



Meeting Minutes  
March 26, 2009

California Institute for Mental Health  
Sequoia Room  
2125 19<sup>th</sup> Street, Second Floor  
Sacramento, CA

1. **Call to Order**

Vice Chair Poaster called the meeting to order at 9:51 a.m.

2. **Roll Call**

Commissioners in attendance: Larry Poaster, Vice Chair. Senator Lou Correa, Linford Gayle, Beth Gould, Tom Greene, Patrick Henning, Howard Kahn, David Pating, Darlene Prettyman, Richard Van Horn, Larry Trujillo and Eduardo Vega.

Not in attendance: Andrew Poat, Chair. Richard Bray, Assembly Member Mary Hayashi, Bill Kolender.

Twelve members were present and a quorum was established.

3. **Adoption of February 2009 Meeting Minutes**

***Motion:** Upon motion by Commissioner Gould, seconded by Commissioner Trujillo, the Commission approved the February 2009 Minutes.*

**Commissioner Prettyman** requested that the Commissioners utilize the "Parking Lot" agenda item with more frequency.

4. **PEI Consent Calendar**

**Ms. Ann Collentine**, MHSOAC staff, presented seven county PEI plans that staff is recommending for consent. She stated that staff is moving towards a more traditional consent agenda, where the Commissioners will vote once on an entire agenda. Discussion will occur only on plans removed from consent by a Commissioner; the removed plans will then be voted on independently.

In the next few months the Mental Health Services Committee will be arranging a presentation to the Commission on findings to date from plan reviews, to

reassure Commissioners about the quality of plan review that is taking place prior to placement on the consent agenda.

Highlights of the seven county plans seeking consent include:

- **Contra Costa:** the projects will invoke a “culture of wellness” that indicates they are following the needs of their community. Projects will also provide an impressive collaboration with law enforcement. Recommend approval of \$5,553,000.
- **Marin:** their plan has a strong partnership with law enforcement and collaborates with home delivery meals employees to bring services to seniors. Recommend approval of \$1,338,927.
- **Mariposa:** will personally outreach to the Native American population from the Me Wuk Health Center and, despite a small population and limited resources, the county will make a strong commitment to evaluate both its projects. Recommend approval of \$150,000.
- **Los Angeles:** to minimize stigma, LA’s Suicide Prevention efforts for older adults will be co-located in medical services, and special efforts will be developed to educate students about the signs of suicide to remove the stigma of “snitching.” Recommend approval of \$5,739,200.
- **Orange:** will actively engage diverse stakeholders, whose efforts will be evident -- from planning through project development and final approval of plans -- by providing transportation, first language presentations and interpreters, and by holding focus groups in a local Vietnamese restaurant. Recommend approval of \$32,132,834.
- **Madera:** will outreach to migrant labor camps, Rancherias, Area Agencies on Aging (AAA’s), farmers markets, and with indigenous Oaxacan organizations. Promotores/Community Workers will act as liaisons between the mental health system and community residents. Recommend approval of \$1,247,900.
- **Plumas:** consistent with other very small counties, has strong relationships with community members and service providers which allow for a consistent, flexible and trusting exchange when building the PEI Plan. Recommend approval of \$229,200.

**Ms. Collentine** also briefly described the PEI Review and Plan Revisions, the process that occurs after a formal review is completed. During this time, plan review staff work with counties to assist them in understanding the corrections that will need to be made before the plan will be placed on the Consent Agenda. Counties sometimes need clarification on processes; on understanding what

projects might be more appropriately funded under Community Program Planning; on how to be more descriptive about reduction of disparities; and on other issues.

**Ms. Collentine** remarked that they are seeing some truly exciting plans, and the innovation and diversity is inspiring.

**Commissioner Prettyman** expressed her gratitude at the great ideas being presented and stated that it would be really neat if they could get this information out to the entire state of California. Is there some way that everybody can know what everybody else is doing?

**Commissioner Greene** asked a process question -- is it the case that there is a vote at the County Board of Supervisors and at the Mental Health Commission in support of the PEI plan? **Ms. Collentine** clarified that the Act requires a 30 day open stakeholder period for response, followed by a public hearing. Every county implements that process a little differently. But, as far as staff knows, the process is being followed.

**Commissioner Gould** remarked that at the last Commission meeting Chair Poat directed the Services Committee to work with staff and report back by October on how this process of "getting the word out" might occur; i.e., the sharing of information about the PEI plans.

**Commissioner Henning** echoed Commissioner Prettyman's comments -- that one of the most important things they need to talk about, going into the strategic planning meetings, is telling their story about what is going on in counties with the expenditure of funds from Prop 63. If they don't tell their story then the people who want to support them will not have the information they need to be able to show the state what good work they are doing. If they don't tell their story they will continue to have their money swept by the Legislature.

**Ms. Collentine** noted that approved plans are put on the website and used as a resource for other counties trying to write plans.

### **Public Comment**

- **Ms. Sherry Bradley**, Mental Health Services Act (MHSA) Program Manager, Contra Costa County, addressed the review process used in her county. Contra Costa follows the MHSA guidelines, which state that there is a 30 day public comment period. Contra Costa actually extended their posting of the plan beyond that timeframe.

The public hearing was noticed in November and December of '08 and occurred on January 22, 2009. The county did a media advisory to advertise the hearing, along with a blast fax and dissemination to an e-

mail list. The hearing was convened by the Mental Health Commission and comments were acknowledged and noted. No substantive comments were received as part of that process, and as such the hearing was closed and the Mental Health Director, who attended the meeting, finalized the draft to be submitted to the state for review.

