

INFORMATION

TAB SECTION: 2

 X ACTION REQUIRED

DATE OF MEETING: 7/23/09

PREPARED BY: Whitcomb, Yeroshek DATE MATERIAL PREPARED: 7/14/09

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- AGENDA ITEM:** MHSOAC Strategic Direction:
1. Adopt Proposed MHSOAC Communications Plan
 2. Adopt Proposed Executive Committee Charter
 3. Amend Rules of Procedure:
 - Add Executive Committee to Rule 5.1 if charter is adopted
 - Staff recommendation regarding 30 days that documents are posted before action is taken
 4. Adopt Role Pursuant to Chapter 20, Statutes of 2009 (AB 5 xxx)

- ENCLOSURES:**
- MHSOAC Proposed Communications Unit Strategic Plan 2009
 - Proposed Executive Committee Charter
 - MHSOAC Rules of Procedure, Adopted June 25, 2009
 - AB 5xxx Chart: MHSOAC Policy/Operational Independence

OTHER MATERIAL RELATED TO ITEM: Power Point presentations describing the four (4) agenda items will be distributed at the meeting

Issues

1. Adopt MHSOAC Communications Plan

The enclosed draft MHSOAC Communications Plan was on the April, May, and June 2009 MHSOAC agendas for adoption but, due to time constraints, the Commission did not adopt it. The Plan includes a mission statement, a set of principles, goals for achieving those principles, specific activities for achieving the goals, an evaluation component, and a timetable for Communications Unit activities in 2009.

The first draft of this plan was put on the MHSOAC website for public comment in February 2009. Since that time, the Communications Unit engaged in a Roundtable with Commissioners to discuss the document and to provide input for a second draft. The document was revised to incorporate comments from Commissioners made at the April 2009 meeting.

2. Adopt Proposed Executive Committee Charter

The enclosed proposed Executive Committee Charter was brought before the Commission for adoption at the June 2009 meeting. However, due to the late hour, the Commission lacked a quorum so this was moved forward to the July 2009 agenda.

Key Questions:

1. *Should the MHSOAC have an Executive Committee?*
2. *What should be the composition of the Executive Committee?* The proposed Executive Committee Charter includes the Chair from each of the 5 standing MHSOAC Committees plus the Chair and Vice-Chair of the Commission.
3. *What should be the scope of work for the Executive Committee?* The proposed Executive Committee Charter includes the following scope:
 - Regular meetings for the purpose of framing and refining MHSOAC meeting agendas
 - Regular review of MHSOAC Multi-year Strategic Business Plan for purposes of evaluating need for Commission actions
 - Facilitate communication between MHSOAC Committee chairs
 - Crisis management discussion

3. Amend Rules of Procedure

Background:

The Draft Rules of Procedure was presented to the Commission at the May and June 2009 MHSOAC meetings. The draft Rules of Procedure presented at the June meeting incorporated various changes requested by the Commissioners during the May meeting. At the June meeting, the Commission adopted the Rules of Procedure as represented by the following motion:

Text of Motion: Adopt the Rules of Procedure with the exception of the 30 day document notification and the Executive Committee discussion.

Key Questions:

1. *Should Rule 5.1 of the Rules of Procedure be amended to include the Executive Committee on the list of current Technical Advisory Standing Committees?*
2. *Should Rule 4.13 be amended to require 30 days that documents must be posted before Commission action is taken?*

At the June 2009 Commission meeting many individuals making public comment stated that the Rules of Procedure do not provide sufficient time for stakeholders to read and consider the materials to be voted upon at Commission meetings. Commissioner Correa suggested that MHSOAC staff meet with stakeholders to work on a solution acceptable to both stakeholders and the Commission. On July 8, 2009 Commissioner Correa's District Representative, My-Dung Tran, facilitated a meeting between stakeholders and MHSOAC staff on this issue.

In addition to Senator Correa’s representative and MHSOAC staff, the July 8, 2009 meeting was attended by approximately a dozen individuals representing the Community Partners/statewide organizations. The major stakeholder concern voiced at the meeting was the need for more time to comment on materials so that the statewide organizations can obtain the consensus of their membership.

According to the stakeholders, the current process of having issues vetted through committees does not provide sufficient time to comment on any final document because the final documents presented to the Commission are typically finalized only a few days before the Commission meeting. The Community Partners believe that this issue would be resolved if documents are presented at one Commission meeting for discussion and voted upon during a second Commission meeting. The Community Partners proposed an amendment to Rule 4.13 to provide for a “First Read and Second Read” of action items.

The Community Partners agreed with staff that this “First Read and Second Read” procedure would not apply to the approval of MHSA Prevention and Early Intervention (PEI) and Innovation Plans. The Community Partners also agreed with staff that certain issues that need immediate action cannot be delayed for two Commission meetings especially if the meetings are held less frequently than once per month.

