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Le Ondra Clark Harvey, Ph.D.

*(Sent via electronic transmission)*

March 23<sup>rd</sup>, 2026

**RE: Notice of Proposed Rulemaking: Labor Code Private Attorneys  
General Act of 2004 – OAL Notice File Number Z2026-0121-03**

Dear Labor and Workforce Development Agency Leadership,

On behalf of the California Behavioral Health Association (CBHA), we appreciate the opportunity to provide comments on the proposed rulemaking issued by the California Labor and Workforce Development Agency (LWDA) implementing the Private Attorneys General Act of 2004 (PAGA). CBHA represents behavioral health providers across California, the vast majority of whom are community-based organizations that contract with counties and the state to deliver essential mental health and substance use disorder services.

While we appreciate the Agency's efforts to improve transparency and administrative processes within PAGA, we remain concerned that the proposed regulations do not sufficiently address ongoing misuse of the statute, which continues to divert limited public resources away from patient care and into costly litigation.

The proposed rulemaking references "small employers" but does not clearly define the term, creating significant ambiguity for behavioral health providers that operate on narrow public funding margins. **CBHA recommends defining a small employer as an employer with fewer than 100 employees or a publicly funded social service provider.** Without this clarification, many safety-net providers may be excluded from intended protections. This concern is particularly important in the context of the small employer cure provisions, as many behavioral health providers exceed the 100-employee threshold and would therefore be ineligible for important protections intended to encourage compliance.

More broadly, CBHA remains concerned about the practical implications of the proposed "cure" framework. As currently structured, the concept of curing alleged violations remains legally uncertain. In cases where alleged violations are unclear or disputed, efforts to cure may be construed as an admission of liability, creating risk for providers acting in good faith. Conversely, where violations are clear, responsible providers will typically take corrective action regardless, and penalties should not continue to accrue once compliance is achieved. While the confidentiality protections included in the small employer cure provisions are a positive step, **additional clarity is needed to ensure that participation in cure processes does not expose providers to further liability or subsequent civil litigation on the same issues.**



CBHA members emphasize that **providers contracting with government entities should be afforded similar considerations as public agencies**. These providers deliver essential, publicly funded services under strict contractual and regulatory requirements, and should not be subject to disproportionate litigation risk that ultimately undermines service delivery. Extending comparable protections or exemptions would better reflect the public nature of these services.

The proposed threshold of 200 filings per year to designate a “high-frequency filer” is unreasonably high and fails to function as a meaningful deterrent. **A substantially lower threshold, no more than 15 to 20 filings annually per firm or attorney, would better reflect the intent to curb abusive practices.** As proposed, the threshold remains too high to meaningfully discourage misuse.

CBHA is concerned that the proposed approach to vexatious filers lacks clarity and enforcement strength. **The regulations should more clearly define who conducts screenings and under what standards, require affirmative agency determinations on screened filings, and establish enforceable penalties such as filing restrictions or prohibitions for repeat abusive conduct.** Publicly identifying filers without meaningful consequences does not provide an adequate deterrent.

CBHA supports the intent to move away from vague, boilerplate PAGA notices. However, the proposed rule does not go far enough to ensure meaningful accountability. **Claimants should be required to submit specific, evidence-based allegations tied to actual violations, rather than relying on generalized or speculative claims.** Clear consequences should be established if these standards are not met, including dismissal or suspension of claims until sufficient information is provided. Under the current structure, providers bear a disproportionate burden to disprove unsubstantiated allegations, often requiring the production of extensive records at high cost.

The proposed settlement framework also raises significant operational concerns. Limitations on resolving all claims may require employers to negotiate with multiple employees simultaneously, creating administrative complexity and uncertainty. Requirements to notify other claimants and provide extended review periods risk delaying resolution and increasing costs. Additionally, the inability to fully extinguish claims undermines incentives to settle and achieve system-wide compliance, potentially prolonging disputes without improving outcomes.

Finally, **CBHA recommends establishing reasonable limitations on attorney fees to better align incentives and ensure that settlements primarily benefit affected employees and compliance efforts.** A cap in the range of 5 to 10 percent of the total settlement amount would help reduce incentives for predatory litigation practices.

Behavioral health providers operate within a publicly funded system with finite resources. The continued misuse of PAGA diverts critical funding away from direct services for vulnerable Californians. CBHA urges LWDA to progress in improving the Act by strengthening protections against abusive filings and ensuring that the regulatory framework appropriately reflects the realities of publicly funded behavioral health service delivery. CBHA appreciates the



opportunity to provide input and looks forward to continued engagement with LWDA to strengthen these regulations.

For more information about CBHA and the providers we represent, please feel free to follow up with myself at [lclarkharvey@calbha.org](mailto:lclarkharvey@calbha.org) or CBHA's Senior Policy and Legislative Affairs Advisor, Carli Stelzer, at [cstelzer@calbha.org](mailto:cstelzer@calbha.org).

Best regards,

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Chief Executive Officer  
California Behavioral Health Association