



Meeting Minutes
July 23, 2009

California Institute for Mental Health
Sequoia Room
2125 19th Street, 2nd Floor
Sacramento, California

1. Call to Order

Chair Poat called the meeting to order at 9:17 a.m.

2. Roll Call

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

Fifteen members were present and a quorum was established.

Chair Poat noted that former Executive Director Sheri Whitt accepted a new position as Director of Hospice Care, Humboldt County, and the Executive Director's office is now vacant. The job notice is posted on the Internet. Applications can be filed through August 31.

3. Adoption of June 2009 Meeting Minutes

MOTION: *Upon motion by Commissioner Greene, seconded by Commissioner Gould, the Commission unanimously adopted the June 2009 Meeting Minutes; with one abstention (Kahn).*

4. MHSOAC Strategic Direction

A. Adoption of the Proposed MHSOAC Communications Plan

Ms. Beverly Whitcomb, MHSOAC Interim Executive Director, gave a presentation on the proposed Communications Plan.

She noted that the Communications Unit, working in conjunction with Commissioners Henning and Gould, formulated the Plan, whose purpose is to formalize the Communications Unit Strategic Plan to promote the Mental Health Services Act ("MHSA" or "the Act") and support the goals in the MHSOAC Strategic Plan.

Guiding principles of the Plan include: transparency in government; wellness, recovery and resilience; client and family-driven policies; cultural and linguistic competence; and measurable outcomes.

Plan goals and activities include keeping the Commission, stakeholders and the public informed through various media; highlighting Prevention and Early Intervention (PEI) programs and goals; and highlighting successful client/family experiences.

Commissioner Gould cautioned that, in these extreme budgetary times, it is important to ensure that costs are kept at a minimum. **Commissioner Vega** wondered if posting the newsletter on the website, perhaps as a PDF, rather than printing and mailing out hard copies, might also be an appropriate cost-cutting measure. **Commissioner Correa** suggested directing the staff to be more proactive in farming for e-mail addresses from MHSOAC consumers. **Chair Poat** echoed the comment and suggested that E-distribution is the right way to go.

Commissioner Vega remarked that he considered the site visits as being essential. **Ms. Whitcomb** clarified that these are visits by MHSOAC staff in coordination with the California Mental Health Director's Association (CMHDA).

Commissioner Van Horn expressed his concern at the lack of communication of MHSOAC with the broader public. Other organizations he is involved with are actively using Facebook and Twitter as a method of communicating and gaining people who are interested in their issues. He asked that staff take a serious look at how to begin using the social networking sites to Commission advantage.

Commissioner Henning commented on the shortage of available professional staff in the office and how this adversely affects the overall communication to the public. **Chair Poat** agreed and added that he would like to see a heavier emphasis on the public participation process in the summer and fall. He suggested that a map needs to be created that informs people about how one involves themselves in MHSOAC decisions, and this needs to be county-centric.

Chair Poat asked that the Communications Plan be amended to include roadmaps for public participation in the August through November 2009 timeframe, as well as something about the Commission's role and accountability and how they exercise that role.

MOTION: *Upon motion by Commissioner Kahn, seconded by Commissioner Van Horn, the Commission unanimously adopted the Communications Unit Strategic Plan for 2009, with the following emphasis from the present through November 2009:*

- 1. Roadmaps for public participation at the county level; and*
- 2. MHSOAC accountability activities.*

B. Adoption of the Proposed Executive Committee Charter

Chair Poat re-emphasized that the goal of the Executive Committee's purpose is to make sure that decisions are moving along as they should to ensure that the Commission is keeping to its calendar. It is not authorized to make decisions in place of the full Commission. Committee composition will be the chairs of the five committees, as well as the MHSOAC Chair and Vice Chair.

Commissioner Kahn asked about whether an Executive Committee meeting would need to comply with the notice requirements of the Bagley-Keene Open Meetings Act? Chair Poat responded that this will be fully clarified and if notice is deemed necessary, it will be done.

MOTION: *Upon motion by Commissioner Kahn, seconded by Commissioner Gayle, the Commission voted to adopt the Charter with the following amendments: the name will be changed from Executive Committee to Operations Committee; and the Operations Committee is not authorized to make any policy decisions on behalf of the full Commission. The vote was 14-1 (Henning).*

Commissioner Van Horn noted that this is the first Commission meeting where all 15 Commissioners are in attendance.

C. Adoption of the Proposed Amended Rules of Procedure

Ms. Whitcomb cited two potential amendments:

1. To add the Operations (formerly Executive) Committee to Rule 5.1 if the Executive Committee Charter is adopted (which occurred; see the motion above); and
2. Amendment of Rule 4.13 to require that documents be posted for public comment and feedback for a 30-day period before Commission action is taken.

Regarding number two: At the June meeting the Commission received substantial public comment stating that the current Rules of Procedure do not provide sufficient time for stakeholders to read and consider materials voted on at Commission meetings.