Their peer counselors are volunteers, trained by a supervising senior counselor. They are aiming to get into some cultural communities they have not been in before.

In response to questions from **Commissioner Greene**, **Ms. Bradley** clarified that the county has a regular process for sharing financial data with the Commission. A MHSOAC special program report is submitted -- which is a breakdown of the three year plan -- with their budget amounts, what's been expended and what's in reserve.

**Commissioner Greene** asked about consultant fees and **Ms. Bradley** replied that she will present a response to the Contra Costa Mental Health Commission later today (March 26) regarding questions that their family involvement steering committee had around Full Service Partnerships. Her response will address consultant usage and fees.

**Commissioner Prettyman** asked how the supporting older adults project will serve as an intervention for volunteers and clients. **Ms. Bradley** responded that many adults are isolated. Doing outreach into their homes will bring them into situations where they can have social support that will decrease their isolation and depression.

**Commissioner Prettyman** asked if it were possible, when stakeholders come to meetings, for their suggestions to be included in the planning process. This would give the stakeholders recognition, whether their suggestions are approved or not. **Ms. Bradley** responded that this was done as part of the Contra Costa plan process.

- **Ms. Dede Ranahan**, National Alliance on Mental Illness (NAMI) - California, mentioned that NAMI is receiving more calls from stakeholders throughout the state, asking NAMI to be part of the grievance resolution process. She stated that she had received calls from stakeholders in Contra Costa County during the last few months.

A grievance has been forwarded from MHSOAC to Department of Mental Health (DMH). She said that people are torn about the PEI -- not so much the plan, but the process. It is not clear to these people what the process should be with the mental health commissions and the boards of

supervisors. Some people believe votes of these bodies is necessary, others do not. This needs clarification.

She said that the people complaining to her in Contra Costa had a hearing on January 22<sup>nd</sup> to discuss a plan, which included workforce education and training, capital facilities, and the PEI plan. According to her source they did not have a quorum and did not approve or adopt the plan.

**Commissioner Greene** stated that, although he is prepared to vote for the motion, this is the second time the Commission has been presented with some serious questions about the process. He added that, in the future, it would be very helpful to him to have a much better sense of what the process looks like and perhaps a specific tag-up with the folks who represent the communities to ensure that the process has moved in some reasonably appropriate ways. It would also be helpful to have information, perhaps two or three weeks before the consent calendar is presented to them, that provides more perspective on the process. **Commissioner Prettyman** echoed his comments and suggested the item be placed in the Parking Lot.

**Commissioner Pating** discussed the review process. He and Program Administrator Beverly Whitcomb have been monitoring each plan to ensure that plans meet the guidelines. Is there strong program planning? Is there a need identified, and does the program meet that need? Do outcomes look like they're going to be reasonably successful? Most of the time they have received very good responses back from the counties. Thus far they have looked at 20 plans and all but one have been reviewed within 60 days.

Specifically regarding Contra Costa, Commissioner Pating stated that they received a letter that was passed from the Finance Committee to the Service Committee. He and staff read the letter in detail. The letter primarily related to components that were part of CSS -- data, statistics, cooperation, collaboration, and implementation. There was little regarding PEI process, although one issue was raised. The local NAMI committee protested that the stigma reduction did not use their In Our Own Voice Program. Instead, the county had developed a local process. However, from he and staff's perspective, this met the criteria for needs assessment.

Commissioner Pating stated that the Contra Costa plan is really excellent and has extensive community participation. He concluded by stating that he would support moving to consent on all the items.

**Commissioner Trujillo** cautioned that it is not their position to micro-manage the counties and to try to make this a 100 percent perfect process. By the time it gets to the Commission the process has been reviewed several times by many

different people. It doesn't make sense for the Commission to belabor or question counties at that point.

**Commissioner Henning** stated that he was very concerned. This has become "not easy," and consent is supposed to be relatively easy. The Commission really needs to come to some resolve so that these types of issues are not brought up at this late date.

**Commissioner Gould** reiterated Commissioner Henning's comments and also stated that seeing the process in action, as she has done, shows that it truly is not a "rubber stamp" process. Rather, it is a very thorough review by staff.

**Commissioner Prettyman** added that there are consumers and family members on the review teams and they are absolutely listened to.

**Vice Chair Poaster** reminded the Commissioners that any of them can request, prior to the meeting or at the meeting, to remove a plan from the consent agenda for further discussion.

**Commissioner Gayle** stated that he is not recommending that Contra Costa be removed from the consent agenda, but he is very concerned about \$300 an hour consultants and the possibility that MHSA monies might be used in this way. Perhaps the Commission needs to look at how some of the information is brought to it. Also, NAMI does not make false accusations. He has worked with NAMI and has family partners associated with them. They do some thorough background before voicing any accusations.

**Commissioner Prettyman** added that an improved oversight of the stakeholder process may be what's required. **Commissioner Pating** concurred.

***Motion:** Upon motion by Commissioner Van Horn, seconded by Commissioner Trujillo, the Commission unanimously adopted the Consent Calendar, as proposed by the MHSOAC staff, with the exception of Commissioner Vega, who abstained.*

Commissioner Gould noted that, with this vote, the Commission has now passed the \$100 million mark for PEI plan disbursements.

Vice Chair Poaster publicly thanked the county representatives who were in attendance.

**5. Sonoma County PEI Plan -- Proposed Motion to Adopt**

**Ms. Collentine** presented the staff recommendation, which is to approve the Sonoma County PEI Plan. She noted that staff had worked on the plan with Sonoma County Mental Health Director Mike Kennedy.

