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18 UNITED STATES DISTRICT COURT

19 FOR THE CENTRAL DISTRICT OF CALIFORNIA

20 WESTERN DIVISION

21 UNITED STATES OF AMERICA,  
22 Plaintiff,

23 vs.

24 STATE OF CALIFORNIA; THE  
HONORABLE ARNOLD SCHWARZENEGGER,  
25 Governor of the State of  
California, in his official  
26 capacity only; STEPHEN W. MAYBERG,  
Director of the California  
27 Department of Mental Health, in  
his official capacity only;  
28 SHARON SMITH NEVINS, Executive  
Director of Metropolitan  
State Hospital, in her

CASE NO. CV 06-2667 GPS

AMENDED  
CONSENT JUDGMENT

DOCKETED ON CM

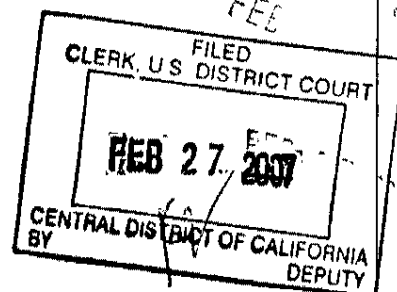
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1 official capacity only; )  
 OCTAVIO C. LUNA, Executive )  
 2 Director of Patton State Hospital, )  
 in his official capacity only; )  
 3 MELVIN E. HUNTER, Executive )  
 Director of Atascadero State )  
 4 Hospital, in his official capacity )  
 only; and DAVE GRAZIANI, )  
 5 Executive Director of Napa State )  
 Hospital, in his official )  
 6 capacity only, )  
 Defendants. )  
 7 )

8 Simultaneously herewith, Plaintiff, the United States of  
 9 America filed a Complaint under the provisions of 42 U.S.C.  
 10 § 1997 against the Defendants, seeking to remedy an alleged  
 11 pattern or practice of conduct that was alleged to deprive  
 12 patients of Metropolitan State Hospital, in Norwalk, California,  
 13 Patton State Hospital in Patton, California, Atascadero State  
 14 Hospital in Atascadero, California, and Napa State Hospital, in  
 15 Napa, California (collectively, and including any facility that  
 16 supplements or replaces them, the "State Hospitals") of rights,  
 17 privileges, and immunities secured or protected by the  
 18 Constitution or laws of the United States. On the same date, the  
 19 Parties in this matter filed a Stipulation for Consent Judgment  
 20 and Agreement ("Stipulation").

21 Noting the general principle that settlements are to be  
 22 encouraged, particularly settlements between governmental  
 23 entities, and having considered the Stipulation and the terms of  
 24 the measures, set forth herein, that the Defendants agree to  
 25 undertake to improve conditions at the State Hospitals, it is  
 26 ORDERED, ADJUDGED AND DECREED that pursuant to the Stipulation,  
 27 and good and reasonable cause appearing therefore, Judgment shall  
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1 be entered in this matter pursuant to the following terms and  
2 conditions:

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PART I  
ENHANCEMENT PLAN

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## 1 A. Definitions

## 2 1. Effective Date

3 The Effective Date will be considered the first day of  
4 the month following the date of execution of the agreement  
5 by all parties. Unless otherwise specified, implementation  
6 of each provision of this Plan shall begin no later than 12  
7 months after the Effective Date.

8 2. Consistent With Generally Accepted Professional  
9 Standards of Care

10 A decision by a qualified professional that is  
11 substantially aligned with contemporary, accepted  
12 professional judgment, practice, or standards as to  
13 demonstrate that the person responsible based the decision  
14 on such accepted professional judgment.

## 15 B. Introduction

16 Each State Hospital shall use a Recovery philosophy of care  
17 and a Psychiatric Rehabilitation model of service delivery.  
18 Therapeutic and rehabilitative services provided by each State  
19 Hospital shall be based on evidence-based practices and  
20 practice-based evidence, shall be age-appropriate, and shall be  
21 designed to: strengthen and support individuals' recovery,  
22 rehabilitation, and habilitation; enable individuals to grow and  
23 develop in ways benefitting their mental health, physical health,  
24 and well being; and ensure individuals' reasonable safety,  
25 security, and freedom from undue bodily restraint. Relationships  
26 between each State Hospital's staff and the individuals whom they  
27 serve shall be positive, therapeutic, and respectful.

1 Each individual served by each State Hospital shall be  
2 encouraged to participate in identifying his or her needs and  
3 goals, and in selecting appropriate treatment options.

4 Therapeutic and rehabilitation services shall be designed to  
5 address each individual's needs and to assist individuals in  
6 meeting their specific recovery and wellness goals, consistent  
7 with generally accepted professional standards of care. Each  
8 State Hospital shall ensure clinical and administrative  
9 oversight, education, and support of its staff in planning and  
10 providing care and treatment consistent with these standards.

11 C. Integrated Therapeutic and Rehabilitation Services Planning

12 Each State Hospital shall provide coordinated,  
13 comprehensive, individualized protections, services, supports,  
14 and treatments (collectively "therapeutic and rehabilitation  
15 services") for the individuals it serves, consistent with  
16 generally accepted professional standards of care. In addition  
17 to implementing the therapeutic and rehabilitation planning  
18 provisions set forth below, each State Hospital shall establish  
19 and implement standards, policies, and practices to ensure that  
20 therapeutic and rehabilitation service determinations are  
21 consistently made by an interdisciplinary team through integrated  
22 therapeutic and rehabilitation service planning and embodied in a  
23 single, integrated therapeutic and rehabilitation service plan.

24 1. Interdisciplinary Teams

25 The interdisciplinary team's membership shall be  
26 dictated by the particular needs and strengths of the  
27 individual in the team's care. At a minimum, each State  
28

1 Hospital shall ensure that the team shall:

- 2 a. Have as its primary objective the provision of  
3 individualized, integrated therapeutic and  
4 rehabilitation services that optimize the  
5 individual's recovery and ability to sustain  
6 himself/herself in the most integrated,  
7 appropriate setting based on the individual's  
8 strengths and functional and legal status and  
9 support the individual's ability to exercise  
10 his/her liberty interests, including the interests  
11 of self determination and independence;
- 12 b. Be led by a clinical professional who is involved  
13 in the care of the individual;
- 14 c. Function in an interdisciplinary fashion;
- 15 d. Assume primary responsibility for the individual's  
16 therapeutic and rehabilitation services, and  
17 ensure the provision of competent, necessary, and  
18 appropriate psychiatric and medical care;
- 19 e. Ensure that each member of the team participates  
20 appropriately, by competently and knowledgeably  
21 assessing the individual on an ongoing basis and  
22 by developing, monitoring, and, as necessary,  
23 revising the therapeutic and rehabilitation  
24 services;
- 25 f. Ensure that assessment results and, as clinically  
26 relevant, consultation results, are communicated  
27 to the team members, along with the implications  
28



1 of those results for diagnosis, therapy and  
2 rehabilitation by no later than the next review;

3 g. Be responsible for the scheduling and coordination  
4 of assessments and team meetings, the drafting of  
5 integrated treatment plans, and the scheduling and  
6 coordination of necessary progress reviews;

7 h. Consist of a stable core of members, including at  
8 least the individual served; the treating  
9 psychiatrist; the treating psychologist; the  
10 treating rehabilitation therapist; the treating  
11 social worker; the registered nurse and  
12 psychiatric technician who know the individual  
13 best; one of the individual's teachers (for  
14 school-age individuals); and, as appropriate, the  
15 individual's family, guardian, advocates,  
16 attorneys, and the pharmacist and other staff;

17 i. Not include any core treatment team members with a  
18 case load exceeding 1:15 in admission teams (new  
19 admissions of 90 days or less) and, on average,  
20 1:25 in all other teams at any point in time; and

21 j. Not include staff that is not verifiably competent  
22 in the development and implementation of  
23 interdisciplinary treatment plans.

24 2. Integrated Therapeutic and Rehabilitation Service  
25 Planning.

26 Each State Hospital shall develop and implement  
27 policies and protocols regarding the development of  
28 therapeutic and rehabilitation service plans, referred to as

1 "Wellness and Recovery Plans" ("WRP") consistent with  
2 generally accepted professional standards of care, to ensure  
3 that:

- 4 a. Individuals have substantive input into the  
5 therapeutic and rehabilitation service planning  
6 process, including but not limited to input as to  
7 small groups and therapies appropriate to their  
8 WRP.
- 9 b. Therapeutic and rehabilitation service planning  
10 provides timely attention to the needs of each  
11 individual, in particular:
- 12 i. initial therapeutic and rehabilitation  
13 service plans (Admission Wellness and  
14 Recovery Plan ("A-WRP")) are completed within  
15 24 hours of admission;
- 16 ii. master therapeutic and rehabilitation service  
17 plans (WRP) are completed within 7 days of  
18 admission; and
- 19 iii. therapeutic and rehabilitation service plan  
20 reviews are performed every 14 days during  
21 the first 60 days of hospitalization and  
22 every 30 days thereafter. The third monthly  
23 review is a quarterly review and the 12th  
24 monthly review is the annual review.
- 25 c. Treatment, rehabilitation, and enrichment services  
26 are goal-directed, individualized, and informed by  
27 a thorough knowledge of the individual's  
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1 psychiatric, medical, and psychosocial history and  
2 previous response to such services.

3 d. Therapeutic and rehabilitation service planning is  
4 based on a comprehensive case formulation for each  
5 individual that emanates from interdisciplinary  
6 assessments of the individual consistent with  
7 generally accepted professional standards of care.  
8 Specifically, the case formulation shall:

9 i. be derived from analyses of the information  
10 gathered from interdisciplinary assessments,  
11 including diagnosis and differential  
12 diagnosis;

13 ii. include a review of: pertinent history;  
14 predisposing, precipitating and perpetuating  
15 factors; previous treatment history; and  
16 present status;

17 iii. consider biomedical, psychosocial, and  
18 psychoeducational factors, as clinically  
19 appropriate, for each category in § C.2.d.ii  
20 above;

21 iv. consider such factors as age, gender,  
22 culture, treatment adherence, and medication  
23 issues that may affect the outcomes of  
24 treatment and rehabilitation interventions;

25 v. support the diagnosis by diagnostic  
26 formulation, differential diagnosis, and  
27 Diagnostic and Statistical Manual-IV-TR (or  
28 the most current edition) checklists; and

1 vi. enable the interdisciplinary team to reach  
2 sound determinations about each individual's  
3 treatment, rehabilitation, enrichment and  
4 wellness needs, the type of setting to which  
5 the individual should be discharged, and the  
6 changes that will be necessary to achieve  
7 discharge.

8 e. The therapeutic and rehabilitation service plan  
9 specifies the individual's focus of  
10 hospitalization (goals), assessed needs  
11 (objectives), and how the staff will assist the  
12 individual to achieve his or her goals/objectives  
13 (interventions).