A meeting was held on July 8 between stakeholders (Community Partners and statewide organizations) and Commission staff. The stakeholders proposed amending Rule 4.13 to add a "first and second read" procedure. Many stakeholders reiterated that the current process does not provide enough time to get consensus from their members and to comment on final documents that are presented at the MHSOAC meetings.

Further, the stakeholders proposed that PEI approvals would be exempt from this first and second read procedure; and that the Commission could still take action on an agenda item at the same meeting if they deemed that such action was critical.

Ms. Whitcomb also stated that staff believes that the currently established MHSOAC process is extensive enough; however, stakeholders argued that it is not enough time.

Commissioners discussed the merits of a 30-day period prior to Commission action versus the suggested “first and second read” procedure, which would not specify how long the “read” procedures would take.

Public Comment

- **Ms. Harriet Markell**, California Council of Community Mental Health Agencies (CCCMHA), began her comments by thanking Commissioner Correa for providing members of his Senate staff to facilitate and support the recent meeting and acknowledged the work that the Commissioners and MHSOAC staff have done thus far in attempting to craft something that will work for everyone. She noted that a first and second read process is generally in place to accommodate the process and there could be exceptions if the Commission is required to move faster on some item. She expressed her support for the language referenced on slides 13, 14 and 15.
- **Ms. Stacie Hiramoto**, Racial and Ethnic Mental Health Disparities Coalition (REMHDCO) and Mental Health Association of California (MHAC), echoed Ms. Markell. She further clarified that the additional time allows them to translate for their members who do not speak English.
- **Mr. Arnulfo Medina**, California Youth Empowerment Network (CAYEN), also stated his support for the language referenced on slides 13-15. He also referenced the exception that, if on the first read the Commission felt an issue was urgent enough, it could be voted on at that time.
- **Ms. Dede Ranahan**, National Alliance on Mental Illness, California (NAMI-CA), remarked that this appeal for a first and second read procedure is reasonable and has been requested for over a year. It would cost the Commission nothing and would generate enormous political goodwill for the Commission with the stakeholders. As Senator Correa stated “this Commission has to remember who it is working for” and she is holding on to that thought. She expressed her hope that the Commission could support the 30-day language and, as with the Committee structure, evaluate how it is/isn’t working in six months.
- **Dr. Rocco Cheng**, Pacific Clinic and Asian Pacific Policy Planning Council (which represents over 40 agencies), stated that his group supports the first and second read procedure and thanked Mr. Correa for his leadership and reminder on who we are all here for. We are all volunteers; and he hopes that we are here to help transform the public mental health system that’s not working. And to do that we need to be reminded that the stakeholder input is extremely important. The community sometimes lacks the sophistication to quickly grasp some of the

points, so the 30 days is very important -- whether it is first or second read. He concluded by urging passage of the first and second read procedure.

- **Ms. Stephanie Welch**, California Mental Health Director's Association (CMHDA), stated that they support the intent of the amended procedures.

Chair Poat summarized that it seems that everyone is in agreement that they want a public-inclusive process.

The Commissioners then discussed the wording of the potential amendment, especially regarding the distinction between policy issues and operational issues.

Commissioner Correa noted that this is about open process -- allowing people plenty of time to look at what the Commission is doing.

Commissioner Kahn suggested that the Commission might adopt this as a policy but not as a Rule of Procedure. Also, the wording "all action items" is troublesome.

Ms. Filomena Yeroshek, MHSOAC General Counsel, commented that these are the Commission's operational rules and can be voted on or suspended as the Commission wishes. A general policy provides a lot of flexibility compared to a set "rule;" although, in reality, people will be upset either way if they feel they are not being heard.

Commissioners continued to interpret the wording of the proposed motion. **Chair Poat** summarized that it seemed to him that the group was in agreement in spirit -- that what they are after is a first and second meeting procedure and movement away from a prescribed 30-day time period.

Commissioner Gould added her agreement with the spirit of the discussion, and that the key now was to ensure that the wording did not tie their hands.

Ms. Yeroshek read the last sentence of the first paragraph of the proposed amendment: "*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.*" She remarked that the language adds the required flexibility but still seems vague.

Commissioner Bray suggested that, since the Operations Committee will be putting the agenda together with the chair, items could be identified as "first read and action" or first read, discussion only" or "second read," which would help to clarify the item.

Additional Public Comment

- **Ms. Ranahan**, NAMI-CA, noted that they really want to keep the six-month testing of the committee structure separate from the 30-day issue; they are not one and the same. They don't feel that the committee structure is working right

now. The structure has been given six months for evaluation, and they would like six months to evaluate first and second read process.

- **Ms. Hiramoto**, REMHDCO, echoed Ms. Ranahan's comments regarding the committee process. Currently there is not appropriate consumer, family member or racial/ethnic representation on each committee. Also, committees are meeting with government entities without stakeholder input.
- **Mr. Medina**, CAYEN, asked for clarification -- is this going to be a broad policy but not a Rule of Procedure? Mr. Medina added that they do not have a vote; thus, they can't decide whether or not something can be voted on.

