

ORDINANCE NO. 9522 (NEW SERIES)

**AN ORDINANCE AMENDING ARTICLE XV AND SECTION 124
OF THE SAN DIEGO COUNTY ADMINISTRATIVE CODE
RELATING TO THE HEALTH AND HUMAN SERVICES AGENCY**

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. Article XV is hereby amended to read as follows:

**ARTICLE XV
HEALTH AND HUMAN SERVICES AGENCY**

SEC. 230. RECOGNITION OF AGENCY.

There is in the County of San Diego a Health and Human Services Agency, referred to hereinafter in this Article and throughout this Code, as the Agency. The Agency shall be under the general supervision of the Chief Administrative Officer. Each of the principal subdivisions and geographic service regions of the Agency shall operate under the direction of an Agency Deputy Director. The compensation of Agency Deputy Directors shall be determined in accordance with the County ordinances, resolutions, and policies which apply to County Department Directors. By operation of law, the Agency succeeds to and assumes all the duties and responsibilities of the Departments of Area Agency on Aging, Health, Social Services and the duties and responsibilities of the Veterans Service Officer and Coordinator of the Commission on Children, Youth and Families.

SEC. 231. RECOGNITION OF THE DIRECTOR OF THE HEALTH AND HUMAN SERVICES AGENCY.

There is in the County and in the Agency the position of Director of the Health and Human Services Agency, hereinafter in this Article and throughout this Code, referred to as Director. The Director shall be appointed by the Chief Administrative Officer. Any vacancy occurring in such position shall be filled by appointment by the Chief Administrative Officer in accordance with the County Charter, the Rules of the Unclassified Service and County ordinances. The Director of the Agency shall also be appointed and serve as a Deputy Chief Administrative Officer and, as described in Section 122 of this Code, shall oversee on behalf of the Chief Administrative Officer, the group of principal subdivisions and geographic service regions which comprise the Agency.

In the event that the Director does not possess the qualifications for County Health Officer specified in Section 101005 of the California Health and Safety Code, the enforcement duties described in Sections 101030 and 101040 of the Health and Safety Code shall be discharged by a physician and surgeon employed by the Agency with the

title of Health Officer. The Health Officer enforcement responsibility under said circumstances is limited to decisions requiring technical medical judgments.

In the event the Director does not possess the qualifications for County Veterans Service Officer specified in Section 970 of the California Military and Veterans Code, the Director shall appoint a County Veterans Service Officer who possesses the requisite qualifications and who shall be under the supervision of the Director.

SEC. 232. DUTIES OF THE DIRECTOR.

The Director shall act under the supervision of the Chief Administrative Officer. The Director shall exercise supervision over all the functions of the Agency and shall enforce such rules and regulations as are prescribed and approved by the Board. Except as provided in Section 231 of this Code with respect to the County Health Officer and County Veterans Service Officer, the Director succeeds to and assumes all responsibilities, authorities and duties of, and shall assume and become the following public officials, as such officials are referenced in federal, County or State statutes, ordinances, or regulations: County Public Health Officer; Director of Health Services; Local Director of Mental Health; Director of Public Social Services; County Welfare Director; County Drug Program Administrator; County Alcohol Program Administrator; County Drug and Alcohol Program Administrator; Director of the Area Agency on Aging; Community Action Director; Veterans Service Officer and Coordinator of the Commission on Children, Youth and Families. Except as provided in Section 231 of this Code with respect to the County Health Officer and County Veterans Service Officer, the Director may delegate the responsibilities of these positions to personnel in the Agency who report to the Director.

SEC. 232.1. DIRECTOR TO COORDINATE AGENCY.

The Director shall coordinate the various activities of the principal subdivisions and geographic service regions of the Agency and, within the scope of the policy declared by the Board, may issue administrative regulations designed to accomplish this end.

SEC. 232.2. APPOINTMENT OF PERSONNEL.

