Matrix of Public Comments with Staff's Recommended Responses
Innovative Project Proposed Regulations
15-Day Public Comment Period Phase III (3/27/15 – 4/12/15)
Presented at April 23, 2015 MHSOAC Meeting

15-Day Notice from March 27, 2015 – April 12, 2015 (Phase III)					
Section #	**Comment Author**	**Comment Summary**	**Response**	**Action**	**Rationale**
3200.182	Commenter #12	**Comment 12.05** Define "Project" – "Promising Practice" – "Best Practice" in context of MHSA Innovations & Innovations continuation.	Reject	Retain existing language with no change	The suggestion is outside the scope of the 15-day Notice and need not be responded to. However, please see the response below: An Innovative "project" is a new or changed mental health practice that the County develops, pilots, tests, refines, and evaluates. With sufficient evidence of effectiveness through evaluation, the practice might become a "best practice," but it is not initially. If it were, it could be funded within another MHSA component without the need for development and evaluation through INN funds.
3580(a)(1)(A)	Commenter #4	**Comment 4.05** Section 3580.010(i)(A): deletion of: "The County may submit the Annual Innovative Project Report as part of the Three-Year Program and Expenditure Plan or Annual Update" It is unwise to separate the Annual Innovative Project Report from the Three-Year	Accept	Change existing language as indicated: (1) For a continuing Innovative Project, an Annual Innovative Project Report as specified in Section 3580.010. (A) The Annual Innovative Project Report is due no later than December 31 following the end of the fiscal year for which the	Staff recommends adding back the language that was deleted at the March 2015 meeting that provided the County with the option to submit the Annual Innovative Project report and the Final Innovative Project report as part of the Three-Year Program and Expenditure Plan or the Annual Update. Staff recommends the following approach be added to the

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		Program and Expenditure Plan or Annual Update. Inclusion of annual reports regarding all MHSA-funded programs in one place is customary, convenient, and sensible. Three-Year Plans and Annual Updates are public documents. Counties are required to circulate these documents for public review. County Mental Health Boards hold public hearings to elicit comments regarding these documents. County Boards of Supervisors approve these documents. If the Annual Innovative Project Report is removed from these documents, either the public will not have access to this information or the public review will require extra tracking and scrutiny of a separate document: an unnecessary extra step for all concerned. The stated purpose from removing the Annual Innovative Project Report from the Three-Year Program and Expenditure Plan or Annual Update is to prevent public disclosure of personally identifiable health		County is reporting. The County may submit the Annual Innovative Project Report as part of the Three-Year Program and Expenditure Plan or Annual Update. (B) The County shall ~~disseminate~~ exclude from the Annual Innovative Project Report ~~without the inclusion of~~ personally identifiable information as ~~prohibited~~ defined by the Health Insurance Portability and Accountability Act of 1996, (HIPAA) the Health Information Technology for Economic and Clinical Health Act (HITECH) and their implementing privacy and security regulations, the California Information Practices Act, and any other applicable state or federal privacy laws~~, by, at a minimum, posting it on the County's website~~. (i)When the County has excluded information pursuant to subdivision (B) above, the County shall submit to the Mental Health Services Oversight and	subdivision regarding both the Annual and the Final Annotative Project reports that balances the need for public information and protects personally identifiable healthcare information: The County removes any personally identifiable healthcare information from the publicly posted plan or update and submit this information securely and separately to the MHSOAC for oversight and accountability purposes. The proposed revised language gives counties two ways – at the county's discretion – to provide complete information to the MHSOAC. This solution provides convenient public access to Innovation reports, integrated Three-Year Program and Expenditure Plans and Annual Updates that report on all MHSA components, complete data for statewide oversight and accountability, protection for individuals' personally identifiable healthcare information, and flexibility for counties.