Chair Poat stated that it will be a Rule of Procedure and the Commission is also noting that it can be set aside with a majority vote.

- **Mr. Rusty Selix**, Mental Health Association (MHA) and CCCMHA, suggested that the committee process be calendared as an agenda item. "It's not that it doesn't always work; it's that it is inconsistent and there is a need to develop some standards and a broader understanding."

MOTION: *Upon motion by Commissioner Kahn, seconded by Commissioner Correa, the Commission adopted the following motion:*

The Commission amends Rule 4.13 of the Rules of Procedure to add the following language:

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.

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.

Approval of county MHSA PEI and 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.

MOTION: *Upon motion by Commissioner Van Horn, seconded by Commissioner Kahn, the Commission voted by roll call to request the proposed amendment to Rule 5.1 of the Rules of Procedure regarding the newly-formed Operations Committee to be brought back to the August 2009 meeting. (The vote was 13-1-1: 13 "yes," one "no," and one abstention.)*

**D. Proposed Adoption of Commission Role Pursuant to AB 5xxx --
“Separate and Apart” from DMH**

Ms. Whitcomb stated that staff is continuing to clarify how to comply with AB 5xxx, which keeps MHSOAC “separate and apart” from Department of Mental Health (DMH). Staff also continues to clarify the parameters and implications of “separate and apart.”

There are currently seven functions that MHSOAC has authority over; i.e. that are considered separate and apart from DMH:

1. Plan Review
2. Contracts
3. Human Resources
4. Issue Reports
5. Legal Representation
6. Budgets
7. Issuing Guidelines

Further discussion is needed in two areas:

1. Legislation -- Does the Commission want to propose legislation? Does the Commission want to monitor and take positions on pending legislation?
2. Issue Regulations -- Does the Commission want authority to issue regulations for PEI and Innovation? Or, as an alternative, does it 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 (MOU) be developed between DMH and MHSOAC to formalize this process; or legislation sought to ensure the coordination?

Chair Poat stated his view that the Commission should retain the authority to seek legislation where necessary. **Ms. Whitcomb** clarified that this authority currently exists.

Regarding monitoring and taking positions on pending legislation, **Chair Poat** stated that he would oppose moving in that direction at this time.

Commissioner Trujillo stated his view that absolutely the Commission needs someone from the staff who is monitoring legislation. It is important that the Commission be informed. **Commissioner Bray** agreed, and further noted that some pieces of legislation could come up that would inadvertently harm the Commission or even do so with intent, and the Commission would want to know about and speak against them. The right to do that needs to be preserved; i.e., the Commission needs to look out for itself.

Commissioner Van Horn remarked that it is absolutely critical that the Commission monitor and take positions on pending legislation when necessary because they are the

group that is assigned the task of ensuring the transformation of the mental health system. A lot of this is in legislation and a lot of it is federal. The Commission probably doesn't need a congressional lobbyist but it needs to know what's happening. Health reform is a hot topic that affects it and its' constituencies.

Commissioner Correa stated that one place he receives a lot of input on mental health issues is this Commission and the constituents it serves. Also, as a State Senator, he is probably the only person who receives some of the pertinent information. It is important that the Commission take a very active yet selective role in monitoring pending legislation.

Commissioner Kahn agreed, especially on the need to be selective.

Commissioner Vega supported the idea of thoughtful and selective involvement. The Commission is in a unique role in terms of seeing how all the pieces fit together in an infinitely complex set of rules and statutes. Also, he misses the legislative updates that previously appeared in the Agenda packets.

Chair Poat asked if there were a list of mental health-related legislation that could be included in the monthly materials. **Ms. Whitcomb** stated that there are several lists that they can tap into. Legislation that directly affects the Commission could probably be presented informationally during the monthly meetings.

Vice Chair Poaster also expressed his agreement about a selective involvement in monitoring legislation. Also, he wondered if a policy workgroup could be formed that would focus on the larger issues, both public and private sector?

Commissioner Henning added that the Commission should focus on budget issues.

Commissioner Gould stated that she would be interested in monitoring legislation that directly affects the Commission. However, with such a large area to potentially cover, it might quickly become overwhelming. Perhaps a group of people could discern where we are now and what Budget Change Proposals (BCPs) we should consider.

Chair Poat reminded everyone that staff is now working with three furlough days monthly and all the MHSOAC programs aren't even operational as yet. **Commissioner Correa** concurred with the issue of lack of staff time; he will work with **Commissioner Hayashi** to assist with the monitoring process.

Commissioner Van Horn noted that the Commission clearly has to be selective. However, there is legislation on the federal level that is coming that will directly affect MHSOAC. How is health reform on the federal level going to change mental health? There could be some radical changes in the near future.

Commissioner Kahn suggested that staff should be allowed to figure out how to accomplish the monitoring.

Commissioner Poat suggested that, starting with the next meeting, an Agenda item will report on any legislation that specifically addresses the MHSOAC and staff will present options and a recommendation. One option will delineate how to participate in the legislative process, especially around the BCP process.