14 f. Therapeutic and rehabilitation service planning is  
15 driven by individualized needs, is strengths-based  
16 (i.e., builds on an individual's current  
17 strengths), addresses the individual's motivation  
18 for engaging in wellness activities, and leads to  
19 improvement in the individual's mental health,  
20 physical health, and well being, consistent with  
21 generally accepted professional standards of care.  
22 Specifically, the interdisciplinary team shall:

23 i. develop and prioritize reasonable and  
24 attainable goals/objectives (e.g., at the  
25 level of each individual's functioning) that  
26 build on the individual's strengths and  
27 address the individual's identified needs  
28

1 and, if any identified need is not addressed,  
2 provide a rationale for not addressing the  
3 need;

4 ii. ensure that the objectives/interventions  
5 address treatment (e.g., for a disease or  
6 disorder), rehabilitation (e.g.,  
7 skills/supports, motivation and readiness),  
8 and enrichment (e.g., quality of life  
9 activities);

10 iii. write the objectives in behavioral,  
11 observable, and/or measurable terms;

12 iv. include all objectives from the individual's  
13 current stage of change, or readiness for  
14 rehabilitation, to the maintenance stage for  
15 each focus of hospitalization, as clinically  
16 appropriate;

17 v. ensure that there are interventions that  
18 relate to each objective, specifying who will  
19 do what, within what time frame, to assist  
20 the individual to meet his/her needs as  
21 specified in the objective;

22 vi. implement interventions appropriately  
23 throughout the individual's day, with a  
24 minimum of 20 hours of active treatment per  
25 week. Individual or group therapy included  
26 in the individual's WRP shall be provided as  
27 part of the 20 hours of active treatment per  
28 week;

vii. maximize, consistent with the individual's treatment needs and legal status, opportunities for treatment, programming, schooling, and other activities in the most appropriate integrated, non-institutional settings, as clinically appropriate; and

viii. ensure that each therapeutic and rehabilitation service plan integrates and coordinates all services, supports, and treatments provided by or through the State Hospital for the individual in a manner specifically responsive to the plan's therapeutic and rehabilitation goals. This requirement includes, but is not limited to, ensuring that individuals are assigned to small groups that link directly to the objectives of the individual's treatment plan and needs;

g. Therapeutic and rehabilitation service plans are revised as appropriate to ensure that planning is based on the individual's progress, or lack thereof, as determined by the scheduled monitoring of identified criteria or target variables, consistent with generally accepted professional standards of care. Specifically, the interdisciplinary team shall:

i. revise the focus of hospitalization objectives, as needed, to reflect the

- individual's changing needs and develop new interventions to facilitate attainment of new objectives when old objectives are achieved or when the individual fails to make progress toward achieving these objectives;
- ii. review the focus of hospitalization, needs, objectives, and interventions more frequently if there are changes in the individual's functional status or risk factors (i.e., behavioral, medical, and/or psychiatric risk factors);
  - iii. ensure that the review process includes an assessment of progress related to discharge to the most integrated setting appropriate to meet the individual's assessed needs, consistent with his/her legal status; and
  - iv. base progress reviews and revision recommendations on data collected as specified in the therapeutic and rehabilitation service plan.
- h. Individuals in need of positive behavior supports in school or other settings receive such supports consistent with generally accepted professional standards of care.
- i. Adequate active psychosocial rehabilitation is provided, consistent with generally accepted

professional standards of care, that:

- i. is based on the individual's assessed needs and is directed toward increasing the individual's ability to engage in more independent life functions;
- ii. has documented objectives, measurable outcomes, and standardized methodology;
- iii. is aligned with the individual's objectives that are identified in the individual's WRP;
- iv. utilizes the individual's strengths, preferences, and interests;
- v. focuses on the individual's vulnerabilities to mental illness, substance abuse, and readmission due to relapse, where appropriate;
- vi. is provided in a manner consistent with each individual's cognitive strengths and limitations;
- vii. provides progress reports for review by the Interdisciplinary Team as part of the WRP review process;
- viii. is provided 5 days a week, for a minimum of 4 hours a day (i.e., 2 hours in the morning and 2 hours in the afternoon each weekday), for each individual or 2 hours a day when the individual is in school, except days falling on state holidays;



- ix. is provided to individuals in bed-bound status in a manner and for a period that is commensurate with their medical status;
- x. routinely takes place as scheduled;
- xi. includes, in the evenings and weekends, additional activities that enhance the individual's quality of life; and
- xii. is consistently reinforced by staff on the therapeutic milieu, including living units.
- j. Adequate individualized and group exercise and recreational options are provided, consistent with generally accepted professional standards of care.
- k. Individuals who have an assessed need for family therapy services receive such services in their primary language, as feasible, consistent with generally accepted professional standards of care and that these services, and their effectiveness for addressing the indicated problem, are comprehensively documented in each individual's chart.
- l. Each individual's therapeutic and rehabilitation service plan identifies general medical diagnoses, the treatments to be employed, the related symptoms to be monitored by nursing staff (i.e., registered nurses ("RNs"), licensed vocational nurses ("LVNs"), and psychiatric technicians) and the means and frequency by which such staff shall

1 monitor such symptoms, consistent with generally  
2 accepted professional standards of care.

3 m. Children and adolescents receive, consistent with  
4 generally accepted professional standards of care:

5 i. therapy relating to traumatic family and  
6 other traumatic experiences, as clinically  
7 indicated; and

8 ii. reasonable, clinically appropriate  
9 opportunities to involve their families in  
10 treatment and treatment decisions.

11 n. Policies and procedures are developed and  
12 implemented consistent with generally accepted  
13 professional standards of care to ensure  
14 appropriate screening for substance abuse, as  
15 clinically indicated.

16 o. Individuals who require treatment for substance  
17 abuse are provided appropriate therapeutic and  
18 rehabilitation services consistent with generally  
19 accepted professional standards of care.

20 p. Group facilitators and therapists providing  
21 therapeutic and rehabilitation services (in groups  
22 or individual therapy) are verifiably competent  
23 regarding selection and implementation of  
24 appropriate approaches and interventions to address  
25 therapeutic and rehabilitation service objectives,  
26 are verifiably competent in monitoring individuals'  
27 responses to therapy and rehabilitation, and  
28 receive regular, competent supervision.

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- 1 q. Group facilitators and therapists providing  
2 therapeutic and rehabilitation services in the  
3 field of substance abuse should be certified  
4 substance abuse counselors.
- 5 r. Transportation and staffing issues do not preclude  
6 individuals from attending appointments.
- 7 s. Adequate oversight to treatment, rehabilitation,  
8 and enrichment groups is provided to ensure that  
9 individuals are assigned to groups that are  
10 appropriate to their assessed needs, that groups  
11 are provided consistently and with appropriate  
12 frequency, and that issues particularly relevant  
13 for this population, including the use of  
14 psychotropic medications and substance abuse, are  
15 appropriately addressed, consistent with generally  
16 accepted professional standards of care.
- 17 t. Treatment, rehabilitation, and enrichment services  
18 are monitored appropriately against rational,  
19 operationally-defined target variables and revised  
20 as appropriate in light of significant  
21 developments, and the individual's progress, or  
22 lack thereof.
- 23 u. Individuals are educated regarding the purposes of  
24 their treatment, rehabilitation, and enrichment  
25 services. They will be provided a copy of their  
26 WRP when appropriate based on clinical judgment.
- 27 v. Staff educate individuals about their medications,  
28 the expected results, and the potential common

1 and/or serious side effects of medications, and  
2 staff regularly ask individuals about common and/or  
3 serious side effects they may experience.

4 w. Interdisciplinary teams review, assess, and develop  
5 positive clinical strategies to overcome  
6 individual's barriers to participation in  
7 therapeutic and rehabilitation services.

8 D. Integrated Assessments

9 Each State Hospital shall ensure that, consistent with  
10 generally accepted professional standards of care, each  
11 individual shall receive, promptly after admission to the State  
12 Hospital, an accurate and comprehensive assessment of the  
13 conditions responsible for the individual's admission, to the  
14 degree possible given the obtainable information at the time of  
15 admission. Thereafter, each individual shall receive an accurate  
16 and comprehensive reassessment of the reasons for the  
17 individual's continued hospitalization whenever there has been a  
18 significant change in the individual's status, or a lack of  
19 expected improvement resulting from clinically indicated  
20 treatment. The individual's interdisciplinary team shall be  
21 responsible for investigating the past and present medical,  
22 nursing, psychiatric, and psychosocial factors bearing on the  
23 individual's condition, and, when necessary, for revising  
24 assessments and therapeutic and rehabilitation plans in  
25 accordance with new information that comes to light. Each State  
26 Hospital shall monitor and promptly address deficiencies in the  
27 quality and timeliness of such assessments.

1. Psychiatric Assessments and Diagnoses

Each State Hospital shall provide all of the individuals it serves with routine and emergency psychiatric assessments and reassessments consistent with generally accepted professional standards of care; and:

a. Each State Hospital shall use the diagnostic criteria in the most current Diagnostic and Statistical Manual of Mental Disorders ("DSM") for reaching the most accurate psychiatric diagnoses.

b. Each State Hospital shall ensure that all psychiatrists responsible for performing or reviewing psychiatric assessments:

i. are certified by the American Board of Psychiatry and Neurology ("ABPN") or have successfully completed at least three years of psychiatric residency training in a Accreditation Counsel for Graduate Medical Education accredited program; and

ii. are verifiably competent (as defined by privileging at initial appointment and thereafter by reprivileging for continued appointment) in performing psychiatric assessments consistent with the State Hospital's standard diagnostic protocols.

c. Each State Hospital shall ensure that:

i. within 24 hours of an individual's admission to the State Hospital, the individual

1 receives an Admission Medical Assessment that  
2 includes:

- 3 1) a review of systems;
- 4 2) medical history;
- 5 3) physical examination;
- 6 4) diagnostic impressions; and
- 7 5) management of acute medical conditions.

8 ii. within 24 hours of an individual's admission  
9 to the State Hospital, the individual  
10 receives an Admission Psychiatric Evaluation  
11 that includes:

- 12 1) psychiatric history, including a review  
13 of presenting symptoms;
- 14 2) complete mental status examination;
- 15 3) admission diagnoses;
- 16 4) completed AIMS;
- 17 5) laboratory tests ordered; and
- 18 6) consultations ordered.