In addition, to ensure that the PEI review process is further refined and Commissioners are assured of the oversight and accountability of future plans, the following activities will take place over the next few months:

- The MHSOAC staff attorney will develop rules and procedures for the Commission (including confidentiality guidelines regarding Plan Review Notes and complaints received).
- The Mental Health Services (MHS) Committee will review the existing MHSOAC Plan Review Process and revise as needed based on experience in the plan review process.
- The MHS Committee will make a presentation to the full Commission on the PEI Plan Reviews completed, the positive and negative trends emerging from those plans, and then possible action recommendations for the Commission to consider.
- On April 2, 2009, DMH will conduct a webinar on the proposed MHSA Issue Resolution Process which will allow statewide stakeholders to provide input on the proposed process.
- An addendum was added to the Sonoma County plan, in response to concerns raised during last month's meeting.
- On March 17<sup>th</sup> the MHSOAC received a letter of support from the Sonoma County NAACP.

**Commissioner Greene** asked about the NAMI view of the current plan, and **Ms. Collentine** responded that NAMI wrote a letter of support for the plan last month.

### **Public Comment**

- **Ms. Dorothy Friberg**, senior peer counselor, thanked the MHSA for helping her to remain fully engaged in the community. She commented on the fifth bullet of the Plan, which states *"to best prevent depression in older adults, Sonoma County is using a full continuum of interventions to access seniors in the most appropriate environment."* She told the story of an 80 year old diabetic woman who needed care and was placed in a board and care home that had 40 people wandering around. Their illnesses are managed pretty well with medication, but --. She asked the

Commission to imagine what it would be like to be thrown into such an environment. There has to be a middle way.

It is not enough to say that Meals on Wheels is going to triage. You need more people who are going to listen to and be concerned about the older adults. Sonoma County does not have the facilities to care for the people they have, and early intervention is just going to fly by with Meals on Wheels, where there's somebody waiting for that hot meal five minutes away.

You mental health directors need to take a look at what's going on here. It's not just you hiring consultants and managing symptoms. It's real, feeling people here.

**Commissioner Prettyman** agreed with Ms. Friberg and stated that it's a situation that is statewide. The Commission needs to start addressing the older adult issue because it's a huge problem.

***Motion:** Upon motion by Commissioner Henning, seconded by Commissioner Greene, the Commission unanimously adopted the Sonoma County PEI Plan.*

**Vice Chair Poaster** acknowledged the arrival of **Senator Lou Correa**, the newest Commissioner. Senator Correa thanked the Vice Chair and stated that he was excited to be a member during this time of tremendous opportunity as well as tremendous challenge. He stated that, if well-managed, the Commission can provide a tremendous service to the state of California. He is very interested in the topic and considers it one that every Californian should have high interest in.

## **6. Adopt MHSOAC Comments on DMH Proposed Issue Resolution Process**

**Ms. Beverly Whitcomb**, MHSOAC staff, presented the draft response to DMH, which responds to DMH solicitation for stakeholder input on issues related to the proposed Issue Resolution Process. She noted the concerns expressed by a lot of stakeholders that the process was not inclusive from the beginning. DMH has agreed to extend the public comment period past April 20<sup>th</sup> to allow additional input.

Some Commissioners asked when the extended public comment period would end. **Ms. Denise Arend**, DMH Deputy for Community Services, stated that they will probably go until May 31<sup>st</sup> for comments.

### **Public Comment**

- **Ms. Stacie Hiramoto**, Racial and Ethnic Mental Health Disparities Coalition (REMHDCO), stated that the proposed Process has been in development for over a year, yet they were not aware of it until last month. They would like to be at the table as a partner. One of the real values of the MHSA is the increased transparency and partnership and collaboration with the community. If they could work together from the beginning it would be more in the spirit of the MHSA.

She thanked the Commission for their comments that stakeholder concerns should be addressed at the county level, as well as the issues of fear of retribution and punishment for testifying. Regarding complaints at the county first, that's why the stakeholders would like to see this as one big process. REMHDCO is very confused and doesn't feel that there are minimal standards -- at least that are well known --for each county regarding how the process should be.

The local mental health boards and commissions have not traditionally had proportional representation of people of color or non-English-speaking people, and other underserved communities; so they have concerns that those people don't feel that there are places that they can take their concerns; that somebody is representing their views.

- **Ms. Delphine Brody**, California Network of Mental Health Clients, stated that there are many stakeholders organizations from around the state who are very concerned with the Issue Resolution Process. She has met with representatives of the former government partners, including the Commission, and they remain concerned about this Process.

For mental health clients there is a great deal of concern that retaliation is an ever-present threat that they must contend with whenever they come forward with a complaint about either the planning process or about the way the MHSA is being implemented in their county or on the state level.

One of their concerns is that the loop appears to be closed between state and county agencies with no third party that is more neutral and able to receive grievances and follow up with investigations from a more independent stance. Another concern is anonymity and protection for whistle blowers.

She expressed their appreciation for the added time so they can bring the draft process to their folks for review. They ask the Commission to postpone its vote on their comments until April 24<sup>th</sup>, which will still be within the timeframe during which they will be developing their talking

points. They would prefer to advise the Commission before the Commission makes its final comments on this Process.