Regarding the issuance of regulations, **Ms. Whitcomb** clarified that the MHSOAC is responsible for both PEI and Innovation. DMH issues regulations for each of those components. MHSOAC should be involved with regulations involving either of those before they reach the 45-day public input process. She added that perhaps the Commission will want to enter into some type of agreement or coordination with DMH to ensure they have the ability to work with DMH on anything dealing with PEI or Innovation.

Commissioner Greene cited the need to explore the distinction between regulations and guidelines and that the Commission should take full advantage of the authority it already has. Also, continuing to partner with DMH is important, both formally and informally.

Vice Chair Poaster added that the Commission's role in reviewing regulations is paramount and if that can't be negotiated then possibly seeking some legislation requiring that should be considered.

Chair Poat noted that legislation requires a public comment process, and that is extensive and staff-intensive.

Commissioner Correa stated that perhaps this is the perfect kind of thing to have in the MOU, which will be coming up for review later in the year.

Commissioner Van Horn agreed that an MOU with DMH may be in order, and that MHSOAC should be involved with dialogue on all areas of regulation affecting mental health, not just PEI and Innovation. There are concerns around work force issues and the service system and other areas.

Public Comment

- **Ms. Hiramoto**, REMHDCO, asked if it could be made clear that DMH is more like the technicians, and in the area of PEI and Innovations it should be clear that DMH is following MHSOAC guidelines and not their own.
- **Mr. Selix**, MHA, CCCMHA, noted that the MOU could be a useful vehicle to articulate the relationship between guidelines and regulations and also the role of the Commission and its committee process in relationship to all the things that DMH does. The MOU could be used as a way of getting commitments from DMH and to build up the appropriate relationships.

- **Mr. Jim Alves**, Assistant Secretary, California Health and Human Services Agency, stated that the Agency is fully supportive of MHSOAC's role and active participation in the legislation process. With regard to regulation, that is complicated and requires additional expertise, and it would be beneficial to be collaborative with DMH.

Chair Poat summarized:

The Commission is "declaring victory" as follows: it has independent authority in the areas of plan review, contracts, human resources, issuance of reports, legal analysis, budgets, and the issuance of guidelines. Further, the Commission accepts the staff analysis that it has independent authority in each of those functional areas.

On the issue of monitoring legislation, the Commission has the authority to involve itself in that area but lacks the staff to do so. Staff will present cost and resource requirements to monitor legislation, while taking advantage of **Commissioners Correa and Hayashi**, in terms of their insider knowledge regarding legislation.

The Commission will move in the direction of an MOU that will accommodate the necessary relationships and processes to enable the Commission's role, particularly in the area of PEI and Innovation.

5. Committees

Chair Poat addressed the subject of committees -- are they working? How do we have a meaningful discussion on that?

Commissioner Van Horn noted that his committee, the Cultural and Linguistic Competency Committee, has now come to some understanding of what they are trying to do. Do the other committee meetings now have a plan to them? His sense is that they are mainly still in the process of acquiring a specific plan.

Commissioner Henning asked for public comment on ways to improve the committees.

Public Comment

- **Mr. Selix**, MHA, CCCMHA, commented that he felt the committee structure has the potential to be the stakeholder process for all issues and the players involved need to enable it to grow so it can be that. The development of a consistent approach is needed that looks at all the different types of issues and which committees they should belong to. Also, a mechanism is needed to determine which committee a stakeholder should be involved with. In addition, once an issue is in a particular committee, how long does it stay in that committee before it goes to the full Commission? Are the committees working on a consensus objective and at what point does it give up on consensus and send a recommendation? Overall standardization is needed.

- **Ms. Ranahan**, NAMI-CA, stated that one of the philosophical issues concerns stakeholder representation. What do we do about people who are representing statewide constituencies? It is their job to get the word out to their local agencies and in order to do that they need to attend as many of the various meetings as they can. Thus, scheduling and logistics is a problem.
- **Ms. Hiramoto**, REMHDCO, added that communications between committees is sometimes lacking. She also stated that the role of the committee chair is sometimes unclear – if they are speaking for the committee or the entire Commission. In addition, public comment and dialogue varies tremendously from committee to committee.

Chair Poat responded that one purpose of the Operations Committee is to ensure that appropriate communication occurs between committees.

Commissioner Vega remarked that trying to create and add an additional public participation process into their committee structure is hugely complicated and really thwarts the impulse to getting the work of that committee done. It is not that they do not want the people there; they have composed their committees to have the brains and the input and the stakeholders there specifically for that reason.

- **Ms. Welch**, CMHDA, noted the difficulty in travelling to Sacramento for those not living in the area, and the concern that the local influence is larger than it should be. There are millions of people in the state and hundreds of thousands participating in their local stakeholder processes, yet only a small number, mostly from Sacramento, attend the committee meetings. In future it will be even more difficult for counties needing to travel to participate in the committee processes.