The Director shall appoint and employ such personnel, including Agency Deputy Directors, as may be necessary to properly conduct the business of the Agency. Agency Deputy Directors shall appoint and employ such personnel in the Bureaus which they direct as are necessary to properly conduct the business of said Bureaus. All appointments and employments made by said Director and Agency Deputy Directors shall be made in accordance with the provisions of the County Charter, the Rules of the Civil Service Commission and County ordinances.

SEC. 232.3. PREPARATION OF BUDGET AND SUPERVISION OF EXPENDITURES.

The Director shall prepare and file with the Auditor and Controller and Chief Administrative Officer the required annual itemized estimates of expenditures and revenues for the Agency, and shall supervise the expenditure of all funds allotted to the Agency. The Agency Deputy Directors who direct principal subdivisions and geographic service regions within the Agency shall prepare and file with the Director the required annual itemized estimates of expenditures for their respective principal subdivisions and geographic service regions and shall supervise the expenditure of all funds allocated to their principal subdivisions and geographic service regions.

SEC. 232.4. TOBACCO SETTLEMENT REVENUE SECURITIZATION TRUST FUND.

(a) Establishment of Fund and Statement of Intent. There is hereby established the Tobacco Settlement Revenue Securitization Trust Fund (“Trust Fund”) to be administered by the Director. The Trust Fund consists of proceeds received from the sale of the County's Tobacco Settlement Revenues (“TSRs”) to the San Diego County Tobacco Securitization Corporation (“Corporation”). The Corporation paid for the TSRs using the proceeds of a loan from the Tobacco Securitization Authority of Southern California, (“Authority”) a joint powers authority that issued bonds to finance the loan. The TSRs are used to make payments on the bonds. Since the bonds were issued on a tax-exempt basis, the County is required by the Internal Revenue Code (Title 26, United States Code) and the regulations implementing the Code, to comply with various restrictions on the use of the proceeds deposited in the Trust Fund. In addition, the Board of Supervisors has determined to limit expenditures from the Trust Fund to health related matters. The purpose of this section is to restrict expenditures from the Trust Fund to health related purposes and subject to the restrictions imposed by the Internal Revenue Code and implementing regulations.

(b) Expenditure Restrictions. Expenditures from the Trust Fund shall be allocated in accordance with the following guidelines:

1. To support a comprehensive tobacco control strategy that will significantly reduce tobacco use among youth and adults. Programs may include, but not be limited to, those that address cessation of tobacco use, support of tobacco control laws, and prevention and health promotion activities that encourage a tobacco-free lifestyle.
2. To increase funding for programs that:
 - a. Promote access and reduce barriers to assure quality healthcare.
 - b. Promote healthy lifestyles through prevention and education.
 - c. Reduce the abuse of alcohol, tobacco and other addictive substances.

- d. Improve mental health services.
 - e. Significantly reduce violence and abuse.
 - f. Reduce the incidence of chronic and infectious diseases.
 - g. Improve the health status indicators of vulnerable populations.
 - h. Minimize disparities in health status.
- 3. To support health related programs that leverage funding from other sources.
 - 4. To use funds to supplement and not replace existing healthcare revenue.
 - 5. Programs and services shall demonstrate effectiveness through evaluation of outcomes.
 - a. Programs shall incorporate “best practices” that have been proven to be cost-effective and efficient.
 - b. Innovative programs may be funded, providing there are plans for evaluation of outcomes.

(c) Internal Revenue Code Compliance. All expenditures must comply with the Internal Revenue Code and its implementing regulations as needed to maintain the exemption from federal income taxation on the interest payments on the bonds issued by the Authority.

SEC. 233. FUNCTIONS OF THE AGENCY.