- **Mr. Terry McKinney**, Santa Cruz County, stated that he is glad the Commission is looking at the Process. While serving on the board he heard a lot of things about cultural competency, but nothing ever got done. When he sees 75 percent of a meeting is made up of Hispanics, and that 75 percent of his county's mental health clients are Hispanic, he would expect to see 75 percent of that work group to be made up of Hispanics. He constantly went to work group and focus groups overwhelmingly composed of white women. He would say "where is our cultural competency" and they'd say "well, we put it in the plan."

When he sees (in the Process) that concerns should first be addressed on the county level, in his county they have a history of doing the easy thing. The easiest thing for his county is to go out and get a bunch of white women. The top levels of their mental health department are white women. The non-profits that they contract with are led by white women. He doesn't think that problem will get solved at the county level.

Secondly, veterans should be allowed to get county mental health services. Typically, veterans are not actively brought in to the work groups and focus groups. He brought this issue up numerous times and the immediate response was "go to the VA, get the services from the VA."

A third group, the mentally retarded, get dumped off if that can be done. That is another issue that is not going to be dealt with on the county level.

Also, many times their PEI plan remained very ambiguous until it came out in final draft form for the 30-day public comment. Opportunities are not there to raise issues because you don't specifically know if they are going to say yes or no to you, and then you only have the 30-day public comment. He doesn't see how an issue can be resolved in that short amount of time.

Lastly, he came today because he wanted to make sure that their plan gets looked at extremely closely. He hopes that MHSOAC staff does so and really goes into why you don't have Hispanic people in this 0-5 age group.

**Commissioner Van Horn** asked Mr. McKinney what specific actions he would like to see happening to improve dispute resolution at the local level. **Mr. McKinney** responded that when he talked to the Board of Supervisors the first thing they said was "well, if it got through the state then it's okay." So the county people are thinking that the state is going to be the hammer. So, some piece of it

has to come from the state. If the plan were to come out in detail and there was a 30-day public comment period, and then they went back and did focus groups for comments that came up, they could try to iron things out with consumers and with family members. Right now the only things that are being ironed out are the concerns of county staff. Why aren't consumers and family members part of that process?

**Senator Correa** asked if, in terms of the stakeholder makeup, you are saying that certain groups are more attuned to "answering the call" to be in some of the stakeholder meetings, as opposed to other groups that would have the time but are not in the system or not in a position to show up to the stakeholder meetings, so we have to guard ourselves to ensure that the clients we're looking to represent actually show up and are represented? **Mr. McKinney** responded with two examples: one, in their town hall meeting that kicked off the PEI process, the county nurse commented that the majority of the process needed to happen during the summertime period, when the kids are out of school. But most of the farm workers are out in the field at that time and they are not going to come to a PEI work group. That issue was never addressed. Second, all of the meetings were at 9:00 in the morning, so anybody working could probably not attend. Thus, the process development on the local level eliminated every single veteran that he contacted, who said "I can't make it at 9:00 in the morning." A single parent of a kid with a disability can't take off work to go to a PEI meeting. After numerous complaints they did have three focus groups after hours. He attended one that was a presentation. When the time reached 8:30 the proctor said "well, we're out of time for public comment."

**Commissioner Prettyman** suggested that the people should not have to come to PEI meetings; the PEI meeting should go to the people, especially with the Hispanic population, where going to a government building is frightening for many people.

- **Ms. Rose King** stated that grievances are so widespread that there is a fundamental obligation that relates to the approval of plans and the MOU. It is perhaps not practical or appropriate for the MHSOAC to resolve individual county issues, but it may be manageable for it to review the nature of the complaints throughout the state -- the themes or consistent problems that arise, the core issues.

Also, what is the MHSOAC's ability or authority to act on complaints anyway, which overlaps with the issue of the MOU. For instance, does the issue resolution agreement or the MOU adequately cover questions about state compliance with the language and intent of the law, which is the subject of widespread grievance at the local level? Today, the implementation process is fragmented to the degree that each component of the Act is developed and implemented independent of the other and

each is independent of existing county systems. Every county must develop complex plans, repeat a stakeholder process at least six times -- all as stand-alone projects -- with a review, approval, and funding process that literally takes years to complete.

On the face of it, this process is neither cost nor client efficient. The process also does not appear to comply with the law, and this is a primary source of grievance issues. It adds insult to injury when the county spends so much time and money on this process and many people end up believing that it is simply an exercise that does not truly reflect what is brought to the stakeholder meetings.

Almost all the issues brought forth today are itemized in the 19 recommendations of the Department of Finance performance audit, which she hopes the Commission will give its attention to. Right now it is not clear to her which entity is responsible for pursuing or reporting on the results of the auditor's findings and she hopes the Commission will take that into consideration, and if it doesn't belong in the existing process or MOU, then she hopes it will be put on the agenda for the strategic meeting.

Furthermore, there is no transparency about the cost of these very expensive and, some people feel, unnecessary exercises. For example, the complaint about the constant 9:00 in the morning meetings, where most of the people there are on somebody's payroll.

- **Mr. Steve Leoni** also asked for a delay on voting on the process. There is a lot of alarm around the state on the inadequate stakeholder processes in terms of the quality of the relationship with the counties or at the state level. The process is very perfunctory, very bare bones. We need to have a sense of technical assistance and quality improvement. The aim is to make it all work better, not just to resolve an issue in the narrow sense.

He is also concerned that the state basically says "we'll look into it, we'll go back to the county and ask them." Maybe those are not the only people you should be asking. A lot of the people that are stakeholders -- many people today have said that the county doesn't really listen or understand. So if you just ask the county you're not really going to find out what's going on. There needs to be an actual investigation. This process doesn't do that. It needs to be much richer and attend to "we want to make this work" and not be only cut-and-dried "resolve the issue."