Chair Poat stated that the committees will post their recommendations in advance and set up further discussion on this subject in August or September.

Commissioner Pating stated that the Commission needs to work towards a communication structure that would allow input from one stakeholder at one meeting to be heard by all other committees, so that stakeholders do not face the dilemma of attending five meetings and repeating themselves.

6. Budget, including potential adoption of MHSOAC position regarding Prudent Reserves

Commissioner Greene, chair of the Budget Committee, provided the update. He began by summarizing some of the background on the Prudent Reserve:

AB 5xxx created an obligation on the part of the system to create a Prudent Reserve for the PEI funds. Previously, the Prudent Reserve was only for Community

Support Services (CSS) and was handled exclusively through DMH. Colleagues at DMH are developing a draft policy for implementing the modified Prudent Reserve.

The newly created AB 5xxx guideline language raises the question of whether or not the PEI Prudent Reserve funds should be handled by the Commission rather than DMH; hopefully, an accommodation on that can be reached between the Commission and DMH.

According to AB 5xxx, the Commission has authority for review and approval of expenditures with respect to PEI, for the use of PEI funds to go into a Prudent Reserve, and for the use of PEI Prudent Reserve funds to fund PEI plans. In essence, it is a bank account and it is up to the Commission to decide how the funds going into that bank account will be used.

Prudent Reserve accounts are held at each county. With respect to CSS, DMH states that there should be a Prudent Reserve that is 50 percent of the annual spending by that county. Some counties maintain that 50 percent; others only a fraction of that.

Key policy questions are:

- What is the trigger? The statutory language states that the Commission should look at declines in revenue and compare that decline with what happened previously, establish the gap between the amounts and use the Prudent Reserve to fill the gap between the current and previous figures. Probably a three-year running average will be used, going back three years from where you are currently.
- Who can be served with money that comes out of that account? Perhaps it could be given only to individuals who were served in the prior years. Or more broadly it could be for the kind of populations that are ordinarily served. It should be a designated population, as opposed to individuals.
- Are there limits on the amount of PEI funds that can be used? One possibility is to use up to the 50 percent Prudent Reserve amount. Another is to establish a range, say 5-50 percent. Another is that the state will establish a maximum -- although this is fundamentally a county decision, the idea of a maximum is to ensure that excess monies aren't parked away in an account and not used. DMH has clearly endorsed the 50 percent Reserve amount, although the Budget Committee does not have a clear recommendation at this time.
- How will the separation of monies from CSS and PEI be handled once those monies have been placed in the same Prudent Reserve pot? People are reasonably comfortable with putting CSS and PEI monies into the same pot. However, a number of people have expressed concerns that if that is done in a substantial way it might change the statutory obligations under law for a very specific split between CSS and PEI. One perspective is that once money goes to

the Prudent Reserve it loses its unique aspect. This separation of monies issue is a big deal that needs to be addressed. How do we deal with the question of combined funds?

- Can statewide projects be used to fund the Prudent Reserve? DMH and the counties say no. However, two issues surface -- how aggressive does the Commission want to be with respect to PEI? When should the Commission defer to DMH, and under what circumstances, with respect to guidance to the counties?

Vice Chair Poaster asked if we are talking here about Prudent Reserve monies already in funds, and we are now discussing policy for the next time Prudent Reserve monies might be used (given the reality that no Prudent Reserve funds will be put away for the next few years because of the budget crisis)? **Commissioner Greene** responded that the draft DMH document is written in a way that it will last far into the future; but in the present the concern is how best to disseminate existing Prudent Reserves that will need to be withdrawn.

The key issue currently is how do you draw the money out? Currently there is no financial instrument for doing so. Also, PEI monies that have not yet been spent need to be placed into the Reserve, or disseminated. The amount of money available out of unspent PEI monies may be about \$115 million.

Chair Poat thanked **Commissioner Greene** and **Vice Chair Poaster**, both of whom have been spending a tremendous amount of time “getting their arms around” the budget issues. He also thanked **DMH Director Mayberg** and the DMH, who have been careful about being sensitive to the role that the Commission plays in the PEI sector of these Reserves.

Public Comment

- **Ms. Welch**, CMHDA, stated that the recommendations from the Budget Committee are in congruence with CMHDA and DMH and she doesn't understand the need to wait until August 31st to begin dissemination of monies. The PEI money is urgently needed at the county level. Also, as currently written, there is no PEI Prudent Reserve (there is a Prudent Reserve). That means that, starting in Fiscal Year '08-'09, PEI monies cannot be put into Prudent Reserves; only monies for Fiscal Years '07-'08 can. This newer policy is about putting some of those funds into the Prudent Reserve before they revert in June 30, 2010.

Although there is \$115 million available statewide, this was also the first year of community program planning and many counties have already expended their funds. Thus, the idea of potentially \$115 million being put into a PEI Prudent Reserve is simply not possible. There is an annual update process and, because the Commission is tracking the '07-'08 PEI dollars going into the Prudent Reserve, in a few years the Commission will be asking the local community if they need the money to sustain their programs. If a PEI program is extremely

effective, then Prudent Reserve monies -- whether earmarked previously for PEI or for CSS -- should be made available to that worthy program to sustain it through lean times.