19 iii. Within 7 days of an individual's admission to  
20 the State Hospital, the individual receives  
21 an Integrated Psychiatric Assessment that  
22 includes:

- 23 1) psychiatric history, including a review  
24 of present and past history;
- 25 2) psychosocial history;
- 26 3) mental status examination;
- 27 4) strengths;
- 28 5) psychiatric risk factors;

- 6) diagnostic formulation;
- 7) differential diagnosis;
- 8) current psychiatric diagnoses;
- 9) psychopharmacology treatment plan; and
- 10) management of identified risks.

d. Each State Hospital shall ensure that:

- i. clinically justifiable diagnoses are provided for each individual, and all diagnoses that cannot be clinically justified for an individual are discontinued no later than the next review;
- ii. the documented justification of the diagnoses is in accord with the criteria contained in the most current DSM (as per DSM-IV-TR Checklist);
- iii. differential diagnoses, "deferred," or "rule-out" diagnoses, and diagnoses listed as "NOS" ("Not Otherwise Specified") are timely addressed (i.e., within 60 days), through clinically appropriate assessments, and resolved in a clinically justifiable manner; and
- iv. "no diagnosis" is clinically justified and documented.

e. Each State Hospital shall ensure that psychiatric reassessments are conducted at a frequency that reflects the individual's clinical needs. At a minimum the reassessments are completed weekly for

1 the first 60 days on the admissions units and  
2 monthly on other units.

3 f. Each State Hospital shall ensure that psychiatric  
4 reassessments are documented in progress notes that  
5 address the following:

6 i. significant developments in the individual's  
7 clinical status and appropriate psychiatric  
8 follow up;

9 ii. timely and justifiable updates of diagnosis  
10 and treatment, as clinically appropriate;

11 iii. analyses of risks and benefits of chosen  
12 treatment interventions;

13 iv. assessment of, and attention to, high-risk  
14 behaviors (e.g., assaults, self-harm, falls)  
15 including appropriate and timely monitoring  
16 of individuals and interventions to reduce  
17 risks;

18 v. responses to and side effects of prescribed  
19 medications, with particular attention to  
20 risks associated with the use of  
21 benzodiazepines, anticholinergic medications,  
22 polypharmacy (use of multiple drugs to  
23 address the same condition), and conventional  
24 and atypical antipsychotic medications;

25 vi. timely review of the use of "pro re nata" or  
26 "as-needed" ("PRN") and "Stat" (i.e.,  
27 emergency psychoactive) medications and  
28



1 adjustment of regular treatment, as  
2 indicated, based on such use; and  
3 vii. verification, in a clinically justifiable  
4 manner, that psychiatric and behavioral  
5 treatments are properly integrated. The  
6 psychiatrist shall review the positive  
7 behavior support plan prior to implementation  
8 to ensure consistency with psychiatric  
9 formulation, document evidence of regular  
10 exchange of data or information with  
11 psychologists regarding differentiation of  
12 learned behaviors and behaviors targeted for  
13 psychopharmacological treatments, and  
14 document evidence of integration of  
15 treatments.

16 g. When individuals are transferred between treatment  
17 teams, a psychiatric transfer note shall be  
18 completed addressing: review of medical and  
19 psychiatric course of hospitalization, including  
20 medication trials; current target symptoms;  
21 psychiatric risk assessment; current barriers to  
22 discharge; and anticipated benefits of transfer.

23 2. Psychological Assessments

24 a. Each State Hospital shall develop and implement  
25 standard psychological assessment protocols,  
26 consistent with generally accepted professional  
27 standards of care. These protocols shall address,  
28 at a minimum, diagnostic neuropsychological

1 assessments, cognitive assessments, and  
2 I.Q./achievement assessments, to guide  
3 psychoeducational (e.g., instruction regarding the  
4 illness or disorder, and the purpose or objectives  
5 of treatments for the same, including medications),  
6 educational, rehabilitation, and habilitation  
7 interventions, and behavioral assessments  
8 (including functional assessment of behavior in  
9 schools and other settings), and personality  
10 assessments, to inform positive behavior support  
11 plans and psychiatric diagnoses.

12 b. Each State Hospital shall require the completion of  
13 cognitive and academic assessments within 30 days  
14 of admission of all school-age and other  
15 individuals, as required by law, unless comparable  
16 testing has been performed within one year of  
17 admission and is available to the interdisciplinary  
18 team.

19 c. Each State Hospital shall ensure that all  
20 clinicians responsible for performing or reviewing  
21 psychological assessments and evaluations are  
22 verifiably competent in the methodology required to  
23 conduct the assessment.

24 d. Each State Hospital shall ensure that all  
25 psychological assessments, consistent with  
26 generally accepted professional standards of care,  
27 shall:  
28

- i. expressly state the clinical question(s) for the assessment;
- ii. include findings specifically addressing the clinical question(s), but not limited to diagnoses and treatment recommendations;
- iii. specify whether the individual would benefit from individual therapy or group therapy in addition to attendance at mall groups;
- iv. be based on current, accurate, and complete data;
- v. determine whether behavioral supports or interventions (e.g., behavior guidelines or mini-behavior plans) are warranted or whether a full positive behavior support plan is required;
- vi. include the implications of the findings for interventions;
- vii. identify any unresolved issues encompassed by the assessment and, where appropriate, specify further observations, records review, interviews, or re-evaluations that should be performed or considered to resolve such issues; and
- viii. Use assessment tools and techniques appropriate for the individuals assessed and in accordance with the American Psychological Association Ethical Standards and Guidelines for testing.

1 e. Each State Hospital shall ensure that all  
2 psychological assessments of all individuals  
3 residing at the State Hospital who were admitted  
4 there before the Effective Date hereof shall be  
5 reviewed by qualified clinicians with demonstrated  
6 current competency in psychological testing and, as  
7 indicated, revised to meet the criteria in  
8 § D.2.a & d, above.

9 f. Each State Hospital shall ensure that all  
10 appropriate psychological assessments shall be  
11 provided in a timely manner whenever clinically  
12 indicated, consistent with generally accepted  
13 professional standards of care, including whenever  
14 there has been a significant change in condition, a  
15 lack of expected improvement resulting from  
16 treatment, or an individual's behavior poses a  
17 significant barrier to treatment, therapeutic  
18 programming, safety to self or others, or school  
19 programming, and, in particular:

20 i. before an individual's therapeutic and  
21 rehabilitation service plan is developed, a  
22 psychological assessment of the individual  
23 shall be performed that will:

24 1) address the nature of the individual's  
25 impairments to inform the psychiatric  
26 diagnosis; and

27 2) provide an accurate evaluation of the  
28 individual's psychological functioning

1 to inform the therapeutic and

2 rehabilitation service planning process;

- 3 ii. if behavioral interventions are indicated, a  
4 structural and functional assessment shall be  
5 performed, consistent with generally accepted  
6 professional standards of care, by a  
7 professional having demonstrated competency  
8 in positive behavior supports; and  
9 iii. additional psychological assessments shall be  
10 performed, as appropriate, where clinical  
11 information is otherwise insufficient, and to  
12 address unresolved clinical or diagnostic  
13 questions, including differential diagnosis,  
14 "rule-out," "deferred," "no-diagnosis" and  
15 "NOS" diagnoses.

- 16 g. For individuals whose primary language is not  
17 English, each State Hospital shall endeavor to  
18 assess them in their own language; if this is not  
19 possible, each State Hospital will develop and  
20 implement a plan to meet the individual's  
21 assessment needs, including, but not limited to the  
22 use of interpreters in the individual's primary  
23 language and dialect, if feasible.

24 3. Nursing Assessments

- 25 a. Each State Hospital shall develop standard nursing  
26 assessment protocols, consistent with generally  
27 accepted professional standards of care. These  
28 protocols shall address, at a minimum:

- i. a description of presenting conditions;
- ii. current prescribed medications;
- iii. vital signs;
- iv. allergies;
- v. pain;
- vi. use of assistive devices;
- vii. activities of daily living;
- viii. immediate alerts (e.g., escape risk, physical assault, choking risk, suicidal risk, homicide risk, fall risk, sexual assault, self-injurious behavior, arson, or fire setting); and
- ix. conditions needing immediate nursing interventions.

b. Nursing may use a systems model (e.g., Johnson Behavioral System Model) for the nursing evaluation.

c. Each State Hospital shall ensure that all nurses responsible for performing or reviewing nursing assessments are verifiably competent in performing the assessments for which they are responsible. All nurses who are employed at Metropolitan State Hospital shall have graduated from an approved nursing program, shall have passed the NCLEX-RN and shall have a license to practice in the state of California.

1 d. Each State Hospital shall ensure that nursing  
2 assessments are undertaken on a timely basis, and  
3 in particular, that:

4 i. initial nursing assessments are completed  
5 within 24 hours of the individual's  
6 admission;

7 ii. Further nursing assessments are completed and  
8 integrated into the individual's therapeutic  
9 and rehabilitation service plan within 7 days  
10 of admission; and

11 iii. nursing assessments are reviewed every 14  
12 days during the first 60 days of admission  
13 and every 30 days thereafter and updated as  
14 appropriate. The 3rd monthly review shall be  
15 a quarterly review and the 12th monthly  
16 review shall be the annual review.

17 4. Rehabilitation Therapy Assessments

18 a. Each State Hospital shall develop standard  
19 rehabilitation therapy assessment protocols,  
20 consistent with generally accepted professional  
21 standards of care, for satisfying the necessary  
22 components of a comprehensive rehabilitation  
23 therapy assessment.

24 b. Each State Hospital shall ensure that each  
25 individual served shall have a rehabilitation  
26 assessment that, consistent with generally accepted  
27 professional standards of care:  
28

- i. is accurate and comprehensive as to the individual's functional abilities;
- ii. identifies the individual's current functional status and the skills and supports needed to facilitate transfer to the next level of care; and
- iii. identifies the individual's life goals, strengths, and motivation for engaging in wellness activities.

c. Each State Hospital shall ensure that all clinicians responsible for performing or reviewing rehabilitation therapy assessments are verifiably competent in performing the assessments for which they are responsible.

d. Each State Hospital shall ensure that all rehabilitation therapy assessments of all individuals who were admitted to the State Hospital before the Effective Date hereof shall be reviewed by qualified clinicians and, as indicated, revised to meet the criteria in § D.4.b, above.

5. Nutrition Assessments

Each State Hospital shall provide nutrition assessments, reassessments, and interventions consistent with generally accepted professional standards of care. A comprehensive nutrition assessment will include the following:

- a. For new admissions with high risk referral (e.g., type I diabetes mellitus, enteral/parenteral



1 feeding, dysphagia/recent choking episode), or upon  
2 request by physician, a comprehensive Admission  
3 Nutrition Assessment will be completed within 24  
4 hours of notification to the dietitian.

5 b. For new admissions directly into the  
6 medical-surgical unit, a comprehensive Admission  
7 Nutrition Assessment will be completed within 3  
8 days of admission.

9 c. For new admissions directly into the skilled  
10 nursing facility unit, a comprehensive Admission  
11 Nutrition Assessment will be completed within 7  
12 days of admission.