- **Ms. Stephanie Welch**, California Mental Health Director's Association (CMHDA), stated that they support the contents of the letter. An important thing to recognize in the letter are the comments they are hearing from the

community regarding fear of retribution and reprisal. This is the tip of the iceberg on an enormous amount of complex issues that aren't really specific to what is a very needed process of communication amongst governmental entities when it comes to an individual wanting to file a complaint. She supports the letter, on behalf of the counties, because it does suggest that the local process is a process that must be exhausted first in order to really address the problems in an expedited way.

Every local process needs to have a quality improvement piece to it, like any other process, and CMHDA supports that. Many counties are developing such a process right now, because they feel the need to educate their stakeholders on how to access points of resolution. Their work group recently talked about the issue of wanting to file an anonymous complaint. There are many different mechanisms at the county level for filing anonymous complaints. They are talking to counsels at the local level to discern how those might best be used.

She concluded by saying that they are committed, as an association, to looking into this. They are working with their partners to try to figure out how to provide more resources to MHSA coordinators to enhance their resolution skills. This should be an ongoing process to aid people in practicing better practices.

- **Mr. Arnulfo Medina**, California Youth Empowerment Network, stated that they support the comments in the draft response, but they need to be fleshed out a little more. One of the biggest issues is that, even though the process has been going on for a year, they received very minimal information as to how it was unfolding. It would be best to include more of the stakeholders early on instead of in the back end.

Also, they agree that the local county process should be the first place for constituents to raise issues. However, most of us don't know what those processes are. If there were some basic, fundamental principles in place that all counties should follow then it would also be easier on the counties to develop these processes.

They want the process to be more seamless to navigate, and the county process should not just hear the issue but should also look at the different types of issues that come up so that the appropriate people come up. And this should be done by a third party, as there are too many people directly involved at the county level.

- **Ms. Gwen Lewis-Reid**, California Network of Mental Health Clients, also requested a delay in a vote on the comments on the issue. She expressed their gratitude at DMH's extension of the consideration time.

One of the Network's concerns is that the mechanisms to broadcast this document is by webinar. Many mental health clients don't have computer access or expertise and this will significantly limit their ability to comment.

In addition, their office is apparently going to take on the role of providing Spanish language translation because that was not considered otherwise. Since 45% of the state of California is of Latino background that makes this a significant problem. She also stated that the process "flow chart" does not provide sufficient anonymity and protection for those filing concerns. She concluded by saying that we need to "go back to the drawing board" and, barring that, the Network will do a counter-proposal so that both can be given consideration.

- **Mr. Juan DeAnda**, a veteran and consumer of mental health, stated that he is known as being a renegade in his county. In 2005 he attended a state administrative hearing and won without a lawyer. He learned that there are many battles in mental health. He has no faith in his county representatives to be a neutral body. He goes after them at the state level. One of the areas that he uses in San Francisco is the San Francisco Human Rights Commission, who investigate discrimination. He is very diverse and wants all communities to be included in this meeting. He also requests a delay on the vote on this process, as he feels that veterans are being excluded from this process and he is trying to elevate that issue.
- **Ms. Dede Ranahan**, NAMI California, stated that they consider this one of the most important and encompassing issues that has been brought before the Commission. Their community partners are unified in wanting to be part of this process and they have many ideas to improve what's been put before them today. They don't think it can be done in a vacuum; i.e., just at the state level. There needs to be a seamless process, starting at the local level all the way through to the state level.

This is a big issue that spills over into the MOU. The issues of fear of retribution and retaliation need to be put under control.

**Vice Chair Poaster** thanked everyone for their comments.

**Commissioner Van Horn** suggested that, since they have now heard these extensive comments, and given that at several quarters there has been a suggestion that this process be expanded to include more issues, the Item should be tabled until the April or May meeting; and that at least one member of the Commission be designated to work with DMH and CMHDA and the community partners group to look at how this process needs to be expanded to

provide us the kind of third party representation at the local level to ensure that things are not “run roughshod” at any quarters.

**Commissioner Pating** stated that he sees the issue as having two parts. The first is the grievance process at the local level. He reminded the Commission that the goal of the MHSOAC, as defined by the Act, is that the Commission “*shall ensure that the perspectives and participation of members and others suffering from severe mental illness, and their family members, is a significant factor in all Commission decisions and recommendations.*” What are the implications of the Commission ensuring the perspective and participation of members? He also assumes that this would apply to the decision making of the counties as well.

How do they look at this in a positive way, and how do they look at this as a grievance when it goes astray? The two are related. Perhaps they could look at strengthening the letter and getting a grievance process done. If that takes one or two months to do, he would consent to that. Also, a fuller discussion is needed about what the Commission can do to ensure that the local process has “legs” as defined by their oversight role.

He proposed that, if the Commission does decide to write a letter to DMH regarding the Process, they might also add a clause where they ask to review the grievance process, because they will be rushing the grievance process through and asking to come back to it in a year to see if it has worked in the way that they wanted, and is it strengthening the local process.

**Commissioner Vega** stated that a delay was important, as the Commission seems to be in agreement that things need to be added. What is the functional element of this letter? If the Commission delays or not, how does that affect the process DMH is undergoing regarding this?

**Commissioner Gayle** stated that he would be willing to work with DMH to ensure that this process is consumer and family friendly. He also cautioned that grievances don’t always come out favorably and therefore a grievance committee needs to be looked upon as neutral and not as advocacy. This type of process is not black and white; there are a lot of gray areas.