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		information. Counties are charged appropriately, in 3580(i)(B), to remove all such information from a Three-Year Program and Expenditure Plan or Annual Update, which should (in addition to current county safeguards) provide sufficient and necessary protection for individuals. If the MHSOAC is concerned about losing state access to such information for purposes of evaluation and other oversight and accountability functions, the logical solution is to ask counties to submit such information separately, not to inconvenience the public and counties by removing Annual Innovative Project Reports from essential public documents. The need to remove personally identifiable health information from Annual Innovative Project Reports is likely to be a rare event. The current proposed solution is an over-reaction: unnecessary, not helpful, and with a perfectly viable alternative available.		Accountability Commission one of the following: (a) A supplemental Annual Innovative Project Report that contains all of the information including the information that was excluded pursuant to subdivision (B). This supplemental report shall be marked "confidential". (b)A supplement to the Annual Innovative Project Report that contains the information that was excluded pursuant to subdivision (B). This supplement to the report shall be marked "confidential". (2)Upon completion of an Innovative Project, a Final Innovative Project Report as specified in Section 3580.020. (A) The County may submit the Final Innovative Project Report as part of the Three-Year Program and Expenditure Plan or Annual Update or within six months from completion of the Innovative Project whichever is closest in time to the completion of the Innovative Project.	

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				(B) The County shall ~~disseminate~~ exclude from the Final Innovative Project Report ~~without the inclusion of~~ personally identifiable information as ~~prohibited~~ defined by the Health Insurance Portability and Accountability Act of 1996, (HIPAA) the Health Information Technology for Economic and Clinical Health Act (HITECH) and their implementing privacy and security regulations, the California Information Practices Act, and any other applicable state or federal privacy laws~~, by, at a minimum, posting it on the County's website~~. (i)When the County has excluded information pursuant to subdivision (B) above, the County shall submit to the Mental Health Services Oversight and Accountability Commission one of the following: (a) A supplemental Final Innovative Project Report that contains all of the information	

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				including the information that was excluded pursuant to subdivision (B). This supplemental report shall be marked "confidential". (b)A supplement to the Final Innovative Project Report that contains the information that was excluded pursuant to subdivision (B). This supplement to the report shall be marked "confidential".	
3580(a)(1)(B) and (2)(B)	Commenter #1	**Comment 1.07** **2. Where reporting of demographic information might reasonably identify individual clients and violate HIPAA, 45 CFR, or other privacy standards, counties shall submit demographic summaries to the MHSOAC that conform to local privacy policies that will not be made public by the MHSOAC (for**	Accept	See response to comment 4.05	See response to comment 4.05

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		purposes of meeting the regulation requirements). When reporting descriptive information about clients served, counties must ensure that clients cannot be reasonably identified, thus violating relevant privacy laws.			
3580.010	Commenter #12	**Comment 12.06** Since you have finally differentiated Europeans as "European" and "Eastern European" why not split "European" into "Northern European, Western European, and Southern European". #Northern Europeans	Reject	Retain existing language with no change	The suggestion is outside the scope of the 15-day Notice and need not be responded to. However, please see the response below: Decisions about inclusion or exclusion of a particular ethnic group for demographic reporting cannot be made on a case-by-case basis but must be based on agreed-upon criteria. The current criteria are inclusion in at least one Federal reporting requirement and a population in California above 100,000 according to 2010 census data. Staff recommends continued exploration of alternative criteria that balance the need for broad representation in reporting with feasible and reasonable administrative requirements for counties and programs.

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3580.010	Commenter #12	**Comment 12.11** Norwegian, Swedish, Danish, Icelandic, United Kingdom (English & Scottish), Irish, Finish, Estonian, Latvian, Lithuanian, Laplanders. Us Europeans are actually quite different for example Greeks versus Irish or Estonians versus Portuguese. MSG is not even going to suggest stratification for the African classification. It is not very culturally competent of you to lump all Africans.	Reject	Retain existing language with no change	See response to Comment 12.06
3580.010	Commenter #13	**Comment 13.01** It is appreciated that the OAC has taken the significant step to list distinct ethnicities within the demographic breakdown in Section 3580.010 of the Innovation regulations. As for "Number of respondents who declined to answer the question," there is possibility that individuals from California's increasing immigrant populations who may not respond because they would not see their specific ethnic background listed and then needlessly fall under this description. It would benefit meaningful	Reject	Retain existing language with no change	See response to Comment 12.06