Staff developed the following language that reflects what was requested by the Community Partners. This language would be added to Rule 4.13 if Commissioners approve:

Any proposed action item on the agenda, along with its corresponding language/documents, shall be presented for discussion at a Commission meeting at least 1 meeting prior to the meeting at which the vote on the issue is taken. If the meetings are held less frequently than once per month then the proposed action item and its corresponding documents shall be posted on the website at least 30 days before the meeting upon which the action will be voted.

Approval of county MHSA Prevention and Early Intervention (PEI) or 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.

The Commission may take action 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 and that the need for action came to the attention of the Commission after the prior month’s meeting agenda was posted.

4. Adopt Role Pursuant to Chapter 20, Statutes of 2009 (AB 5 xxx)

The Commission discussed the MHSOAC’s role pursuant to AB 5 xxx at the May and June 2009 meetings, including the parameters and implications of “separate and apart” and how best to clarify the term.

The following motion was made on June 25, 2009:

Be it resolved that the MHSOAC affirms its policy independence, which includes but is not limited to, the capacity to perform policy, regulatory, legislative, legal and administrative functions. Independence will be achieved through a combination of interagency agreements, contracts and internal resources. Staff will develop a business plan in July which identifies how the MHSOAC’s infrastructure will be developed to secure ongoing autonomy and alignment with AB 5xxx.

Staff has prepared the enclosed chart which sets forth the Commission’s functions, the authority to perform each function, and any key issues related to each function.

There is consensus on the following five (5) functions and no further discussion is necessary:

- (1) Plan Review: Authority to review and approve PEI and Innovation Plans (W&I Code § 5846(a))
- (2) Contracts: Authority to enter into contracts (W&I Code § 5845(d)(5))
- (3) Human Resources: Authority to employ staff except Executive Director who is a Governor appointee (W&I Code § 5845(d)(2))
- (4) Issue Reports: Authority to issue reports including reports to the Governor and Legislature (W&I Code § 5845(d)(9))
- (5) Legal: In-house legal counsel separate from Department of Mental Health (DMH) legal department to provide independent legal opinions to MHSOAC

Further discussion is needed on the following four (4) functions and key questions have been identified:

- (1) Legislation: Authority similar to other independent commissions

Key Questions:

- *Does the Commission want to propose legislation?*
- *Does the Commission want to monitor and take positions on pending legislation?*

(2) Budgets: Operations are separate and apart from DMH (W&I Code § 5845(d)(2) as amended by AB 5xxx). BCCs and BCPs are submitted directly to the Health and Human Services Agency and the Commission is in the process of obtaining a separate organization code from Department of Finance

Key Question:

- *How will the Commission resolve the tension between the requirements of the Bagley-Keene Open Meeting Act and the sensitive state budget process?*

(3) Issue Guidelines: Authority to issue guidelines for expenditures for PEI and Innovation programs (W&I Code § 5846(c) as amended by AB 5xxx)

Key Questions:

- *Does the Commission want to issue guidelines for PEI and Innovation which would amend and/or supplement guidelines already issued by DMH?*
- *If the Commission agrees that it should issue guidelines for PEI and Innovation, should a memorandum of understanding be developed between DMH and MHSOAC to formalize this process?*

(4) Issue Regulations: The Commission currently does not have authority to issue regulations and legislation would be needed to obtain such authority

Key Questions:

- *Does the Commission want authority to issue regulations for PEI and Innovation?*
- *As an alternative to regulatory authority does the Commission want to require DMH to coordinate with MHSOAC in regards to issuing PEI and Innovation regulations?*
- *If the Commission agrees to an alternative to regulatory authority should a memorandum of understanding be developed between DMH and MHSOAC to formalize this process or legislation sought to ensure the coordination?*

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Proposed Motions:

- 1. The Commission adopts the MHSOAC Communications Unit Strategic Plan for 2009.**
- 2. The Commission adopts the Executive Committee Charter**
- 3. The Commission amends Rule 5.1 and Rule 4.13 the Rules of Procedure as revised.**
- 4. The Commission adopts its role pursuant to AB 5 xxx with respect to the following four functions:**
 - a. Legislation: The Commission affirms its authority to propose legislation and to monitor and take positions on pending legislation.**
 - b. Budgets: The Commission affirms its authority to operate separate and apart from DMH and obtain a separate organization code from the Department of Finance and deal with the tension between the Bagley-Keene Act and the sensitive state budget process in the same manner as other similar independent commissions.**
 - c. Issue Guidelines: The Commission affirms its authority to issue guidelines for PEI and Innovation and will enter into a memorandum of understanding with DMH to formalize the coordination and collaboration necessary to ensure consistency between the guidelines issued by the Commission and the regulations issued by DMH.**
 - d. Issue Regulations: The Commission affirms its desire to seek an alternative to regulatory authority and develop an memorandum of understanding or legislation to ensure coordination and collaboration between the Commission and DMH in regards to PEI and Innovation regulations issued by DMH.**