13 d. For new admissions with identified nutritional  
14 triggers from Nursing Admission Assessment or  
15 physician's consult (e.g., for severe food  
16 allergies, tube feeding, extensive dental problems  
17 or dental surgery, NPO/clear liquid diet for more  
18 than three days, uncontrolled diarrhea/vomiting  
19 more than 24 hours, and MAOI, as clinically  
20 indicated), a comprehensive Admission Nutrition  
21 Assessment will be completed within 7 days of  
22 admission.

23 e. For new admissions with therapeutic diet orders for  
24 medical reasons, a comprehensive Admission  
25 Nutrition Assessment will be completed within 7  
26 days of admission.

27 f. For individuals with therapeutic diet orders for  
28 medical reason after admission, a comprehensive

1 Admission Nutrition Assessment will be completed  
2 within 7 days of the therapeutic diet order but no  
3 later than 30 days of admission.

- 4 g. For all other individuals, a comprehensive  
5 Admission Nutrition Assessment will be completed  
6 within 30 days of admission.
- 7 h. Acuity level of an individual at nutritional risk  
8 will be determined by Nutritional Status Type  
9 ("NST") which defines minimum services provided by  
10 a registered dietitian.
- 11 i. The frequency of a comprehensive Nutrition  
12 Assessment Update will be determined by the NST.  
13 Updates should include, but not be limited to:  
14 subjective data, weight, body-mass index ("BMI"),  
15 waist circumference, appropriate weight range, diet  
16 order, changes in pertinent medication, changes in  
17 pertinent medical/psychiatric problems, changes in  
18 nutritional problem(s), progress toward  
19 goals/objectives, effectiveness of interventions,  
20 changes in goals/plan, recommendations, and  
21 follow-up as needed.
- 22 j. Every individual will be assessed annually. In  
23 addition, individuals will be reassessed when there  
24 is a significant change in condition.

25 6. Social History Assessments

26 Each State Hospital shall ensure that each individual  
27 has a social history evaluation that, consistent with  
28 generally accepted professional standards of care:

- a. Is, to the extent reasonably possible, accurate, current and comprehensive;
- b. Expressly identifies factual inconsistencies among sources, resolves or attempts to resolve inconsistencies, and explains the rationale for the resolution offered;
- c. Is included in the 7-day integrated assessment and fully documented by the 30th day of an individual's admission; and
- d. Reliably informs the individual's interdisciplinary team about the individual's relevant social factors and educational status.

7. Court Assessments

- a. Each State Hospital shall develop and implement policies and procedures to ensure an interdisciplinary approach to the development of court submissions for individuals adjudicated "not guilty by reason of insanity" ("NGI") pursuant to Penal Code Section 1026, based on accurate information and individualized risk assessments. The forensic reports should include the following, as clinically indicated:
  - i. clinical progress and achievement of stabilization of signs and symptoms of mental illness that were the cause, or contributing factor in the commission of the crime (i.e., instant offense);

- 1           ii.   acts of both verbal and physical aggression
- 2               and property destruction during the past year
- 3               of hospitalization and, if relevant, past
- 4               acts of aggression and dangerous criminal
- 5               behavior;
- 6           iii.   understanding of potential for danger and
- 7               precursors of dangerous/criminal behavior,
- 8               including instant offense;
- 9           iv.   acceptance of mental illness and
- 10               understanding of the need for treatment, both
- 11               psychosocial and biological, and the need to
- 12               adhere to treatment;
- 13           v.   development of relapse prevention plan (i.e.,
- 14               Personal Wellness Recovery Plan or Wellness
- 15               Recovery Action Plan) for mental illness
- 16               symptoms, including the individual's
- 17               recognition of precursors and warning signs
- 18               and symptoms and precursors for dangerous
- 19               acts;
- 20           vi.   willingness to achieve understanding of
- 21               substance abuse issues and to develop an
- 22               effective relapse prevention plan (as defined
- 23               above);
- 24           vii.   previous community releases, if the
- 25               individual has had previous CONREP
- 26               revocations;
- 27           viii.   social support, financial resources, family
- 28               conflicts, cultural marginalization, and

1 history of sexual and emotional abuse, if  
2 applicable; and

3 ix. relevant medical issues, all self-harm  
4 behaviors, risks for self harm and risk of  
5 harm to others, to inform the courts and the  
6 facility where the individual will be housed  
7 after discharge.

8 b. Each State Hospital shall develop and implement  
9 policies and procedures to ensure an  
10 interdisciplinary approach to the development of  
11 court submissions for individuals admitted to the  
12 hospital pursuant to Penal Code Section 1370,  
13 "incompetent to stand trial" ("IST"), based on  
14 accurate information and individualized risk  
15 assessments. Consistent with the right of an  
16 individual accused of a crime to a speedy trial,  
17 the focus of the IST hospitalization shall be the  
18 stabilization of the symptoms of mental illness so  
19 as to enable the individual to understand the legal  
20 proceedings and to assist his or her attorney in  
21 the preparation of the defense. The forensic  
22 reports should include the following:

23 i. relevant clinical description of initial  
24 presentation, if available, which caused the  
25 individual to be deemed incompetent to stand  
26 trial by the court;

27 ii. clinical description of the individual at the  
28 time of admission to the hospital;

1           iii. course of hospital stay, describing any  
2           progress or lack of progress, response to  
3           treatment, current relevant mental status,  
4           and reasoning to support the recommendation;  
5           and

6           iv. all self-harm behaviors and relevant medical  
7           issues, to inform the courts and the facility  
8           where the individual will be housed after  
9           discharge.

10          c. Each State Hospital shall establish a Forensic  
11          Review Panel ("FRP") to serve as the internal body  
12          that reviews and provides oversight of facility  
13          practices and procedures regarding the forensic  
14          status of all individuals admitted pursuant to  
15          Penal Code 1026 and 1370. The FRP shall review and  
16          approve all forensic court submissions by the  
17          Wellness and Recovery teams and ensure that  
18          individuals receive timely and adequate assessments  
19          by the teams to evaluate changes in their  
20          psychiatric condition, behavior and/or risk factors  
21          that may warrant modifications in their forensic  
22          status and/or level of restriction. The membership  
23          of the FRP shall include the Director of Forensic  
24          Psychiatry, Facility Director or designee, Medical  
25          Director or designee, Chief of Psychology or  
26          designee, Chief of Social Services or designee,  
27          Chief of Nursing Services or designee, and Chief of  
28          Rehabilitation Services or designee. The Director

1 of Forensic Psychiatry shall serve as the chair and  
2 shall be a board certified forensic psychiatrist.  
3 A quorum shall consist of a minimum of four FRP  
4 members or their designees.

5 E. Discharge Planning and Community Integration

6 Taking into account the limitations of court-imposed  
7 confinement, the State shall pursue actively the appropriate  
8 discharge of individuals under the State's care at each State  
9 Hospital and, subject to legal limitations on the State's control  
10 of the placement process, provide services in the most  
11 integrated, appropriate setting in which they reasonably can be  
12 accommodated, as clinically appropriate, that is consistent with  
13 each individual's needs.

- 14 1. Each State Hospital shall identify at the 7-day  
15 therapeutic and rehabilitation service planning  
16 conference, and address at all subsequent planning  
17 conferences, the particular considerations for each  
18 individual bearing on discharge, including:
  - 19 a. those factors that likely would foster successful  
20 discharge, including the individual's strengths,  
21 preferences, and personal life goals;
  - 22 b. the individual's level of psychosocial functioning;
  - 23 c. any barriers preventing the individual from  
24 transitioning to a more integrated environment,  
25 especially difficulties raised in previously  
26 unsuccessful placements; and
  - 27 d. the skills and supports necessary to live in the  
28 setting in which the individual will be placed.

- 1       2.    Each State Hospital shall ensure that, beginning at the  
2           time of admission and continuously throughout the  
3           individual's stay, the individual is an active  
4           participant in the discharge planning process, to the  
5           fullest extent possible, given the individual's level  
6           of functioning and legal status.
- 7       3.    Each State Hospital shall ensure that, consistent with  
8           generally accepted professional standards of care, each  
9           individual has a professionally developed discharge  
10          plan that is integrated within the individual's  
11          therapeutic and rehabilitation service plan, that  
12          addresses his or her particular discharge  
13          considerations, and that includes:
  - 14           a.   Measurable interventions regarding these discharge  
15                considerations;
  - 16           b.   The staff responsible for implementing the  
17                interventions; and
  - 18           c.   The time frames for completion of the  
19                interventions.
- 20       4.    Each State Hospital shall provide transition supports  
21           and services consistent with generally accepted  
22           professional standards of care. In particular, each  
23           State Hospital shall ensure that:
  - 24           a.   Individuals who have met discharge criteria are  
25                discharged expeditiously, subject to the  
26                availability of suitable placements; and
  - 27           b.   Individuals receive adequate assistance in  
28                transitioning to the new setting.



1 5. For all children and adolescents it serves, each State  
2 Hospital shall:

3 a. Develop and implement policies and protocols that  
4 identify individuals with lengths of stay exceeding  
5 six months; and

6 b. Establish a regular review forum, which includes  
7 senior administration staff, to assess the children  
8 and adolescents identified in § E.5.a, above, to  
9 review their treatment plans, and to create an  
10 individualized action plan for each such child or  
11 adolescent that addresses the obstacles to  
12 successful discharge to the most integrated,  
13 appropriate placement as clinically and legally  
14 indicated.