After further discussion, **Vice Chair Poaster** asked for the motion.

***Motion:*** *Upon motion by Commissioner Van Horn, seconded by Commissioner Gayle, the Commission designated the Client and Family Leadership Committee and its attendant staff to expand the Commission response to the DMH Issue Resolution Process and bring the expanded response back for discussion and vote at the May Commission meeting.*

**Commissioner Greene** remarked that he supported Commissioner Pating's thought that there may be two stages involved -- the narrower focus on what the specific grievance process is -- which revolves around things like anti-retaliation provisions and anonymity provisions -- and the broader, more organic perspective, which will probably take more time, and which deals with the quality and nature of processes at the local level and how those processes relate to the state level.

7. **Adopt Memorandum of Understanding between DMH, MHSOAC, CMHPC and CMHDA**

**Vice Chair Poaster** introduced the Item. He noted the following:

- Vice Chair Poaster and the other MOU group participants, about 10 people in all, met almost weekly from mid-December '08 to mid-February '09. Group participants included the Director, Chief Director and Deputy Director of DMH; the Executive Director and past President of the California Mental Health Planning Council (CMHPC); the President, Executive Director and Assistant Director of CMHDA; the Executive Director and Vice Chair of the MHSOAC, and a facilitator who helped the group develop the agenda and reach group consensus.
- The MOU represents a clarification and mutual understanding of the roles and responsibilities of the participants where those roles and responsibilities overlap. It is an attempt to look at and clarify the statutes and identify overlap areas that lead to confusion between the agencies.
- The MOU is not intended to be a legal document. In many ways it is simply a mutual clarification of the various collaborations that occur between the agencies.
- The Mental Health Services Act serves as the touchstone for the MOU process, and everything in the MOU derives from it; there is nothing in the MOU that is contrary to the Act.
- Work on the MOU was completed prior to the recent budget process and approval and thus does not take into account any changes in law resulting from that process.
- The MOU document was vetted, sentence by sentence, by each participant agency.

After noting the staff recommendation that the Commission adopt the MOU, **Executive Director Whitt** gave a PowerPoint presentation detailing some of its aspects. Some highlights:

- The MOU is a response to the Department of Finance Office of State Audits and Evaluation (OSAE), which issued a report to DMH that described areas of inconsistency and duplication related to MHSOAC implementation by DMH and MHSOAC. The report recommended that the parties work collaboratively to come to an agreement on roles and responsibilities related to implementing the MHSOAC.
- The MOU is the group's mutual understanding of the Act, and how they would choose to work together to be more efficient in implementing the Act.
- The question to keep in mind when reviewing the draft MOU is Do you believe this MOU defines the roles and responsibilities of the Commission, the Department, the Planning Council and CMHDA in such a way so as to improve the understanding and implementation of the Act overall?
- The MOU will probably need to be re-opened when the new budget language is settled and clarified.

**Commissioner Greene** asked how the document addresses the specific and substantial criticisms of the collective processes used, in terms of getting money to people who are in need. Is that excluded from this conversation? Is there something in the MOU that states in essence that a single process is going to be created, say, in a year? **Executive Director Whitt** responded that one of the things the draft MOU says is that the MOU provisions do not address questions of process and execution, except where such discussion is necessary. The intent was to stay very "high level" in terms of roles and responsibilities, and the expectation was that, if and when the MOU went into effect, then further discussions would take place to discuss those kinds of specifics.

**Commissioner Vega** asked for clarification on what it would mean to adopt this document in a draft form? **Vice Chair Poaster** responded that the MOU has provisions that note the understanding that there could be changes in this document on a frequent basis; there will be a call for periodic review, especially considering the current budget situation.

**Commissioner Kahn** asked first for a description of the normal process the Commission uses regarding public comment on documents; and secondly, would it be possible to see a description of the questions raised and answers posed as an outgrowth of the MOU process?

**Executive Director Whitt** responded that generally the practice of the Commission has been to do a two read process, where one month is taken for the various stakeholders to review the document, and in the second month the

document is brought back for a vote. However, that practice is not an adopted policy or procedure; i.e., it does not have to happen that way; it is the Commission's choice.

**Commissioner Kahn** asked if that process has occurred in this case. Executive Director Whitt responded that a two read process has not occurred in this particular process. However, the MOU document has been to the governing board of the CMHDA; it has been vetted through the CMHPC executive committee; through the DMH agency process; and is now being vetted by the Commission. It was available to the general public when CMHPC considered it; through DMH in its vetting process; and subsequently when it was posted by the Commission.

### **Public Comment**

- **Ms. Allison Homewood**, California Primary Care Association, representing the state's community clinics and health centers, requested that the MOU vote be postponed. She also requested that the Commission continue its commitment to utilizing the organized group of community stakeholders that attend these meetings and make a lot of effort to reach out to their constituencies and stay in touch with their concerns. They work hard to provide the Commission with meaningful and helpful feedback, and there's no way for this to occur if they don't have enough time to look at documents that outline proposals of this level of importance.
- **Ms. Stacie Hiramoto** echoed Ms. Homewood's comments about the need for more time to discuss its comments with their constituents at the local level before they comment on its contents.
- **Ms. Dorothy Friberg** stated that she personally thinks that some people are trying to rewrite the Act. Mental health directors are not known for their creativity and the Act is a creative act asking for new options and empowerment of the consumer. She addressed the mental health director's statement asking for flexibility. If they oppose that they are conceived as being inflexible, and they are not. Mental health directors are worried about lawsuits -- they said this in their presentation. They should be worried, if they break the law.

