

\_\_\_ INFORMATION

TAB SECTION: 5

X ACTION REQUIRED

DATE OF MEETING: 7/26/12

PREPARED BY: Yeroshek

DATE MATERIAL PREPARED: 7/12/12

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AGENDA ITEM: Amendments to MHSOAC Rules of Procedure

ENCLOSURES: • None

OTHER MATERIAL RELATED TO ITEM: None

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## ISSUE

In an effort to provide continuous quality improvement, legal counsel submits the following proposed non-policy amendments to the MHSOAC Rules of Procedure for adoption.

## BACKGROUND

The Commission adopted the MHSOAC Rules of Procedure on June 25, 2009. The Rules of Procedure were amended by the Commission in July and August of 2009, February 2010, and May 2011.

The proposed amendments make non-policy and non-substantive changes to eight Rules of Procedure.

### **Explanation of Amendments to Rules 1.1, 1.3, 1.4, 2.1, 4.9, 4.11, 4.13, and 5.1**

**Rule 1.1:** The term of each member of the Mental Health Services Oversight and Accountability Commission is set forth in Welfare and Institutions Code Section 5845. The proposed non-substantive amendment to Rule 1.1 reflects this fact.

**Rule 1.3 and 4.1:** The amendments to Rules 1.3 and 1.4 are identical and provide flexibility regarding the timing of the Chair and Vice-chair elections by allowing the elections to occur at a Commission meeting held during the third quarter of the calendar year instead of the fourth quarter. The Chair and Vice-chair would still assume their duties starting the following January but would have more time to work on the Work Plan for the following year.

**Rule 2.1:** The amendment to Rule 2.1 deletes the reference to the Department of Mental Health (DMH) because effective July 1, 2012 DMH was eliminated by the Governor's reorganization plan.

**Rule 4.9 and 4.11:** The amendments to Rules 4.9 and 4.11 are non-substantive amendments to clarify the provisions which are a part of the Bagley-Keene Open Meeting Act.

**Rule 4.13:** As a result of the enactment of Assembly Bill 1467 the Commission will reinstate its review and approval of county Mental Health Services Act (MHSA) Innovation plans. The amendment to Rule 4.13 reflects this change in the Commission's role by reinstating the language that was deleted in May 2012 after Assembly Bill 100 was enacted.

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**Rule 5.1:** The amendment to Rule 5.1 provides that the incoming Commission Chair shall appoint the Chair and Vice-chair for each of the standing Committees. This amendment is consistent with the amendments to Rules 1.3 and 1.4.

Below are the rules with the proposed amendments. Strikeout text is proposed language to be deleted and underlined text is proposed language to be added.

### **Proposed Amendments**

#### **1.1 Terms of Commissioners**

Pursuant to Welfare and Institutions Code Section 5845, the term of each member shall be three years, to be staggered so that approximately one-third of the appointments expire in each year. Members shall serve without compensation, but shall be reimbursed for all actual and necessary expenses incurred in the performance of their duties.

If a Commissioner cannot attend a Commission meeting he or she will notify the Chair and the Executive Director of such absence in advance of the Commission meeting. If a Commissioner misses one (1) Commission meeting without notice or three (3) Commission meetings in a calendar year with notice the Chair shall notify the Commissioner and that Commissioner's appointing power in writing that the attendance record of the Commissioner be improved or that the Commissioner be replaced.

#### **1.3 Chair**

The Chair shall be elected at a MHSOAC meeting held during the last third quarter of the calendar year by a majority of the voting members of the MHSOAC. The Chair shall assume all duties and preside at all MHSOAC meetings starting the following January. The term of the Chair shall be one year. (Amd. 2/2010; 5/2011)

In the event of resignation or death of the Chair the Vice Chair shall assume all of the responsibilities of the Chair until a successor is elected. The election shall be held within sixty (60) days after such resignation or death.

#### **1.4 Vice Chair**

The Vice Chair shall be elected at a MHSOAC meeting held during the last third quarter of the calendar year by a majority of the voting members of the MHSOAC. The Vice Chair shall assume all duties starting the following January. The term of the Vice Chair shall be one year. The Vice Chair fulfills the role of Chair and presides at meetings in the absence of the Chair. (Amd. 2/2010; 5/2011)

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#### **1.4 Vice Chair (Continued)**

When neither the Chair nor Vice Chair is available to run all or part of the meeting, e.g., both officers may be absent, need to leave the room, or are disqualified from discussion and action on an item due to conflict of interest the most senior Commissioner shall preside at the meeting.

#### **2.1 Duties of the Executive Director**

The Executive Director is appointed and discharged by the MHSOAC. The Executive Director acts under the authority of, and in accordance with direction from the MHSOAC. Commissioners should direct their requests for information or assistance from staff to the Executive Director.

The Executive Director also serves as the Commission's liaison with county commissions, other mental health associations and stakeholder groups.

