services Act that underlies the Innovation Partnership Fund targets services to people with serious mental health conditions or substance use disorders (SUDs)—particularly those experiencing homelessness, at risk of justice involvement, in foster care, etc. DHCS That language sounds restrictive to SMI.

How do you argue otherwise?

In response, we need to look at the specific authority of the Commission to determine how to use those funds.

1. As outlined above, the funds can go to public, private or non-profit entities.

So you are not constrained in who can receive the funds.

2. As outlined above, the funds can be used for the following: to promote the development of innovative mental health and substance use disorder programs and practices.

The Commission has discretion to determine what is meant by “innovative” and space to made decisions about is meant by “mental health and substance use disorder programs and practices.”

3. With a focus on (A) BHSA programs and practices for
 - (i) Underserved populations.
 - (ii) Low-income populations.
 - (iii) Communities impacted by other behavioral health disparities.
 - (iv) Other populations, as determined by the Behavioral Health Services Oversight and Accountability Commission.

Or

(B) Meeting statewide Behavioral Health Services Act goals and objectives.

Section (A) above directs the Commission to focus on underserved, low-income, and communities impacted by disparities. It does not say focus only on members of those populations with SMI. And subsection (iv) says the Commission can support innovations that meet the needs of other populations, as it determines. There is ambiguity over whether the Commission must support the first three, and then can look to the four group (other populations) if of the

I want to point out that section (2)(A) above, in blue, states that the Innovation Partnership Fund can be used to support BHSA-funded programs for the following groups...or other populations, as determined by the Commission. This phrase is an expression of confidence that the Commission has the discretion to determine the best use of these funds.

In that same section, under (2)(B), it states that the Innovation Partnership Fund shall be used to:

(B) [Meet] statewide Behavioral Health Services Act goals and objectives.

The BHSA includes many goals, one of which is to promote transformational change. Again, here is an example of why the Commission has discretion.