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		ethnic data collection to make the following important distinctions especially for the categories of Middle Eastern and Eastern European ethnicities as shown under the Non-Hispanic or Non-Latino list. Afghani must also be included because of that sizeable population. We must not let disparities widen due to lack of relevant demographic data about our increasing immigrant residents from these cultures. 1) Middle Eastern identification can denote people of Arabic ancestry or origin but could also refer to people from Iran, Turkey or Israel; the latter, of course, are geographically middle eastern countries but totally separate languages than Arabic and have different cultural characteristics. It is easy to **ensure that demographic data collection about the Arab population in California is gathered by specifying Middle Eastern Arab. It is estimated that the statewide Arab population, adjusting for**			

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		underreporting, is over 817,000. This is a sizeable population in the state, as is the Iranian population, which must be identified separately and not lost in the demographic collection. 2) Eastern European includes Armenian and others such as Russian-speaking communities. **There is a large Armenian community in the Los Angeles area, in Fresno, and the Bay Area, notably San Francisco. The Armenian ethnicity needs to be identified.** 3) The Fremont area in Alameda County has the largest Afghani community outside of the native country. **It is estimated that 65,000 Afghans comprise the diaspora community based in the San Francisco Bay Area. There are also many members of that community elsewhere in the state. This is another sizeable population from a Southwest Asian country whose needs must be met and without demographic data collection, the**			

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		disparities will widen for this cultural group. The category of South Indian/South Asian in the ethnic breakdown as shown in the regulations would not capture this group. These would be relatively minor adjustments for the list but will make major impact in collecting demographic data for reducing disparities.			
3580.010	Commenter #14	**Comment 14.01** I would like to express my appreciation of OAC's cultural sensitivity in presenting a breakdown of ethnicities in section 3580.010 of the Innovation Regulations. However, the ethnic categorization presented in this section needs further refinement to make the efforts at reducing disparities more culturally relevant. I am, especially, concerned about the Eastern European category which includes several ethnically diverse populations. Armenia, Poland, Russia, Bulgaria, Georgia, etc. are all part of	Reject	Retain existing language with no change	See response to Comment 12.06

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		the Eastern European categorization. As it is obvious the category reflects a geographical reality rather than cultural similarity. There are vast language, history, religious and other cultural differences among these populations. The same problem exists with the Middle Eastern categorization where all Arabic speaking and other cultures are lumped together. For all fairness to these cultures and for more cultural sensitivity, I would suggest to specify ethnic populations according to their representation in California. This would have a great deal of relevance if we take into consideration their numbers in certain counties such as Armenians, Russians, Arabic speaking, etc. in Los Angeles County and so on.			
3580.010 and 3580.020	Commenter #12	**Comment 12.07** After reviewing Orange Counties (sic) MHSA Innovations Round 3 plans MSG has determined a need to have the counties report in concise table format	Reject	Retain existing language with no change	The suggestion is outside the scope of the 15-day Notice and need not be responded to. However, please see the response below: Counties' Innovative Projects vary considerably and a

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		(Addendum) all measurement instruments to be applied across all projects. This strategy will reduce time and money spent on re-work.			uniform table format will not apply to all. MHSOAC staff believes that supporting counties' evaluations and communication regarding the results of their Innovative Projects is an urgent priority for training and technical assistance, both for the reasons mentioned in the comment and to support the decision-making regarding continuation and the dissemination of successful projects and lessons learned.
3580.010 (a)(4)	Commenter #1	**<u>Comment 1.06</u>** **1. As currently drafted, the reporting of race, ethnicity, and sexual orientation is inconsistent with the Client Services Information (CSI) system maintained by the Department of Health Care Services (DHCS)** CSI demographic data elements and the proposed demographic information in the Innovation regulations are *inconsistent*. Unless corrected, this inconsistency will require counties and providers to collect different sets of information for Innovation services than from all other mental health services, increasing	Reject	Retain existing language with no change	The suggestion is outside the scope of the 15-day Notice and need not be responded to. However, please see the response below: The Commission has voted to include the specific demographic requirements in the regulations and has made a commitment to collaboratively work with Department of Health Care Services, counties and stakeholders to create a data system that supports the policy. The existing data systems are outdated. It is an urgent priority to create a system for counties to report the new information required by proposed Innovation Regulations,