The Executive Director is responsible for the following:

- a) Achieve the results set forth in the Multi-Year Strategic Plan of the MHSOAC within the appropriate and ethical standards of business conduct set by the Commission and the State of California;
- b) Plan, organize, direct, and administer all activities, programs and functions of the MHSOAC;
- c) Respond to direction from the Chair to develop ideas for programs and/or initiatives reflecting the MHSOAC's goals.
- d) Direct the preparation of all reports to be submitted by the MHSOAC to the Governor and Legislature;
- e) Direct the preparation of the MHSOAC's annual budget for review by the Chair and submission to ~~Department of Mental Health~~, the Department of Finance, and/or the Legislative Analyst;
- f) Direct the implementation of all federal and state statutes and regulations and Commission policies that require action by staff, administer the civil service system (including hiring, evaluating and terminating all employees), attend meetings of the Commission and report on the general affairs of the Commission, and keep the Commission advised as to the needs of the MHSOAC.

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#### 4.9 Availability of Commission Meeting Materials

PANs and all other materials distributed to the Commissioners for discussion or consideration prior to or at a Commission meeting are public records and as such are subject to disclosure, unless a recognized exemption applies (California Public Records Act, set forth in Government Code Sections 6250 et seq.). Commission meeting materials are available to the public at [www.MHSOAC.ca.gov](http://www.MHSOAC.ca.gov) as attachments to the PAN. The materials are also available in printed format on the day of the meeting. (Amd. 5/2011)

The Bagley-Keene Open Meeting Act ~~specifically~~ provides that ~~before taking final action on any item,~~ writings pertaining to the item that are public records and have been distributed by staff or individual Commissioners to the Commission prior to or during the meeting must be made available for public inspection at the meeting ~~or if prepared by some person other than staff or Commissioner, shall be made available after the meeting.~~ In addition, the writings shall be distributed to all persons who request or have requested copies of these writings and will be made available on the internet MHSOAC website.

#### 4.11 Teleconference Meetings

Pursuant to the Bagley-Keene Open Meeting Act ~~provides that~~ the MHSOAC or its Committees may hold a meeting by audio or audio-visual teleconference for the benefit of the public and the Commission or Committee (Government Code Section 11123). All PAN requirements apply.

#### Rule 4.13 Voting

After a motion is made, seconded and public comment has been heard, the Commission may vote. A Commissioner must be present to vote.

A Commission member who is disqualified in a matter because of financial contributions, financial interest, or another conflict is not entitled to vote. The Commissioner is required to announce at the meeting that he or she “will not participate” and disclose the reasons for the disqualification on the record. This information is noted in the meeting minutes.

A Commissioner may “abstain” from voting, if he or she is entitled to participate, but chooses not to. The reason for not participating need not be disclosed on the record.

Any proposed policy item on the agenda, along with its corresponding language/documents, shall be presented for discussion at a Commission meeting at least one (1) meeting prior to the meeting at which the vote on the issue is taken. (Add 7/2009)

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### **Rule 4.13 Voting (Continued)**

The Commission may take action, by a simple majority, on an agenda item at the same meeting that the item is presented if the Commission deems that there exists a need to take action. (Add 7/2009)

Approval of county MHSA Innovation Plans is exempt from this review schedule and may be voted upon at the Commission meeting at which they are first presented by staff and need not be posted 30 days before the meeting.

### **5.1 Committee Structure**

The MHSOAC shall establish one or more standing Committees as necessary to provide technical and professional expertise pursuant to Welfare and Institutions Code Section 5845 (d)(2). Such Committees provide guidance, review materials, and make recommendations to the MHSOAC, and, in rare instances, when given delegated authority by the MHSOAC, make decisions on behalf of the MHSOAC. (Amd. 8/2009)

The incoming Commission Chair shall appoint a Chair and Vice-chair for each standing Committee from among the Commission's membership. The Chair and Vice-chair for each standing Committee will assume his or her duties in January following the year he or she was appointed. Each year the Commission Chair may reappoint a Committee Chair and Vice-chair. (Amd. 8/2009)

Ideally each standing Committee shall have a maximum of 15 members and shall include public membership. Of this public membership, at least two shall be consumers, at least two shall be family members or care givers of consumers, and at least two shall be members of underserved ethnic and cultural communities. Public membership of each Committee shall be selected by the Committee Chair and Vice-chair. In their recruitment and appointment, Committee Chair and Vice-chair shall pay special attention to issues related to cultural diversity and competency. Commission staff and/or consultants will staff each Committee. (Amd. 8/2009)

The membership of each Committee will be confirmed every other year in odd numbered years at the January MHSOAC meeting. In the intervening time each Committee Chair has discretion to modify the Committee membership based upon the needs of the Committee. (Added 2/2010. Amd. 5/2011)

If a Committee member cannot attend a Committee meeting the member will notify the Committee Chair and the Committee staff member of such absence in advance of the Committee meeting. If a Committee member misses more than one (1) Committee meeting without notice or three (3) Committee meetings in a calendar year with notice the Committee Chair has discretion to decide whether it is in the best interest of the Committee to have that Committee member replaced. (Added 2/2010)

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### **5.1 Committee Structure (Continued)**

The MHSOAC may establish an Operations Committee that is composed of the Chair or the Vice-chair of each standing Committee. The Commission Chair and Vice-chair are the Chair and Vice-chair of the Operations Committee. The Operations Committee is exempt from the public membership listed above and it is not authorized to take policy positions on behalf of the Commission unless the Commission specifically delegates such authority. (Add 8/2009. Amd. 5/2011)

### **PROPOSED MOTION**

The MHSOAC adopts the amendments to MHSOAC Rules of Procedure, Rules 1.1, 1.3, 1.4, 2.1, 4.9, 4.11, 4.13, and 5.1.