The Director shall administer programs of health and human services through the principal subdivisions and geographic service regions which comprise the Agency in a manner which integrates the administration and delivery of these services to assure efficiency, effectiveness, accessibility, and quality. The Health and Human Services Agency succeeds to, assumes and shall function as, and may be referred to as, all of the following organizations as these organizations are referenced in County, State or federal statute, ordinance, or regulation: County Mental Health Department; County Health Department; County Public Health Department; County Alcohol Program; County Drug Abuse Program; County Agency and Department for the Administration of Public Social Services; County Welfare Department; the Area Agency on Aging. The Director shall provide proper planning, coordination and direction for:

(1) Services for Senior Citizens. The Director shall delegate to a separate administrative unit the functions of the Area Agency on Aging. This separate administrative unit shall be a principal subdivision of the Agency and shall be referred to as “Aging & Independence Services.” The Director shall administer programs to provide proper planning, coordination and direction for activities and services provided by the

County for senior citizens. Such activities may be authorized by Federal, State or local laws, and shall be governed by those laws as well as applicable rules, regulations, guidelines, agreements and policies made pursuant to said laws. Those activities shall include but not be limited to the following:

(a) Preparation of an Area Plan and any other plans necessary to ensure that legal mandates for planning are met, and the service needs of senior citizens are identified and documented.

(b) Establishment of a network of comprehensive and coordinated services for the elderly through contracts and other working agreements with service providers, as well as through direct services where appropriate and authorized by laws or waivers of laws or regulations.

(c) Provision of support and technical assistance to individuals and groups desiring to develop the capacity to provide services to senior citizens.

(d) Other activities which may from time to time be required by laws, rules, regulations, guidelines, agreements or policies.

(e) The provision of all necessary administrative and clerical support to the Aging & Independence Services Advisory Council, Adult Day Care Health Committee and the County Wide Nutrition Project Council.

(2) Health Services. Activities and services provided by the County to respond to mental health, personal health, public health, and alcohol and other drug abuse service needs. The Agency shall enforce all County ordinances and State laws pertaining to health matters, and all orders, quarantine regulations and rules prescribed by the State Department of Health Services and all statutes pertaining to public health and vital statistics. Those activities shall include but not be limited to the following:

(a) the administrative supervision and control of the following:

(i) Edgemoor Geriatric Hospital;

(ii) County mental health programs;

(iii) University Hospital Contract, including the provision of medical care to the needy;

(iv) County Alcohol and Drug Abuse Programs;

(v) Medical and nursing services for other County departments.

(b) the maintenance of complete records of all persons admitted to or treated by facilities operated by the Agency. Such records shall be confidential and their contents shall be released only as follows:

- (i) Mental Health records shall only be released as provided by State statutes and regulations.
- (ii) Non-mental Health records shall only be released in response to a court order or on receipt of a written authorization from
 - the patient, when adult and competent;
 - a parent or guardian when the patient is a minor;
 - a guardian or nearest relative when the patient is adult but incompetent;
 - the executor or nearest relative when the patient is deceased;
 - the Coroner when the records relate to a cause of death which he is investigating.

(c) the provision of emergency care consisting of measures to (a) prevent infection, (b) relieve pain, (c) control hemorrhage, (d) immobilize a fracture, and (e) treat shock given to any person brought to any emergency facility established within the Agency for such purposes.

(d) the admission of patients to institutional care under the following circumstances:

- (i) Any person falling within the provision of Division 5 of the Welfare and Institutions Code.
- (ii) An emergency patient whose condition does not permit a patient being moved to private care.
- (iii) Any person who requires care not available through private facilities in the community for financial or other reasons.
- (iv) Any person falling within the provision of contracts established between the County of San Diego and another agency.
- (v) Wards of the juvenile courts.
- (vi) Any person presented in compliance with a court order.
- (vii) Prisoners confined in a county jail or any city jail within the County.

Provided, however, that no patient will be admitted to any facility of the Agency when the Director or his agent finds no medical justification for such admission.

(3) Social Services Programs of welfare relief and other services required by and in conformity with State and federal statutes and regulations and as may be authorized by the Board in this code, and other applicable ordinances or regulations, including aid and relief to indigents. The Agency will perform such functions as may be assigned to it, including, but not limited to, the following:

(a) Determination of eligibility for cash assistance, food stamps and Medi-Cal under applicable Federal and State laws.