She also addressed the issue of Full Service Partnerships (FSPs), which sucks money. Do not engage in FSPs. Consumer-operated programs are effective, and that's the way we want to go.

- **Ms. Delphine Brody**, the Network, reinforced the previous comments about postponing the vote to allow their constituency to review it and create formal positions on its contents. They are concerned that the issue of flexibility of funds is contained within the MOU -- not in a direct way, but in language that's ambiguous enough to allow for a greater flexibility of funds. Page three of the letter from the Coalition Advocating for Rights Empowerment & Services (the CARES Coalition) references it. There is a concern that fundamental or poor community mental health care services, which are emphasized in that language, could include non-MHSA services, such as in-patient hospitalization, long-term care and other services that are provided on an involuntary basis.

They are also concerned that the language could undermine the stakeholder process. She reminded the Commissioners that the OSAE report, page 11, lists the implementation participants -- the MHSOAC, the Planning Council, counties, and the stakeholder community groups. Stakeholder community groups were not represented among the ten or so people who gathered together in the MOU draft document group. She urged that stakeholders be included.

- **Mr. Juan Gonzalez** began his presentation in Spanish, then switched to English. He noted that disparities in services need to be reduced, as well as the disparities in access to meetings. He also asked that the vote be postponed to allow for stakeholder input.
- **Ms. Rose King** urged the Commission to sign the MOU and "get the show on the road." The Act is in the fifth year of implementation. Feedback can be solicited and a bill of rights added that is consistent with stakeholder concerns, if necessary. The lack of clarity about roles has been a serious obstacle to progress. She repeated her urging that the Commission sign the MOU -- with a separate MHSOAC statement, if necessary, of intention to continue addressing, clarifying, and elaborating upon definition of roles. Put the agreement into action and then you will identify the need for change. It is an excellent product.

The MHSOAC has not been able to issue a single oversight or accountability report. She believes that this agreement will pave the way to get that done. It is disturbing to witness what appears to be a full employment act for event planners, focus group consultants and lobbyists instead of direct service providers.

There is a state of emergency in California mental health and she hopes the Commission will act with the urgency necessary to move this MOU along and assert their independent authority.

- **Mr. Steve Leoni** stated that this is an important agreement and the alarm we are hearing has to do with the fact that a lot of the statements in the MOU would seem to define policy directions, particularly around the stakeholder process. He is alarmed that this could take us several steps backwards from where we've been. In many counties the stakeholder processes are disintegrating. The current MOU language feels dangerous to many in the community who have not had a chance to fully digest it and respond as yet.
- **Ms. Laurel Benhamida, Ph.D.**, representing a non-profit service agency that serves the Muslim community, said her agency provides services in 11 languages and staff is all volunteers, most of whom are fully employed elsewhere. They need time to process something like this MOU.
- **Mr. Arnulfo Medina**, CA Youth Empowerment Network, echoed the comments made earlier. Regarding accountability, the paragraph in the MOU that discusses accountability doesn't even mention the MHSOAC.
- **Ms. Dede Ranahan**, NAMI, referred to the OSAE report, page 11, which states that "the MHSA identifies the implementation participants -- the MHSOAC, the Planning Council, counties and stakeholder community groups. However, the responsibilities of each are loosely defined.

The OSAE Report recommends that . . . *"the participants work collaboratively with each other to come to an agreement on goals and responsibilities; and develop regulations and define roles and responsibilities of each of the five entities involved in the MHSA and communicate those roles to the affected party."*

As she attempted to define the MOU document, she thought that the MHSOAC was being marginalized. Either it's being marginalized or it's been that way all along and she didn't realize that.

Where are the stakeholders in this process? They are concerned about the process; they don't even get 30 days notice. They are concerned about the content. They are concerned about the precedent -- they asked over and over to the Commission to please give them information and allow 30 days to digest it and then vote on it the next month, except in cases of emergency. Please delay the vote.

- **Ms. Stephanie Welch**, CMHDA, stated that their county mental health directors did vote to approve the MOU as written. They support the MOU process and that process will help streamline implementation, and the words and contents of the MOU are anchored in the statute. There is no intent or attempt to trump regulation. It is not the intent of the CMHDA to

reduce the local stakeholder process to public comment at a public hearing or plan approval process.

Following public comment, **Commissioner Pating** motioned that the issue be deferred for two months, to allow time for all five MHSOAC committees to weigh in on the implications of the MOU. Committees would send their findings to staff member Deborah Lee to collate that input. No second was forthcoming to the motion.

Commissioner Pating stated that the MOU does significantly rewrite the Act, even though there is language that says it doesn't supersede it. It also establishes significant policy that undermines both the MHSOAC's implementation of the Act and the MHSOAC's ability to do what's needed to oversee the Act. It also doesn't meet the major OSAE concern, which is one of DMH efficiency. In terms of overlap of functions, the only overlap that was identifiable in the report was that DMH would use the MHSOAC PEI tool.

Regarding the issue of rewriting the Act, Commissioner Pating stated that he believes the MOU significantly undermines the scope of the Act. Section one interprets the intent of the Act as to establish and enhance continuous care upon the existing mental health system. The Act actually goes beyond that. It says that not only are we supposed to use the tool of continuum of care but we are also actualizing the outcome of reducing adverse long-term impact on individuals from untreated and serious mental illness. So, we are actually responsible for the result of keeping people out of trouble related to serious mental illness, not just building a continuum of care.

His concern is that, if this were to go through, it establishes a policy that runs counter to some of the transformational language that the Commission uses.

