
AGENDA ITEM 2A

Action

March 26, 2015 Commission Meeting

Recommendations for Changes to Innovation Regulations

Summary: The Mental Health Services Oversight and Accountability Commission (MHSOAC or Commission) will consider changes to the Innovation (INN) regulations at the March 26, 2015 MHSOAC meeting, including changes in response to feedback received from the Office of Administrative Law (OAL). Any changes made at the Commission meeting will go out for a 15-day public comment period.

At its January 22, 2015 meeting, the Commission, after a year and a half-long stakeholder process, approved the proposed INN regulations and directed that the regulations and all necessary documentation be submitted to the OAL. On January 30, 2015, the INN regulation packet was submitted to OAL.

The OAL reviews the regulation packet to determine whether the regulations are in compliance with the following Administrative Procedures Act requirements: (a) "Authority" – Does the MHSOAC have the authority to issue the regulations; (b) "Reference" – Do the regulations correctly reference the specific statute that the regulations implement, interpret or make specific; (c) "Consistency" – Are the regulations consistent with the law, (d) "Clarity" – Is the text of the regulations clear; (e) "Non-duplication" – Are the regulations duplicative of the statute they implement, interpret or make specific; (f) "Necessity" – Are the regulations necessary; and (g) "Procedural requirements" – Did the MHSOAC follow the procedural requirements.

The OAL provided feedback regarding the "clarity" requirement. Below is a list of the substantive clarity issues and staff's recommended responses:

- (1) Section 3580.020(a)(5)(E) and 3915(g): The term "culturally appropriate" is not defined and thus not sufficiently clear. Staff recommends changing the term to "culturally competent." This term is already defined in the current Mental Health Services Act (MHSA) regulations and is consistent with the intent for these two provisions as reflected in the Initial Statement of

Reasons (ISOR) that accompanied the proposed regulations. The ISOR states that the intent of these two provisions is for consistency with the MHSA General Standard of cultural competence as set forth in the current MHSA regulations section 3200.100 of Title 9 of the California Code of Regulations.

- (2) Section 3910(b)(1): The term, “mental health literature” was not defined and thus not sufficiently clear. Staff recommends adding the following definition: “Mental health literature refers to any report, published or online, including, but not limited to, peer-reviewed articles, nationally circulated (online or print) articles, reports of conference proceedings, program evaluation reports, and published training manuals.”
- (3) Section 3925(a)(2): The term, “minor change” is not defined nor are there examples provided and thus the term is not sufficiently clear. Staff recommends adding the following examples: “Examples of minor changes that do not require submission of an Innovative Project Change Request and Commission approval include, but are not limited to, (a) changing the design of the evaluation, including adding intended outcomes to be measured, (b) adding intended beneficiaries (e.g. population, demographics), (c) changing the methods to disseminate the results of the Innovative Project.”
- (4) Section 3930(c)(3)(A): The term, “key activities” is not defined and thus not sufficiently clear. Staff recommends adding the following definition: “Key activities are the activities the County plans to implement as part of the Innovative Project with the expectation that the activities will contribute to bringing about change and achieving the intended outcomes of the Innovative Project.”
- (5) Section 3930(c)(6) and 3910.010(c): It is not clear how these two provisions are related. Staff recommends adding a cross-reference to show the relationship between these two provisions.
- (6) Section 3930(d)(3)(B): The sentence is awkward and thus not sufficiently clear. Staff recommends replacing the commas with semi-colons and adding language to clarify that the term, “decision-making” refers to “determining whether to continue the Innovative Project without Innovation Funds.”

The enclosed document titled, “Proposed Changes to Innovative Project Regulations Presented at the March 26, 2015 MHSOAC Meeting” includes the recommend changes listed above, some minor staff-initiated recommended changes, and the changes that were recommended at the January 22, 2015 MHSOAC meeting in response to public comment received during the 15-day public comment period that ended on January 6, 2015.

The MHSOAC will vote on whether to accept Staff's recommended changes to the INN regulations.

Enclosures: Proposed Changes to Innovative Project Regulations Presented at the March 26, 2015 MHOSAC Meeting.

Handouts: A PowerPoint will be made available at the meeting.

Recommended Action: Adopt Staff's recommendations.

Presenters: Filomena Yeroshek, Chief Counsel; and Dr. Deborah Lee, Consulting Psychologist.

Motion: The Commission adopts Staff's recommended changes to the Innovation regulations.