(b) Preparation of individuals for jobs and coordinate training programs to help clients back to self-sufficiency.

(c) Provision of protection and related services to children and adults who are abused, neglected or exploited, or otherwise cannot care for themselves.

(d) Contract with community agencies for a broad range of human care services and integrate the efforts of private organizations into a comprehensive service network.

(4) Children, Youth, and Families. Identifying and addressing the needs of children, youth, and families who are in the public charge as well as children, youth and families whose safety may be at risk.

(5) Military Veterans. Identifying and addressing the needs of military veterans.

SEC. 233.5. OFFICE OF PUBLIC GUARDIAN CREATED.

The Office of Public Guardian is hereby created pursuant to the authority of Title 3, Division 2, Part 3, Chapter 8.5 (commencing with Section 27430) of the Government Code.

(1) PUBLIC ADMINISTRATOR IS PUBLIC GUARDIAN.

The Public Administrator of the County of San Diego shall be and is hereby made Public Guardian, effective upon his filing an official bond in the sum of \$25,000 pursuant to the provisions of Section 27434 of the Government Code; said sum of \$25,000 is hereby fixed as the amount of the official bond of the Public Guardian. Inclusion of the Public Guardian within the County master bond will be deemed as compliance with the requirement of this section. As provided by the County Charter, the Public Administrator shall be appointed by the Chief Administrative Officer. For administrative purposes, the Chief Administrative Officer may assign the Office of the Public Administrator/Public Guardian to the Health and Human Services Agency, as a principal subdivision of the Agency.

(2) PUBLIC ADMINISTRATOR MAY BE GUARDIAN.

(a) Upon the request of the court or of any County officer or department head, the Public Administrator is hereby authorized to petition for appointment as guardian of the person or estate or person and estate of any incompetent or minor person applying for, receiving or having received, charity, relief, hospitalization, medical, surgical or institutional care under the laws of this State.

(b) Upon the Request of the court, the Public Administrator/Public Guardian is hereby authorized to be appointed trustee of any trust as authorized and pursuant to the Probate Code when no other qualified person is willing to act as trustee.

(3) FEES AND COMMISSION.

(a) The Public Administrator shall charge fees and commissions as authorized by the Probate Code and as approved by the court. Additionally, (a) whenever the Public Administrator shall have taken charge of assets of a decedent pursuant to Probate Code Section 2900, and no probate proceedings are required and the property is subject to release to heirs or next of kin pursuant to the provisions of Probate Code Section 13100, the Public Administrator may, at the request and direction of the person or persons executing the affidavit required by Probate Code Section 13101, sell such property on behalf and forward the net proceeds of said sale to the persons entitled thereto. The Public Administrator shall charge and deduct from the gross proceeds of such sale necessary expenses of sale to effect full cost recovery.

(b) The Public Administrator may at the request of any executor, administrator, fiduciary or public agency sell personal property on behalf of such executor, administrator, fiduciary or public agency at public sale and forward the net proceeds of said sale to the appropriate executor, administrator, fiduciary or public agency. The Public Administrator shall charge and deduct from the gross proceeds of such sale necessary expenses of sale to effect full cost recovery.

(4) COUNTY COUNSEL TO ACT AS ATTORNEY FOR PUBLIC ADMINISTRATOR IN GUARDIANSHIPS, CONSERVATORSHIPS, TRUSTEE APPOINTMENTS AND COLLECT ATTORNEY'S FEE. PUBLIC ADMINISTRATOR TO COLLECT GUARDIAN'S, CONSERVATOR'S AND TRUSTEE'S FEE.

The County Counsel shall act as attorney for the Public Administrator in the matter of all estates in which he is appointed as guardian, conservator, or trustee and shall in every such proceeding collect the attorney's fee allowed therein by law or by the court and forthwith pay the same into the County treasury. The Public Administrator shall in every such proceeding collect the guardian's, conservator's, or trustee's fee allowed by the court and forthwith pay the same into the County treasury.