Second, defining stakeholder input as advisory runs counter to the Commission's overarching mandate, with regards to the Act, of ensuring that consumers have a significant input into how the Commission deliberates its decisions. The Commission needs to make sure that it has robust local processes.

Third, regarding plan review, the Commission can't step ahead of AB3x 5 and say "we'll solve it later on when we figure out what AB3x 5 is about." AB3x 5 is very clear in its intent that the Commission have oversight of the Act and that it has implementation responsibilities over prevention and early intervention. This memorandum relegates Commission implementation to a unique role which minimizes the scope and scale of anything that may be possible that stops prevention and intervention from getting rolled out. More importantly, Service Committee members are finding that what is actually happening is that we are

developing a joint review product, and this MOU undermines the power of that joint review.

The last issue is oversight. This MOU narrows our oversight to review and comment on the areas of the Act. It's very clear, from both the language of AB 5 and in the motions of the Act, that the Commission is supposed to have not only a viewing and seeing but a supervisory role. It is more than just oversight. In addition, the Commission's accountability function has been stripped entirely with this MOU.

Lastly, Commissioner Pating stated that there are a lot of policy issues here that need public vetting, and that is why he wanted to go on record now that, as it's currently written, he opposes it.

**Commissioner Vega** remarked that the need to clarify the roles and to have enough time to process what the MOU fully means for the Commission leads to his support to delay approval.

**Commissioner Kahn** stated that there is no doubt that the motion for adoption needs to be tabled for a bit. His concern is for how long, and what's the result of doing that? It sounds like there are substantive concerns from the stakeholder groups, and substantive concerns from Commissioners, and it's already taken a long time to negotiate this MOU. Thus, the bigger question is what will delaying action lead to? If the MOU is going to be delayed significantly longer, then that is worrisome.

**Commissioner Gayle** noted that he has been on this Commission since the beginning and knows how difficult it has been not to have some type of understanding between the different agencies. People from the community have vetted this and provided input. Once we start delaying this --. He suggested that this be looked at and approved with the caveat of input after the approval, if it is accepted by the other participating organizations. Some of these issues can be incorporated later.

**Senator Correa** remarked that, because of the importance of this, to delay one or two months to allow for further stakeholder review makes sense. The danger, as others have said, is what happens if you reject this after so many years of trying to put something together and now you're back to another 18 month process. That is the downside. It is such an important understanding and that's why we want to give people 30-60 days to be comfortable with it and then vote on it. He stated that **Assembly Member Hayashi** expresses the same position -- she wants to delay on this. Trying to get five agencies to agree on something is problematic, but you've done it, which is a great success story. Nonetheless, stakeholders should be given the opportunity to review it and get more comfortable with it.

**Commissioner Gould** aligned with Commissioner Kahn in that, from her perspective, the MOU is a fairly generic document. She is worried about how long it will take -- the input is clearly important and they have to have it, but then -. It is frustrating for everyone to get a process for how things are going to operate, and frustrating to go into the community and constantly be criticized for not doing anything. The Commission needs an operating procedure for how it will allow for legitimate input and still get its work done.

**Commissioner Henning** agreed, and added that he is not comfortable right now with the way the MOU is set up. He agrees on the difficulty of getting governmental agencies to get together on issues but there are some omissions that he'd like to see further fleshed out. Let's take 30 days, or 60 if absolutely needed, and come to a decision. We could always go back and adjust this at a future date.

**Commissioner Prettyman** agreed that it needs further review. However, it is a really great starting point. She asked if responding in this MOU is to the OSAE or --? **Vice Chair Poaster** clarified that the OSAE Report was a report on DMH, and that DMH had to respond to the legislature.

Commissioner Prettyman commented further, stating that there are some significant changes in the MOU regarding stakeholder input. For example, the use of the word "may" instead of "shall" or "will." That needs to be paid attention to, as there is a huge difference in those words.

**Commissioner Pating** also responded that he hopes an agreement can get done. He added that he doesn't think the current MOU addresses the efficiency problem that DMH and OSAE were addressing.

**Vice Chair Poaster** stated that he can't support delaying the process two months. People have different opinions on what the role of the MHSOAC is. The intent of this MOU was to attain a mutually collaborative understanding, not an abstract argument, about what the respective roles are. The MOU is so rooted in statute that, quite frankly, he is not sure what a delay will resolve. He is willing to support the 30 day delay; there is certainly a legitimacy about having people more informed. But please remember, this isn't a matter of us as individual Commissioners deciding what our role is. It is a mutually collaborative decision about that. And if the Commission can't come to that, it is right back to where it started. He urged the support of a 30 day delay, rather than 60 days.

**Commissioner Pating** stated he would be willing to consider a 30 day delay but he is not certain how the committees could get their input back in a 30 day period. Also, since it has been shown that there is no urgency on this --. But he would be willing to consider an amendment to a 30 day delay.

**Vice Chair Poaster** suggested a motion to defer the vote until the April meeting.

Commissioners continued discussion regarding the issues surrounding a 30 day versus 60 day delay. They then discussed the specific wording of an amended motion.

***Motion:** By Roll Call vote, the Commission delayed the vote on adopting the MOU until the April Commission meeting. The vote was 9-3, with Commissioners Correa, Kahn, Vega, Prettyman, Van Horn, Pating, Henning, Greene and Gould voting yes; and Commissioners Trujillo, Gayle and Poaster voting no.*

**8. Adjournment**

Vice Chair Poaster adjourned the meeting at 1:28 p.m.