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		compliance costs and taking money away from service delivery without improving outcomes. The MHSOAC proposes that counties collect client-level information on ethnicity, primary language, sexual orientation, disability, and gender that (in most cases) are different than DHCS' requirement as a part of the CSI data set. Furthermore, the redundancy and inconsistency of the data that is proposed to be collected is crudely addressed. This is a set of rules that may actually do harm by interfering with the clinical relationship (e.g., asking someone about their sexual orientation at the time of an initial request for services may cause someone to decline service). The MHSOAC should work with DHCS and CBHDA to design and implement demographic reporting requirements that are achievable without creating barriers to accessing services.			including but not limited to expanded demographic categories. The practices and categories included in proposed Innovation Regulations for reporting gender identify and sexual orientation categories have been informed by extensive research and reflect best practices in the field. The Commission took into consideration public comments regarding the harm caused now to people who are forced to respond to existing gender identify and sexual orientation categories that do not reflect their experience of themselves. Without asking questions, counties and the state are deprived of essential information about groups of people who are at high risk of mental illness. It is essential to provide training to counties about how to ask these questions in ways that support inclusion and acceptance and mental health.

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3580.020	Commenter #12	**Comment 12.08** Improve specifications for financial reporting	Reject	Retain existing language with no change	The suggestion is outside the scope of the 15-day Notice and need not be responded to. The comment also does not recommend any specific action.
3580.020	Commenter #12	**Comment 12.09** After the Little Hoover Commission Report #225 investigating the MHSOAC, I would play it safe and require that Innovation's Projects report outcomes for: Incarcerations, Hospitalizations, Homelessness, Education, and Contributions including paid or unpaid work	Reject	Retain existing language with no change	The suggestion is outside the scope of the 15-day Notice and need not be responded to. However, please see the response below: Counties' Innovative Projects are very diverse, consistent with the broad scope suggested in WIC 5830(c). Some but not all Innovative Projects will address the outcomes listed by the comment.
3910	Commenter #12	**Comment 12.02** Recognition for Pro-bono work. Give credit to those who help you by submitting ideas – whether they were used or not.	Reject	Retain existing language with no change	The suggestion is outside the scope of the 15-day Notice and need not be responded to.
3910	Commenter #12	**Comment 12.03** Add section for MHSOAC Approved MHSA Innovation Assessments (Library)	Reject	Retain existing language with no change	The suggestion is outside the scope of the 15-day Notice and need not be responded to. However, please see the response below: MHSOAC supports and intends to provide convenient public access to this information for all Innovative Projects,

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3910	Commenter #12	**Comment 12.04** Specify the nature of each project's MHSOAC Approved control groups.	Reject	Retain existing language with no change	The suggestion is outside the scope of the 15-day Notice and need not be responded to. However, please see the response below: The MHSOAC supports and assists counties to specify appropriate control groups, where possible, for the evaluations of their Innovative Projects. Because of the diversity of Innovative Projects, a broad range of evaluations designs is feasible and appropriate. Technical assistance is the best vehicle for helping counties to strengthen the design of their evaluations in order to assess the impact of whatever is new or changed compared to existing mental health practices.
3910.015	Commenter #12	**Comment 12.10** Project Products (sic) cannot be sold in county of origin	Reject	Retain existing language with no change	The suggestion is outside the scope of the 15-day Notice and need not be responded to.