15 F. Specific Therapeutic and Rehabilitation Services

16 1. Psychiatric Services

17 a. Each State Hospital shall develop and implement  
18 policies and procedures to ensure system-wide  
19 monitoring of the safety, efficacy, and  
20 appropriateness of all psychotropic medication use,  
21 consistent with generally accepted professional  
22 standards of care. In particular, policies and  
23 procedures shall require monitoring of the use of  
24 psychotropic medications to ensure that they are:  
25 i. specifically matched to current, clinically  
26 justified diagnoses or clinical symptoms;  
27  
28

- 1           ii.     prescribed in therapeutic amounts, as
- 2                 dictated by the needs of the individual
- 3                 served;
- 4           iii.    tailored to each individual's symptoms;
- 5           iv.     monitored for effectiveness against clearly
- 6                 identified target variables and time frames;
- 7           v.      monitored appropriately for side effects;
- 8           vi.     modified based on clinical rationales;
- 9           vii.    not inhibiting individuals from meaningfully
- 10                 participating in treatment, rehabilitation,
- 11                 or enrichment and educational services as a
- 12                 result of excessive sedation; and
- 13           viii.  properly documented.
- 14       b.   Each State Hospital shall monitor the use of PRN
- 15             and Stat medications to ensure that these
- 16             medications are administered in a manner that is
- 17             clinically justified and are not used as a
- 18             substitute for appropriate long-term treatment of
- 19             the individual's condition.
- 20       c.   Each State Hospital shall monitor the psychiatric
- 21             use of benzodiazepines, anticholinergics, and
- 22             polypharmacy to ensure clinical justification and
- 23             attention to associated risks.
- 24       d.   Each State Hospital shall ensure the monitoring of
- 25             the metabolic and endocrine risks associated with
- 26             the use of new generation antipsychotic
- 27             medications.
- 28

- 1 e. Each State Hospital shall ensure regular  
2 monitoring, using a validated rating instrument  
3 (such as AIMS or DISCUS), of tardive dyskinesia  
4 ("TD"); a baseline assessment shall be performed  
5 for each individual at admission with subsequent  
6 monitoring of the individual every 12 months while  
7 he/she is receiving antipsychotic medication, and  
8 every 3 months if the test is positive, TD is  
9 present, or the individual has a history of TD.
- 10 f. Each State Hospital shall ensure timely  
11 identification, reporting, data analyses, and  
12 follow up remedial action regarding all adverse  
13 drug reactions ("ADR").
- 14 g. Each State Hospital shall ensure drug utilization  
15 evaluation ("DUE") occurs in accord with  
16 established, up-to-date medication guidelines that  
17 shall specify indications, contraindications, and  
18 screening and monitoring requirements for all  
19 psychotropic medications; the guidelines shall be  
20 in accord with current professional literature. A  
21 verifiably competent psychopharmacology consultant  
22 shall approve the guidelines and ensure adherence  
23 to the guidelines.
- 24 h. Each State Hospital shall ensure documentation,  
25 reporting, data analyses, and follow up remedial  
26 action regarding actual and potential medication  
27 variances ("MVR") consistent with generally  
28 accepted professional standards of care.

- i. Each State Hospital shall ensure tracking of individual and group practitioner trends, including data derived from monitoring of the use of PRNs, Stat medications, benzodiazepines, anticholinergics, and polypharmacy, and of ADRs, DUE, and MVR consistent with generally accepted professional standards of care.
- j. Each State Hospital shall ensure feedback to the practitioner and educational/corrective actions in response to identified trends consistent with generally accepted professional standards of care.
- k. Each State Hospital shall ensure integration of information derived from ADRs, DUE, MVR, and the Pharmacy & Therapeutics, Therapeutics Review, and Mortality and Morbidity Committees consistent with generally accepted professional standards of care.
- l. Each State Hospital shall ensure that all physicians and clinicians are verifiably competent, consistent with generally accepted professional standards of care, in appropriate medication management, interdisciplinary team functioning, and the integration of behavioral and pharmacological treatments.
- m. Each State Hospital shall review and ensure the appropriateness and safety of the medication treatment, consistent with generally accepted professional standards of care, for:

- i. all individuals prescribed continuous anticholinergic treatment for more than two months;
  - ii. all elderly individuals and individuals with cognitive disorders who are prescribed continuous anticholinergic treatment regardless of duration of treatment;
  - iii. all individuals prescribed benzodiazepines as a scheduled modality for more than two months;
  - iv. all individuals prescribed benzodiazepines with diagnoses of substance abuse or cognitive impairments, regardless of duration of treatment;
  - v. all individuals with a diagnosis or evidencing symptoms of tardive dyskinesia; and
  - vi. all individuals diagnosed with dyslipidemia, and/or obesity, and/or diabetes mellitus who are prescribed new generation antipsychotic medications.
- n. Each State Hospital shall ensure that the medication management of individuals with substance abuse disorders is provided consistent with generally accepted professional standards of care.
- o. Metropolitan State Hospital shall provide a minimum of 16 hours per year of psychopharmacology instruction, through conferences, seminars,

1 lectures and/or videotapes. Such instruction may  
2 be provided either on-site or through attendance at  
3 conferences elsewhere.

4 2. Psychological Services

5 Each State Hospital shall provide adequate and  
6 appropriate psychological supports and services that are  
7 derived from evidence-based practice or practice-based  
8 evidence and are consistent with generally accepted  
9 professional standards of care, to individuals who require  
10 such services; and:

11 a. Each State Hospital shall ensure that it has  
12 positive behavior support teams (with 1 team for  
13 each 300 individuals, consisting of 1 clinical  
14 psychologist, 1 registered nurse, 2 psychiatric  
15 technicians (1 of whom may be a behavior  
16 specialist), and 1 data analyst (who may be a  
17 behavior specialist) that have a demonstrated  
18 competence, consistent with generally accepted  
19 professional standards of care, in the following  
20 areas:

21 i. the development and use of positive behavior  
22 support plans, including methods of  
23 monitoring program interventions and the  
24 effectiveness of the interventions, providing  
25 staff training regarding program  
26 implementation, and, as appropriate, revising  
27 or terminating the program; and  
28

- 1           ii.    the development and implementation of a
- 2                facility-wide behavioral incentive system,
- 3                referred to as "BY CHOICE," that encompasses
- 4                self-determination and choice by the
- 5                individuals served.
- 6        b.    Each State Hospital shall ensure that the Chief of
- 7                Psychology has the clinical and administrative
- 8                responsibility for the Positive Behavior Support
- 9                Team and the BY CHOICE incentive program.
- 10       c.    Each State Hospital shall ensure that:
- 11            i.    behavioral assessments include structural and
- 12                functional assessments, and, as necessary,
- 13                functional analysis;
- 14            ii.   hypotheses on the maladaptive behavior are
- 15                based on structural and functional
- 16                assessments;
- 17            iii.   there is documentation of previous behavioral
- 18                interventions and their effects;
- 19            iv.    behavioral interventions, which shall include
- 20                positive behavior support plans, are based on
- 21                a positive behavior supports model and do not
- 22                include the use of aversive or punishment
- 23                contingencies;
- 24            v.    behavioral interventions are consistently
- 25                implemented across all settings, including
- 26                school settings;
- 27            vi.    triggers for instituting individualized
- 28                behavioral interventions are specified and

utilized, and that these triggers include excessive use of seclusion, restraint, or psychiatric PRN and Stat medication for behavior control;

vii. positive behavior support teams and team psychologists integrate their therapies with other treatment modalities, including drug therapy;

viii. all positive behavior support plans are specified in the objectives and interventions sections of the individual's WRP;

ix. all positive behavior support plans are updated as indicated by outcome data and reported at least quarterly in the present status section of the case formulation in the individual's WRP;

x. all staff has received competency-based training on implementing the specific behavioral interventions for which they are responsible, and performance improvement measures are in place for monitoring the implementation of such interventions;

xi. all positive behavior support team members shall have as their primary responsibility the provision of behavioral interventions; and

xii. the BY CHOICE point allocation is updated monthly in the individual's WRP.



- 1  
2 d. Each State Hospital shall ensure that it has at  
3 least one developmental and cognitive abilities  
4 team (consisting of 1 clinical psychologist, 1  
5 registered nurse, 1 social worker, 1 psychiatric  
6 technician, and 1 data analyst (who may be a  
7 behavior specialist)) who have a demonstrated  
8 competence, consistent with generally accepted  
9 professional standards of care, in: assessing  
10 individuals with cognitive challenges/disorders;  
11 developing therapeutic interventions (including  
12 positive behavior supports); advising therapy and  
13 rehabilitation providers on the implementation of  
14 interventions at the cognitive level of the  
15 individuals; and managing discharge processes for  
16 individuals with developmental disabilities and  
17 cognitive challenges/disorders. This team shall  
18 assume some of the functions of the positive  
19 behavior support teams if the individuals they  
20 serve also need positive behavior supports.
- 21 e. Each State Hospital shall develop and implement a  
22 Behavioral Consultation Committee, chaired by the  
23 Chief of Psychology, and co-chaired by the Chief of  
24 Psychiatry, to review the WRP and maladaptive  
25 behavior(s) of individuals who have not made timely  
26 progress on positive behavior support plans. The  
27 Chief of Psychology is responsible for the  
28 functions of this committee, together with members

1 of the positive behavior support team (in functions  
2 of the committee that relate to individuals under  
3 the care of those team members). The committee  
4 membership shall include all clinical discipline  
5 heads, including the medical director, as well as  
6 the clinical administrator of the facility.

7 f. Each State Hospital shall ensure that it has  
8 sufficient neuropsychological services for the  
9 provision of adequate neuropsychological assessment  
10 of individuals with persistent mental illness.

11 g. All clinical psychologists with privileges at any  
12 State Hospital shall have the authority to write  
13 orders for the implementation of positive behavior  
14 support plans, consultation for educational or  
15 other testing, and behavior plan updates.

16 3. Nursing Services

17 Each State Hospital shall provide adequate and  
18 appropriate nursing care and services consistent with  
19 generally accepted professional standards of care to  
20 individuals who require such services.

21 a. Each State Hospital shall develop and implement  
22 policies and protocols regarding the administration  
23 of medication, including pro re nata ("PRN") and  
24 "Stat" medication (i.e., emergency use of  
25 psychoactive medication), consistent with generally  
26 accepted professional standards of care, to ensure:

27 i. safe administration of PRN medications and  
28 Stat medications;

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- 1           ii.   documentation of the circumstances requiring  
2                PRN and Stat administration of medications;  
3                and  
4           iii.   documentation of the individual's response to  
5                PRN and Stat medication.
- 6       b.   Each State Hospital shall ensure that all failures  
7           to properly sign the Medication and Treatment  
8           Record ("MTR") or the controlled medication log are  
9           treated as medication variances, and that  
10          appropriate follow-up occurs to prevent recurrence  
11          of such variances.
- 12       c.   Each State Hospital shall ensure that all nursing  
13           interventions are fully integrated into the  
14           therapeutic and rehabilitation service plan and  
15           that nursing interventions are written in a manner  
16           aligned with the rest of the interventions in the  
17           therapeutic and rehabilitation service plan, in  
18           particular, in observable, behavioral, and/or  
19           measurable terms. No nursing care plans other than  
20           the nursing interventions integrated in the  
21           therapeutic and rehabilitation service plan are  
22           required. No nursing diagnoses other than as  
23           specified in the therapeutic and rehabilitation  
24           service plan, in terms of the current DSM criteria,  
25           are required.
- 26       d.   All nursing staff working with an individual shall  
27           be familiar with the goals, objectives, and  
28           interventions for that individual.