Also, the draft DMH Information Notice states that the policy should be reviewed in such a way that it will be relevant for only one year. Either way, counties are dismantling their budgets and need this money right now. Please make a decision to release the monies today.

Commissioner Van Horn clarified that, as the Act is written, there is no way to put PEI money into a Prudent Reserve unless it is unplanned for (this would be the '07-'08 money). The problem is that, going forward, there's no way to put additional PEI money into the Reserve because it's not in AB 5xxx. After we make it through this budget down cycle, we will revisit this whole thing and do a more adequate planning effort on Prudent Reserves. Thus, no action is required of the Commission until that time.

- **Ms. Hiramoto**, REMHDCO, asked the Commission to take into consideration how their decisions impact racial, ethnic, and underserved communities. It is known that CSS dollars and Full Service Partnerships (FSPs) have not funded racial and ethnic communities in the numbers hoped for, nor are they suitable for many underserved communities still awaiting services. These communities are looking to PEI as their big chance to benefit from the MHSA. If those monies are put into a Prudent Reserve and not disseminated, then once again underserved communities will remain underserved.

Commissioner Kahn asked **Ms. Hiramoto** to further clarify her comments.

Ms. Hiramoto responded that there appears to be an assumption that "previously existing services" will be eligible but, because of previous disparities, many of her constituents have not received "previously existing services." Thus, if PEI funds are used only to serve existing CSS programs, they will not be going to underserved communities.

- **Mr. Eric Zuniga**, Wellness Recovery Center, pointed out that page 12 of the presentation discusses options and says that "*funding can only be used to continue currently approved programs.*" The line gets blurry in that, if their program had continued on its course from 2007 on, it would be very different than it is today, because of the budget crisis. In response to that budget crisis many changes were made and programs previously approved were changed or stagnated. Does that wording imply that, if a certain amount of people are currently served then a certain amount of money would go to those people year after year, or is there something that addresses the new, changing or developing programs?
- **Mr. Selix**, MHA and CCCMHA, stated that he was very troubled. **Ms. Welch**, CMHDA, said that this should be adopted. The counties have seen this draft notice; it went through committees. But he hasn't seen it and no other

stakeholders have seen it. Where is the stakeholder process? Where is the transparency? It doesn't exist. The Committee is said to have voted for these recommendations, yet he didn't vote for number five, "to commingle PEI and CSS into one Reserve." He expressed his opposition to it, and yet it was presented as a consensus committee recommendation.

The solution is in the basic motion to direct DMH to work with the Committee and to allow, if the Committee comes to a real consensus --. He is hearing apples and oranges. The authority in AB 5xxx is to put money into a Reserve for PEI. One of the things a county can do is create a Reserve for PEI.

That has nothing to do with what is being proposed, which is to take \$115 million of PEI money from '07-'08 and put PEI money into Reserve -- but not for PEI, for CSS. The result might actually be a very good thing, as there is currently a crisis in maintaining CSS services.

But let's be straightforward in what we're doing. What we're saying has nothing to do with 5xxx, the ability for counties to plan for PEI reserves. What we're saying is because we haven't spent all of the PEI money in the past we're going to pretend that this new law gives us the authority to take that money and put it into Reserve and then use it for CSS.

The result might be good, but how we get there really concerns me. If it really is only a one-time, one-year thing, then let's be honest and explain that that's what it is. Apparently the DMH Information Notice doesn't do that, it references the long term. So there is a lack of transparency here. Counties are excited about it because it gives them what they want so they say "go ahead." But no one else has seen it.

Let's create the transparency that we need and direct DMH (which, shockingly, is not here today) to work this out and do so in a way that may be right on this one-time basis but is wrong as a precedent, because it suggests that PEI money can be put into a Reserve and pretend that it's for PEI when in reality it's for CSS.

This entire process gives me enormous concern in terms of process and precedent. I think it can be cleaned up but it's not there yet. I recommend that it be sent back to Committee so the needed transparency can be created.

- **Mr. Troy Konarski**, DMH, stated that, as one of the staff members who worked on this, this was not done in "the back room" and then sent out at the last minute. They did move as fast as they could to get this going. One problem is that a lot of the money that could go into Prudent Reserve just isn't there right now. This discussion is centering around pulling money out of the Prudent Reserve but we really need to look at whether there is any money in the Prudent Reserve that can come out.

We've had direction from management to address those issues when the planning estimates come out in early October. Also, 20 percent of CSS can be transferred into a Prudent Reserve from WET, and that starts in 08-09, so that could be a major gap in trying to fund the Reserve. Tracking the money coming in and going out will be extremely difficult to do as it will need to be done on the local level. As you know, Dr. Mayberg is very supportive of the MHSOAC and still wants to work with the Committee and flesh this out.