(5) COPIES OF DOCUMENTS AND FEES.

Within the limitations of his personnel, the Public Administrator may prepare copies of those public documents in his office, which are open to public inspection. For all copies so prepared, the Public Administrator may collect a fee of fifty cents per copy to cover direct costs.

SEC. 234. RECOGNITION OF OFFICE OF PUBLIC CONSERVATOR.

There is within the Agency, the Office of the Public Conservator, hereafter in this article referred to as Public Conservator.

(a) The Local Director of Mental Health Services or Director's Designee is Public Conservator.

The local director of mental health services as defined by Welfare and Institutions Code section 5607 ("local director") or his or her designee shall be and is hereby made the Public Conservator. The local director may designate another qualified County or other public employee to perform the duties of the Public Conservator. Any such designation shall be made in writing and shall be filed with the Clerk of the Board of Supervisors, and a copy of the written designation shall be maintained in the local director's files.

(b) Successor Local Director or Successor of Local Director's Designee is Successor Public Conservator by Operation of Law.

If the local director is personally serving as Public Conservator and is succeeded in the position of local director by another person, the person who succeeds to the position of local director shall assume the Office of Public Conservator by operation of law. If the local director has designated another County or other public employee to act as the Public Conservator and that employee is succeeded in the position by another employee, the employee who has succeeded the designee shall assume the Office of Public Conservator by operation of law.

(c) Duties of Public Conservator.

The Public Conservator shall provide conservatorship services to all conservatees who are gravely disabled and for whom the Public Conservator has been appointed conservator of the person by court order pursuant to the Lanterman-Petris-Short Act (Welfare and Institutions Code section 5000, et seq.). The Public Conservator is the person pursuant to Welfare and Institutions Code section 5355. The Public Conservator shall perform any and all other duties as prescribed by the Director or Deputy Director of the principal subdivision assigned to oversee the Office of the Public Conservator.

Section 2. Section 124 of Article VIII is hereby amended to read as follows:

SEC. 124. C.A.O. TO BE APPOINTING AUTHORITY FOR VARIOUS COUNTY OFFICERS.

The Chief Administrative Officer shall be the appointing authority of the Auditor and Controller, Medical Examiner, Director of Health and Human Services Agency, Agricultural Commissioner, Director of Animal Control, Director, County Library, Director of Parks and Recreation, Director of Planning and Land Use, Director of Environmental Health, Director of Public Works, Director of General Services, Registrar of Voters, Director of Housing and Community Development, Director of Human Resources, Chief Technology Officer, Director of the Office of Disaster Preparedness, Public Administrator and Director of Media and Public Relations. The Chief Administrative Officer shall exercise general supervision of said offices.

Section 3. This ordinance shall take effect thirty (30) days after its adoption. Within fifteen (15) days after the date of adoption of this Ordinance, a summary shall be published once with the names of those members voting for and against the same in the newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of San Diego this 10th day of December 2002.



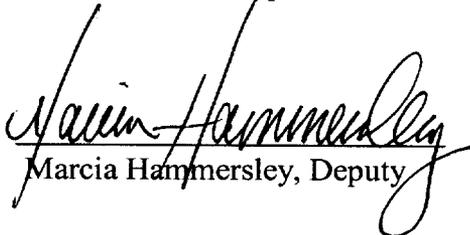
RON ROBERTS
Chairman of the Board of Supervisors of the
County of San Diego, State of California

The above Ordinance was adopted by the following vote:

AYES: Cox, Jacob, Slater, Roberts, Horn

ATTEST my hand and the seal of the Board of Supervisors this 10th day of December 2002.

THOMAS J. PASTUSZKA
Clerk of the Board of Supervisors

By 
Marcia Hammersley, Deputy



APPROVED AS TO FORM AND LEGALITY
COUNTY COUNSEL

BY 
SENIOR DEPUTY