- 1 e. Each State Hospital shall ensure that nursing staff  
2 timely monitor, document and report the status of  
3 symptoms, target variables, health, and mental  
4 health status of individuals in a manner that  
5 enables interdisciplinary teams to assess each  
6 individual's status and respond to interventions,  
7 and to modify, as appropriate, individuals'  
8 therapeutic and rehabilitation service plans. Each  
9 State Hospital shall ensure that all nursing shift  
10 changes include a review of changes in status of  
11 individuals on the unit.
- 12 f. Each State Hospital shall develop and implement a  
13 system to monitor nursing staff while administering  
14 medication to ensure that:
- 15 i. nursing staff are knowledgeable regarding  
16 each individual's prescribed medications;  
17 ii. education is provided to individuals during  
18 medication administration;  
19 iii. nursing staff are following the appropriate  
20 medication administration protocol; and  
21 iv. medication administration is documented in  
22 accordance with the appropriate medication  
23 administration protocol.
- 24 g. Each State Hospital shall ensure that individuals  
25 remain in a "bed-bound" status only for clinically  
26 justified reasons.
- 27 h. Each State Hospital shall ensure that, before they  
28 work directly with individuals, all nursing and

1 psychiatric technicians have successfully completed  
2 competency-based training regarding:

- 3 i. mental health diagnoses, related symptoms,  
4 psychotropic medications and their side  
5 effects, monitoring of symptoms and target  
6 variables, and documenting and reporting of  
7 the individual's status;  
8 ii. the provision of a therapeutic milieu on the  
9 units and proactive, positive interventions  
10 to prevent and de-escalate crises; and  
11 iii. positive behavior support principles.

- 12 i. Each State Hospital shall ensure that, prior to  
13 assuming their duties and on a regular basis  
14 thereafter, all staff responsible for the  
15 administration of medication have successfully  
16 completed competency-based training on the  
17 completion of the MTR and the controlled medication  
18 log.

19 4. Rehabilitation Therapy Services

20 Each State Hospital shall provide adequate,  
21 appropriate, and timely rehabilitation therapy services to  
22 each individual in need of such services, consistent with  
23 generally accepted professional standards of care.

- 24 a. Each State Hospital shall develop and implement  
25 policies and procedures, consistent with generally  
26 accepted professional standards of care, related to  
27 the provision of rehabilitation therapy services  
28 that address, at a minimum:

- i. the provision of direct services by rehabilitation therapy services staff; and
- ii. the oversight by rehabilitation therapists of individualized physical therapy programs implemented by nursing staff.

b. Each State Hospital shall provide competency-based training to nursing staff, as appropriate, on the use and care of adaptive equipment, transferring, and positioning, as well as the need to promote individuals' independence.

c. Each State Hospital shall ensure that individuals are provided with timely and adequate rehabilitation therapy services.

d. Each State Hospital, consistent with generally accepted professional standards of care, shall ensure that each individual who requires adaptive equipment is provided with equipment that meets his/her assessed needs and promotes his/her independence, and shall provide individuals with training and support to use such equipment.

5. Nutrition Services

Each State Hospital shall provide the individuals it serves, particularly those experiencing weight-related problems, adequate and appropriate dietary services consistent with generally accepted professional standards of care.

- 1 a. Each State Hospital shall modify policies and  
2 procedures to require that the therapeutic and  
3 rehabilitation service plans of individuals who  
4 experience weight problems and/or related health  
5 concerns include adequate strategies and  
6 methodologies to address the identified problems  
7 and that such strategies and methodologies are  
8 implemented in a timely manner, monitored  
9 appropriately, and revised, as warranted,  
10 consistent with generally accepted professional  
11 standards of care.
- 12 b. Each State Hospital shall ensure that one or more  
13 treatment team members demonstrate competence in  
14 the dietary and nutritional issues affecting the  
15 individuals they serve and the development and  
16 implementation of strategies and methodologies to  
17 address such issues.
- 18 c. Each State Hospital shall develop and implement  
19 policies and procedures to address the needs of  
20 individuals who are at risk for aspiration or  
21 dysphagia, including but not limited to, the  
22 development and implementation of assessments and  
23 interventions for mealtimes and other activities  
24 involving swallowing.
- 25 d. Each State Hospital shall ensure that staff with  
26 responsibilities for assessments and interventions  
27 regarding aspiration and dysphagia have  
28

1 successfully completed competency-based training  
2 commensurate with their responsibilities.

- 3 e. Each State Hospital shall develop and implement  
4 policies and procedures requiring treatment of the  
5 underlying causes for tube feeding placement, and  
6 ongoing assessment of the individuals for whom  
7 these treatment options are utilized, to determine  
8 the feasibility of returning them to oral intake  
9 status.

10 6. Pharmacy Services

11 Each State Hospital shall provide adequate and  
12 appropriate pharmacy services consistent with generally  
13 accepted professional standards of care. Each State  
14 Hospital shall develop and implement policies and procedures  
15 that require:

- 16 a. Upon the prescription of a new medication,  
17 pharmacists to conduct reviews of each individual's  
18 medication regimen and, as appropriate, make  
19 recommendations to the prescribing physician about  
20 possible drug-to-drug interactions, side effects,  
21 and needs for laboratory work and testing; and  
22 b. Physicians to consider pharmacists'  
23 recommendations, and for any recommendations not  
24 followed, document in the individual's medical  
25 record an adequate clinical justification.

26 7. General Medical Services

- 27 a. Each State Hospital shall provide adequate,  
28 appropriate, and timely preventive, routine,



1 specialized, and emergency medical care to all  
2 individuals in need of such services, consistent  
3 with generally accepted professional standards of  
4 care. Each State Hospital shall ensure that  
5 individuals with medical problems are promptly  
6 identified, assessed, diagnosed, treated, monitored  
7 and, as monitoring indicates is necessary,  
8 reassessed, diagnosed, and treated, consistent with  
9 generally accepted professional standards of care.

10 b. Each State Hospital shall develop and implement  
11 protocols and procedures, consistent with generally  
12 accepted professional standards of care, that:

13 i. require the timely provision of initial and  
14 ongoing assessments relating to medical care,  
15 including but not limited to, vision care,  
16 dental care, and laboratory and consultation  
17 services;

18 ii. require the timely provision of medical care,  
19 including but not limited to, vision care,  
20 dental care, and laboratory and consultation  
21 services; timely and appropriate  
22 communication between nursing staff and  
23 physicians regarding changes in an  
24 individual's physical status; and the  
25 integration of each individual's mental  
26 health and medical care;

27 iii. define the duties and responsibilities of  
28 primary care (non-psychiatric) physicians;

1           iv.    ensure a system of after-hours coverage by  
2               primary care physicians with formal  
3               psychiatric training (i.e., privileging and  
4               proctorship) and psychiatric backup support  
5               after hours; and

6           v.    endeavor to obtain, on a consistent and  
7               timely basis, an individual's medical records  
8               after the individual is treated in another  
9               medical facility.

10          c.    Each State Hospital shall ensure that physicians  
11               monitor each individual's health status indicators  
12               in accordance with generally accepted professional  
13               standards of care, and, whenever appropriate,  
14               modify their therapeutic and rehabilitation service  
15               plans to address any problematic changes in health  
16               status indicators.

17          d.    Each State Hospital shall monitor, on a continuous  
18               basis, outcome indicators to identify trends and  
19               patterns in individuals' health status, assess the  
20               performance of medical systems, and provide  
21               corrective follow-up measures to improve outcomes.

22    8.    Infection Control

23               Each State Hospital shall develop and implement  
24               infection control policies and procedures to prevent the  
25               spread of infections or communicable diseases, consistent  
26               with generally accepted professional standards of care.

27          a.    Each State Hospital shall establish an effective  
28               infection control program that:

- i. actively collects data regarding infections and communicable diseases;
- ii. assesses these data for trends;
- iii. initiates inquiries regarding problematic trends;
- iv. identifies necessary corrective action;
- v. monitors to ensure that appropriate remedies are achieved; and
- vi. integrates this information into the State Hospital's quality assurance review.

9. Dental Services

Each State Hospital shall provide individuals with adequate, appropriate and timely routine and emergency dental care and treatment, consistent with generally accepted professional standards of care.

- a. Each State Hospital shall retain or contract with an adequate number of qualified dentists to provide timely and appropriate dental care and treatment to all individuals it serves;
- b. Each State Hospital shall develop and implement policies and procedures that require:
  - i. comprehensive and timely provision of dental services;
  - ii. documentation of dental services, including but not limited to, findings, descriptions of any treatment provided, and the plans of care;

- 1           iii. use of preventive and restorative care  
2           whenever possible; and  
3           iv. tooth extractions be used as a treatment of  
4           last resort, which, when performed, shall be  
5           justified in a manner subject to clinical  
6           review.

7           c. Each State Hospital shall ensure that dentists  
8           demonstrate, in a documented fashion, an accurate  
9           understanding of individuals' physical health,  
10          medications, allergies, and current dental status  
11          and complaints.

12          d. Each State Hospital shall ensure that  
13          transportation and staffing issues do not preclude  
14          individuals from attending dental appointments, and  
15          individuals' refusals are addressed to facilitate  
16          compliance.

17          e. Each State Hospital shall ensure that  
18          interdisciplinary teams review, assess, and develop  
19          strategies to overcome individuals' refusals to  
20          participate in dental appointments.

21        10. Special Education

22           Each State Hospital shall provide the school-age and  
23           other residents, as required by law, who qualify for special  
24           education ("students"), individualized educational programs  
25           that are reasonably calculated to enable these students to  
26           receive educational benefits, as defined by applicable law.

27           a. Each State Hospital shall develop and implement  
28           uniform systems for assessing students' individual

1 educational needs and monitoring their individual  
2 progress.

- 3 b. Each State Hospital shall ensure that all  
4 Individual Education Plans ("IEPs") are developed  
5 and implemented consistent with the Individuals  
6 with Disabilities Education Act, 20 U.S.C. § 1400  
7 et seq. (2002) ("IDEA").
- 8 c. Each State Hospital shall ensure that teachers  
9 providing instruction to students at the State  
10 Hospital have completed competency-based training  
11 regarding teaching and academic instruction,  
12 behavioral interventions, monitoring of academic  
13 and behavioral progress, and incident management  
14 and reporting.
- 15 d. Each State Hospital shall ensure that students  
16 receive instruction and behavioral supports  
17 appropriate to their learning abilities and needs,  
18 consistent with generally accepted professional  
19 standards of care.
- 20 e. Each State Hospital shall provide appropriate  
21 literacy instruction, consistent with generally  
22 accepted professional standards of care, for  
23 students who show deficits in one or more common  
24 areas of reading (e.g., decoding or comprehending).
- 25 f. Each State Hospital shall, on admission and as  
26 statutorily required thereafter, assess each  
27 student's capacity to participate, with appropriate  
28 supports and services, in an integrated, non-

1 institutional, education environment, and provide  
2 access to an integrated education environment for  
3 those students who can participate in one with  
4 appropriate supports and services. Each State  
5 Hospital shall ensure that all students receive  
6 their education in the least restrictive setting  
7 pursuant to the requirements of the IDEA,  
8 consistent with their legal and clinical status.