Commissioner Greene clarified that Prudent Reserve is a series of local pots. The idea was that the local bank account could be up to 50 percent of CSS.

Ms. Welch also clarified that one reason there are not 50 percent CSS funds in the Prudent Reserve is that there has never been an explanation as to how, as a county, those funds would be accessed. Also, the analogy of putting money into a bank account and not being able to get it back out is exactly right. At the local level, some boards of supervisors would not sign off for '09-'10 funds to go into the Prudent Reserve because there was no information as to how they would get it back out. That is why this Notice is needed. There are counties wanting to put money into the Reserve and need the Notice, because it will explain what the process will be in 2010 to retrieve the funds when they need them.

Commissioner Greene further clarified that an initial draft of the referenced Notice was made available to Commission staff earlier this month and they received the most recent version last night (July 22).

Commissioner Correa acknowledged that there does seem to be urgency because of the budget situation the counties are going to be facing. He stated that he was particularly worried about the idea of mixing the funding for the different programs.

Commissioner Gayle supported Ms. Welch's suggestion regarding quickly making the funding available as these are unprecedented times. For example, in his county of San Mateo they are discussing 10,20, 30 percent cuts, which means letting people out of hospitals and not buying any more beds. And San Mateo is one of the wealthiest counties in the state. He is very concerned about what other counties are going through. How can we decide who deserves treatment and who doesn't?

He also cautioned the Commission to look at the big picture. Everything isn't perfect and the transparency isn't yet completed but we are moving in turbulent times. Nothing was done in secrecy; we are trying to speed up so that we can try and circumvent some of the crises that are coming.

Commissioner Van Horn noted that, no matter what the Commission does, no Prudent Reserve money will be distributed in this Fiscal Year. This only applies to future years. Getting the money out today doesn't need to be settled; settling how to get it in does. The guidelines seem clear -- you can only get it out to continue things that are ongoing. The idea is to keep from having to cut programs. By the time money needs to come out

of the Reserves, in Fiscal Year '10-'11, PEI and CSS programs will be up and running and counties will make the decisions, I would assume, as to what they want to and are able to continue.

Commissioner Greene further clarified that the current system, as a business proposition, is nonsensical. You can't ask an entity to put a bunch of money into a basket and not have rules for taking it out. If you don't have rules for how you redeem your deposits, no one will put deposits in. In this situation we have unexpended PEI funds that could go in, we have funds not expended at the local level that could be put in, and we have MHSAs dollars at the state level that have not been planned for that could go in. So it's crucial that we have rules for redeeming the money.

Commissioner Henning remarked that it gives him great concern that DMH seemingly doesn't have the ability to track the funds that would go out of the Prudent Reserve.

Vice Chair Poaster clarified that the Commission will approve any requests for PEI funds going into the Reserve and approve any requests for funds going out. Thus, as far as the Commission is concerned, it is a simple accounting function.

Commissioner Bray stated that these are horrible, exceptional times, and giving our counties maximum flexibility -- having \$115 million "just laying around" when it could be used for services to keep the system going --. How can we not allow counties the most flexibility we could possibly give them on this one-time pot of money to keep the system going? We need to make this the most flexible as is humanly possible to keep these programs going. This is not an environment where we're talking about new programs, this is holding on to as much as we can of what we've already got and we need to shine a light in every dark corner looking for every pot of money we can find to help our counties out by keeping the level of service as high as we can during these times.

Also, in 2011 the federal stimulus money goes away. So I'm in favor of giving Commissioner Greene the Commission's authority to continue negotiations with DMH with the idea of giving the most flexibility we can to our counties.

Commissioner Pating stated that the most transformative element of Prop 63 is the PEI component. If the Commission is shifting money from PEI to CSS, as a one-time idea to keep our system afloat, he would certainly agree with that. But he has concerns about the details.

Regarding the three-year average funding idea and PEI covering the dips below that three-year average, does Mr. Selix support that? Also, how do we address the concerns about taking stakeholder interests into account and in moving forward?

Mr. Selix responded that step one is to get the Information Notice out so it can be seen. The idea that this was not done in secret -- come on, this was done in secret. That is the fundamental problem. If they had been working with the other stakeholders during the

last month, instead of just with the counties, we might have this resolved by today. But they only worked with the county and two Commissioners.

The second thing is let's be honest. The thing that the Legislature adopted that allowed counties to plan for reserves of PEI has nothing to do with what's being proposed here. What's being proposed here is that, because the PEI money through '07-'08 wasn't spent on PEI, we're saying it can be put into a reserve and used for CSS. That has nothing to do with what the Legislature did. On a one-time basis this might be a good thing to do, but let's be straightforward that that's what we're doing and not pretend, as we are proposing to do here, that the PEI reserves are for CSS. That is a precedent that is frightening to a lot of stakeholders.

Let's acknowledge that we started PEI late. We hit a crisis that was never expected and maybe the right thing to do is to spend that money to maintain the system. But let's not pretend that this is setting up how to deal with PEI reserves in the future.

Mr. Selix continued, saying that he didn't know where DMH got the assumption that PEI funds prior to '08-'09 could be used to fund the Prudent Reserve. If that is legitimate, then let's put a box around that to ensure that it doesn't set a precedent that applies to future PEI funds in some other manner; so that it is unique to current circumstances.

Vice Chair Poaster asked if there is a difference in the urgency of knowing what the rules for PEI Prudent Reserve are as compared to CSS Prudent Reserve. **Ms. Welch** responded that, because we are in a major budget crisis, counties want to be able to immediately put their PEI dollars into the Prudent Reserve and this Information Notice will provide them the documentation they need for their auditor-controller to be able to say "look, we can put money away, we don't need to spend it." It's not a reversion issue per se. Also, this \$115 million number that keeps getting thrown around -- that is not an accurate number and should not be used as a planning estimate.

Vice Chair Poaster asked if, after this PEI money is moved, no PEI money will ever go into the Prudent Reserve again unless there is a statutory change. **Ms. Welch** said that is accurate. **Chair Poat** stated that it is highly unlikely that PEI money will be used for CSS services. The transformative nature of the PEI programs will probably dictate this.

Chair Poat echoed the urgency of the current financial situation and remarked that counties can be relied on to determine what's best in their communities. The important question here is who has the flexibility to use public revenues at a very troubling time in public services and who can make the best decision about those revenues.

Commissioner Prettyman commented that it's very possible that, without the funding that would go back to the local communities through this process, her son, who is making progress, may end up back in another board and care. So this situation is very real to people like her and the Commission needs to let the local people make the decisions and be flexible towards them.

Commissioner Pating echoed Commissioner Bray's position regarding maximizing flexibility at the county level for expenditure of the funds.

MOTION: *Upon motion by Commissioner Van Horn, seconded by Commissioner Kahn, the Commission unanimously adopted the Committee recommendation that the calculation of the recent average for MHSF revenue should be based on the most recent three years and DOF data should be used for population and CPI adjustments.*

MOTION: *Upon motion by Commissioner Pating, seconded by Commissioner Bray, the Commission unanimously adopted the Committee recommendation that funding is limited to the continuation of approved MHSA programs and projects to designated populations.*

MOTION: *Upon motion by Commissioner Vega, seconded by Commissioner Van Horn, the Commission unanimously adopted the Committee recommendation that the MHSOAC will track all PEI funding going into the Prudent Reserve and all Prudent Reserve funding going out to PEI.*

MOTION: *Upon motion by Commissioner Bray, seconded by Commissioner Prettyman, the Commission unanimously adopted the Committee recommendation that the PEI funds for the years prior to Fiscal Year '08-'09 can fund the prudent reserve and can support either PEI and/or CSS.*

MOTION: *Upon motion by Commissioner Van Horn, seconded by Commissioner Kahn, the Commission unanimously adopted the Committee recommendation that Fiscal Year '07-'08 planning estimates for PEI statewide projects cannot be used to fund the Prudent Reserve.*

Chair Poat reaffirmed that the Commission will continue to work with DMH on the development of the Information Notice.

In addition, the Mental Health Funding and Policy Committee will engage in a process with DMH and affected stakeholders to develop guidance and direction for the counties with respect to long-term Prudent Reserve policies.

Commissioner Greene then provided a brief update on the status of the budget. The key players in the Legislature (the "Big Five") made a budget agreement that will reflect roughly \$26 billion in cuts. It will include a \$226 million cut in in-home support services; a 1.3 billion cut in Medi-Cal; \$528 million in CalWorks; and \$124 million in Healthy Families. Since local cities and counties are the providers of the programs, this will dramatically and negatively affect them.

7. PEI Plan Approval/Status Update: Alpine, Imperial, Kern, Lake, and Sutter-Yuba Counties

Commissioner Pating began by quoting a passage from AB 5xxx: “*The Commission shall place a county expenditure plan for consideration on the meeting agenda no later than 60 days after receipt.*” He clarified that this law does not require the Commission to make a decision or take action during that timeframe; it does require it to consider the plan. Also, these requirements are different from DMH’s.

Mr. Clark Marshall, MHSOAC staff, gave the staff recommendation of approval of two county PEI Plans: Alpine - \$278,500, and Imperial - \$1,835,214; and one Innovation Plan: Kern County - \$2,254,600.

***MOTION:** Upon motion by Commissioner Kahn, seconded by Commissioner Gayle, the Commission unanimously approved the Alpine and Imperial County PEI Plans and the Kern County Innovation Plan.*

14. General Public Comment

- **Mr. Arnulfo Medina**, CAYEN, announced that they have a growing Transitional Age Youth (TAY) Steering Committee and will be submitting a memorandum to MHSOAC, DMH and CMHDA that develops ideas on creatively increasing TAY participation in the planning processes on the local and state levels. He invited the Commission to help them in increasing TAY involvement.

15. Adjournment

Chair Poat adjourned the meeting at 3:40 p.m.