9 G. Documentation

10 Each State Hospital shall ensure that an individual's  
11 records accurately reflect the individual's response to all  
12 treatment, rehabilitation and enrichment activities identified in  
13 the individual's therapeutic and rehabilitation service plan,  
14 including for children and adolescents, their education plan,  
15 consistent with generally accepted professional standards of  
16 care. Each State Hospital shall develop and implement policies  
17 and procedures setting forth clear standards regarding the  
18 content and timeliness of progress notes, transfer notes, school  
19 progress notes, and discharge notes, including, but not limited  
20 to, an expectation that such records include meaningful,  
21 accurate, and coherent assessments of the individual's progress  
22 relating to treatment plans and treatment goals, and that  
23 clinically relevant information remains readily accessible.

24 H. Restraints, Seclusion, and PRN and Stat Medications

25 Each State Hospital shall ensure that restraints, seclusion,  
26 psychiatric PRN medications, and Stat medications are used  
27 consistent with generally accepted professional standards of  
28 care.

- 1        1. Each State Hospital shall revise, as appropriate, and  
2        implement policies and procedures regarding the use of  
3        seclusion, restraints, psychiatric PRN medications, and  
4        Stat medications consistent with generally accepted  
5        professional standards of care. In particular, the  
6        policies and procedures shall expressly prohibit the  
7        use of prone restraints, prone containment and prone  
8        transportation and shall list the types of restraints  
9        that are acceptable for use.
- 10       2. Each State Hospital shall ensure that restraints and  
11       seclusion:
  - 12       a. Are used in a documented manner and only when  
13       individuals pose an imminent danger to self or  
14       others and after a hierarchy of less restrictive  
15       measures has been considered in a clinically  
16       justifiable manner or exhausted;
  - 17       b. Are not used in the absence of, or as an  
18       alternative to, active treatment, as punishment, or  
19       for the convenience of staff;
  - 20       c. Are not used as part of a behavioral intervention;  
21       and
  - 22       d. Are terminated as soon as the individual is no  
23       longer an imminent danger to self or others.
- 24       3. Each State Hospital shall comply with 42 C.F.R.  
25       § 483.360(f), requiring assessments by a physician or  
26       licensed clinical professional of any individual placed  
27       in seclusion or restraints within 1 hour. Each State  
28       Hospital shall also ensure that any individual placed

1 in seclusion or restraints is continuously monitored by  
2 a staff person who has successfully completed  
3 competency-based training on the administration of  
4 seclusion and restraints.

5 4. Each State Hospital shall ensure the accuracy of data  
6 regarding the use of restraints, seclusion, psychiatric  
7 PRN medications, or Stat medications.

8 5. Each State Hospital shall revise, as appropriate, and  
9 implement policies and procedures to require the review  
10 within 3 business days of individuals' therapeutic and  
11 rehabilitation service plans for any individuals placed  
12 in seclusion or restraints more than 3 times in any  
13 4-week period, and modification of therapeutic and  
14 rehabilitation service plans, as appropriate.

15 6. Each State Hospital shall develop and implement  
16 policies and procedures consistent with generally  
17 accepted professional standards of care governing the  
18 use of psychiatric PRN medication and Stat medication,  
19 requiring that:

20 a. Such medications are used in a manner that is  
21 clinically justified and are not used as a  
22 substitute for adequate treatment of the underlying  
23 cause of the individual's distress; and

24 b. PRN medications, other than for analgesia, are  
25 prescribed for specified and individualized  
26 behaviors;

27 c. PRN medications are appropriately time-limited;  
28



1 d. Nursing staff assess the individual within 1 hour  
2 of the administration of the psychiatric PRN  
3 medication and Stat medication and documents the  
4 individual's response; and A psychiatrist conducts  
5 a face-to-face assessment of the individual within  
6 24 hours of the administration of a Stat  
7 medication. The assessment shall address the  
8 reason for the Stat administration, the  
9 individual's response, and, as appropriate,  
10 appropriateness of adjustment to current treatment  
11 and/or diagnosis.

12 7. Each State Hospital shall ensure that all staff whose  
13 responsibilities include the implementation or  
14 assessment of seclusion, restraints, psychiatric PRN  
15 medications, or Stat medications successfully complete  
16 competency-based training regarding implementation of  
17 all such policies and the use of less restrictive  
18 interventions.

19 8. Each State Hospital shall:

- 20 a. Develop and implement a plan to reduce the use of  
21 side rails as restraints in a systematic and  
22 gradual way to ensure individuals' safety; and  
23 b. Ensure that, as to individuals who need side rails,  
24 their therapeutic and rehabilitation service plans  
25 expressly address the use of side rails, including  
26 identification of the medical symptoms that warrant  
27 the use of side rails, methods to address the  
28 underlying causes of such medical symptoms, and

1 strategies to reduce the use of side rails, if  
2 appropriate.

3 I. Protection From Harm

4 Each State Hospital shall provide the individuals it serves  
5 with a safe and humane environment and ensure that these  
6 individuals are protected from harm.

7 1. Incident Management

8 Each State Hospital shall develop and implement across  
9 all settings, including school settings, an integrated  
10 incident management system that is consistent with generally  
11 accepted professional standards of care.

12 a. Each State Hospital shall review, revise, as  
13 appropriate, and implement incident management  
14 policies, procedures and practices that are  
15 consistent with generally accepted professional  
16 standards of care. Such policies, procedures and  
17 practices shall require:

18 i. that the State Hospital not tolerate abuse or  
19 neglect of individuals and that staff are  
20 required to report abuse or neglect of  
21 individuals;

22 ii. identification of the categories and  
23 definitions of incidents to be reported and  
24 investigated; immediate reporting by staff to  
25 supervisory personnel and the State  
26 Hospital's executive director (or that  
27 official's designee) of serious incidents,  
28

1 including but not limited to, death, abuse,  
2 neglect, and serious injury, using  
3 standardized reporting across all settings,  
4 including school settings;

5 iii. mechanisms to ensure that when serious  
6 incidents such as allegations of abuse,  
7 neglect, and/or serious injury occur, staff  
8 take immediate and appropriate action to  
9 protect the individuals involved, including  
10 removing alleged perpetrators from direct  
11 contact with the involved individuals pending  
12 the outcome of the facility's investigation;

13 iv. adequate competency-based training for all  
14 staff on recognizing and reporting potential  
15 signs and symptoms of abuse or neglect,  
16 including the precursors that may lead to  
17 abuse;

18 v. notification of all staff when commencing  
19 employment and adequate training thereafter  
20 of their obligation to report abuse or  
21 neglect to the State Hospital and state  
22 officials. All staff persons who are  
23 mandatory reporters of abuse or neglect shall  
24 sign a statement that shall be kept with  
25 their personnel records evidencing their  
26 recognition of their reporting obligations.  
27 Each State Hospital shall not tolerate any  
28

- 1 mandatory reporter's failure to report abuse  
2 or neglect;
- 3 vi. mechanisms to inform individuals and their  
4 conservators how to identify and report  
5 suspected abuse or neglect;
- 6 vii. posting in each living unit and day program  
7 site a brief and easily understood statement  
8 of individuals' rights, including information  
9 about how to pursue such rights and how to  
10 report violations of such rights;
- 11 viii. procedures for referring, as appropriate,  
12 allegations of abuse or neglect to law  
13 enforcement; and
- 14 ix. mechanisms to ensure that any staff person,  
15 individual, family member or visitor who in  
16 good faith reports an allegation of abuse or  
17 neglect is not subject to retaliatory action,  
18 including but not limited to reprimands,  
19 discipline, harassment, threats or censure,  
20 except for appropriate counseling, reprimands  
21 or discipline because of an employee's  
22 failure to report an incident in an  
23 appropriate or timely manner.
- 24 b. Each State Hospital shall review, revise, as  
25 appropriate, and implement policies and procedures  
26 to ensure the timely and thorough performance of  
27 investigations, consistent with generally accepted  
28 professional standards of care. Such policies and

1 procedures shall:

- 2 i. require investigations of all deaths, as well  
3 as allegations of abuse, neglect, serious  
4 injury, and theft. The investigations shall  
5 be conducted by qualified investigators who  
6 have no reporting obligations to the program  
7 or elements of the facility associated with  
8 the allegation and have expertise in  
9 conducting investigations and working with  
10 persons with mental disorders;
- 11 ii. ensure that only the State Hospital staff who  
12 have successfully completed competency-based  
13 training on the conduct of investigations be  
14 allowed to conduct investigations of  
15 allegations of petty theft and all other  
16 unusual incidents;
- 17 iii. for investigations required by paragraph  
18 I.1.b.i, above, provide for the safeguarding  
19 of evidence; and
- 20 iv. for investigations required by paragraph  
21 I.1.b.i, above, require the development and  
22 implementation of standardized procedures and  
23 protocols for the conduct of investigations  
24 that are consistent with generally accepted  
25 professional standards. Such procedures and  
26 protocols shall require that:
- 27  
28

- 1) investigations commence within 24 hours or sooner, if necessary, of the incident being reported;
- 2) investigations be completed within 30 business days of the incident being reported, except that investigations where material evidence is unavailable to the investigator, despite best efforts, may be completed within 5 business days of its availability;
- 3) each investigation result in a written report, including a summary of the investigation, findings and, as appropriate, recommendations for corrective action. The report's contents shall be sufficient to provide a clear basis for its conclusion. The report shall set forth explicitly and separately:
  - (i) each allegation of wrongdoing investigated;
  - (ii) the names of all witnesses;
  - (iii) the names of all alleged victims and perpetrators;
  - (iv) the names of all persons interviewed during the investigation;
  - (v) a summary of each interview;

(vi) a list of all documents reviewed during the investigation;

(vii) sources of evidence considered, including previous investigations and their results, involving the alleged victim(s) and perpetrator(s);

(viii) the investigator's findings, including findings related to the substantiation of the allegations as well as findings about staff's adherence to programmatic requirements; and

(ix) the investigator's reasons for his/her conclusions, including a summary indicating how potentially conflicting evidence was reconciled; and

4) staff supervising investigations review the written report, together with any other relevant documentation, to ensure that the investigation is thorough and complete and that the report is accurate, complete, and coherent. Any deficiencies or areas of further inquiry in the investigation and/or report shall be addressed promptly. As necessary, staff responsible for investigations shall be

1 provided with additional training and/or  
2 technical assistance to ensure the  
3 completion of investigations and  
4 investigation reports consistent with  
5 generally accepted professional standards  
6 of care.

7 c. Each State Hospital shall ensure that whenever  
8 disciplinary or programmatic action is necessary to  
9 correct a situation or prevent reoccurrence, each  
10 State Hospital shall implement such action promptly  
11 and thoroughly, and track and document such actions  
12 and the corresponding outcomes.

13 d. Each State Hospital shall have a system to allow  
14 the tracking and trending of investigation results.  
15 Trends shall be tracked by at least the following  
16 categories:

- 17 i. type of incident;
- 18 ii. staff involved and staff present;
- 19 iii. individuals directly and indirectly involved;
- 20 iv. location of incident;
- 21 v. date and time of incident;
- 22 vi. cause(s) of incident; and
- 23 vii. outcome of investigation.

24 e. Each State Hospital shall ensure that before  
25 permitting a staff person to work directly with any  
26 individual, the State Hospital shall investigate  
27 the criminal history and other relevant background  
28 factors of that staff person, whether full-time or



part-time, temporary or permanent, or a person who volunteers on a regular basis. Facility staff shall directly supervise volunteers for whom an investigation has not been completed when they are working directly with individuals living at the facility. The facility shall ensure that a staff person or volunteer may not interact with individuals at the State Hospital in instances where the investigation indicates that the staff person or volunteer may pose a risk of harm to such individuals.

2. Performance Improvement

Each State Hospital shall develop, revise as appropriate, and implement performance improvement mechanisms that enable it to comply fully with this Plan, to detect timely and adequately problems with the provision of protections, treatment, rehabilitation, services and supports, and to ensure that appropriate corrective steps are implemented. Each State Hospital shall establish a risk management process to improve the identification of individuals at risk and the provision of timely interventions and other corrective actions commensurate with the level of risk. The performance improvement mechanisms shall be consistent with generally accepted professional standards of care and shall include:

- a. Mechanisms for the proper and timely identification of high-risk situations of an immediate nature as well as long-term systemic problems. These

1 mechanisms shall include, but not be limited to:

2 i. data collection tools and centralized  
3 databases to capture and provide information  
4 on various categories of high-risk  
5 situations;

6 ii. establishment of triggers and thresholds that  
7 address different levels of risk, as set  
8 forth in Appendix A of this Plan; and

9 iii. identification of systemic trends and  
10 patterns of high risk situations;

11 b. Mechanisms for timely interventions and other  
12 corrective actions by teams and disciplines to  
13 prevent or minimize risk of harm to individuals.

14 These mechanisms shall include, but not be limited  
15 to:

16 i. a hierarchy of interventions by clinical  
17 teams that correspond to triggers and  
18 thresholds;

19 ii. timely corrective actions by teams and/or  
20 disciplines to address systemic trends and  
21 patterns;

22 iii. formalized systems for the notification of  
23 teams and needed disciplines to support  
24 appropriate interventions and other  
25 corrective actions;

26 iv. formalized systems for feedback from teams  
27 and disciplines to the standards compliance  
28 department regarding completed actions; and

1 v. monitoring and oversight systems to support  
2 timely implementation of interventions and  
3 corrective actions and appropriate follow up;  
4 and

5 c. Utilize, on an ongoing basis, appropriate  
6 performance improvement mechanisms to assess and  
7 address the facility's compliance with its  
8 identified service goals.

9 3. Environmental Conditions

10 Each State Hospital shall develop and implement a  
11 system to review regularly all units and areas of the  
12 hospital to which individuals being served have access to  
13 identify any potential environmental safety hazards and to  
14 develop and implement a plan to remedy any identified  
15 issues, consistent with generally accepted professional  
16 standards of care. Such a system shall require that:

- 17 a. Potential suicide hazards are identified and  
18 prioritized for systematic corrective action, and  
19 that such action is implemented on a priority basis  
20 as promptly as feasible;
- 21 b. All areas of the hospital that are occupied by  
22 individuals being served have adequate temperature  
23 control and deviations shall be promptly corrected;
- 24 c. Each State Hospital reviews, revises, as  
25 appropriate, and implements procedures and  
26 practices so that individuals who are incontinent  
27 are assisted to change in a timely manner;  
28

1 d. Each State Hospital thoroughly reviews and revises,  
2 as appropriate, its policy and practice regarding  
3 sexual contact among individuals served at the  
4 hospital. Each State Hospital shall establish  
5 clear guidelines regarding staff response to  
6 reports of sexual contact and monitor staff  
7 response to incidents. Each State Hospital  
8 documents comprehensively therapeutic interventions  
9 in the individual's charts in response to instances  
10 of sexual contact;

11 e. Each State Hospital develops and implements clear  
12 guidelines stating the circumstances under which it  
13 is appropriate to utilize staff who are not trained  
14 to provide mental health services in addressing  
15 incidents involving individuals. Each State  
16 Hospital ensures that persons who are likely to  
17 intervene in incidents are properly trained to work  
18 with individuals with mental health concerns; and

19 f. Metropolitan State Hospital will institute roving  
20 patrols of treatment units, except for the skilled  
21 nursing facility, by Hospital Police Officers on a  
22 schedule and frequency to be determined by the  
23 hospital administration.

24 J. First Amendment and Due Process

25 Each State Hospital unconditionally permits individuals to  
26 exercise their constitutional rights of free speech, including  
27 the right to petition the government for redress of grievances  
28 without state monitoring and provides them due process.

**ENHANCEMENT PLAN - APPENDIX A**

<u>Trigger</u>	<u>Thresholds</u>
Aggressive Act to Self	<p>1.1 Any aggression to self resulting in major injury*</p> <p>1.2 2 or more aggressive acts to self in 7 consecutive days</p> <p>1.3 4 or more aggressive acts to self in 30 consecutive days</p>
Aggressive Act to Others	<p>2.1 Any peer-to-peer aggression resulting in major injury</p> <p>2.2 Any aggression to staff resulting in major injury</p> <p>2.3 2 or more aggressive acts to others in 7 consecutive days</p> <p>2.4 4 or more aggressive acts to others in 30</p>
Alleged Abuse/ Neglect/Exploitation	<p>3.1 Any alleged abuse/neglect/exploitation if minor** or major injury</p>

## Body Weight

- 4.1 Body Mass Index (BMI) of 18.5 or less (underweight)
- 4.2 Body Mass Index (BMI) between 25 and 29.9 (overweight)
- 4.3 Body Mass Index (BMI) between 30 and 34.9 (Obesity-Grade I)
- 4.4 Body Mass Index (BMI) between 35 and 39.9 (Obesity-Grade II)
- 4.5 Body Mass Index (BMI) 40 or above (Obesity-Grade III)
- 4.6 Weight Change  $\pm$  5% in 1 month
- 4.7 Weight Change  $\pm$  7.5% in 3 months
- 4.8 Weight Change  $\pm$  10% in 6 months
- 4.9 Waist Circumference over 35" for females or over 40" for males

- Combined Pharmacotherapy
- 5.1 More than 2 intra-class psychotropic medications for psychiatric reasons
  - 5.2 More than 3 inter-class psychotropic medications for psychiatric reasons

1  
2 Escape/AWOL 6.1 Any escape attempt/unauthorized  
3 absence within facility  
4 6.2 Any escape  
5 attempt/unauthorized absence  
6 outside of facility  
7

8 Falls 7.1 Any fall resulting in major  
9 injury  
10 7.2 Three or more falls in 30  
11 consecutive days  
12

13  
14 Illicit Substances 8.1 Any incident of an individual  
15 testing positive for illicit  
16 substance (street drug) use  
17

18 Medication Variance 9.1 Any medication error that results  
19 (Error) in major injury or exacerbation  
20 of a disease or disorder (i.e.,  
21 prescribing, transcribing,  
22 ordering/procurement,  
23 dispensing/storage,  
24 administration, and  
25 documentation)  
26  
27  
28

SCANNED

Mortality 10.1 Expected deaths  
10.2 Unexpected deaths

Non-Adherence to 11.1 Non-adherence to WRP for more  
Wellness and Recovery than 20% of the interventions in  
Plan (WRP) 7 consecutive days (Note: For  
children and adolescents: include  
non-attendance at school for more  
than 20% of the time in 7  
consecutive days)

One-to-One Observations 12.1 1:1 for psychiatric/behavioral  
reasons over 24 hours in 7  
consecutive days  
12.2 Any 2:1 for  
psychiatric/behavioral reasons

PRN Medications 13.1 2 PRNs in 24 hours (for  
psychiatric/behavioral reasons)  
13.2 3 PRNs in 7 consecutive days  
13.3 15 PRNs in 30 consecutive days



SCANNED

## Restraint

14.1 Restraint for more than 4 hours  
for adults (Note: more than 4  
hours for adolescents and 2 hours  
for children)

14.2 More than 3 episodes of restraint  
in 7 consecutive days

14.3 More than 5 episodes of restraint  
in 30 consecutive days

## Seclusion

15.1 Seclusion for more than 4 hours  
for adults (Note: more than 4  
hours for adolescents and 2 hours  
for children)

15.2 More than 3 episodes of seclusion  
in 7 consecutive days

15.3 More than 5 episodes of seclusion  
in 30 consecutive days

## Stat Medications

16.1 2 Stat medications in 24 hours

16.2 3 Stat medications in 7  
consecutive days

16.3 15 Stat med in 30 consecutive  
days

Suicide Attempt

17.1 Any suicide attempt

17.2 Any suicide threat or ideations

\* A major injury is an injury that requires treatment of more than basic first aid by medical personnel or any injury resulting from alleged or suspected abuse or any injury judged to have potential for serious harm.

\*\* A minor injury is any injury, other than an injury caused by alleged or suspected abuse, that requires no treatment or only minor first aid and for which the potential for serious harm is judged to have been remote.

**PART II**  
**ENFORCEMENT**

A. Selection of Monitor

Mohamed El-Sabaawi, M.D. shall be appointed as the expert to monitor the State's implementation of this Agreement (the "Monitor"). The Monitor shall have full authority to assess, review, and report independently on the Defendants' implementation of and compliance with the provisions of the Agreement. No Party, nor any employee or agent of any Party, shall have any supervisory authority over the Monitor's activities, reports, findings, or recommendations. In the event that Dr. El-Sabaawi is unable to serve or continue serving as the Monitor, or in the event that the Parties for any reason agree to discontinue the use of Dr. El-Sabaawi, the Parties shall meet or otherwise confer within thirty (30) days of being notified of the incapacity or the decision to discontinue use of Dr. El-Sabaawi to select a new Monitor. If the Parties are unable to agree upon a selection, each Party shall submit two names, along with resumes or curricula vitae and cost proposals, to the Court and the Court shall appoint the Monitor from among the names submitted. The procedure described in this paragraph shall apply to all successor Monitors. The Parties agree that the Monitor may use consultants to assist the Monitor. Any such consultants shall be paid for time, services, and expenses pursuant to the Monitor's existing budget. In collaboration with the Monitor, the Parties shall meet or otherwise confer whenever necessary to agree upon which particular consultant(s) the Monitor shall use to assist the Monitor in his duties as Monitor.. Neither the

1 Monitor, nor any person or entity hired or retained by the  
2 Monitor to assist in furthering any provision of this Consent  
3 Judgment, shall be liable for any claim, lawsuit, or demand  
4 arising out of the Monitoring of this Consent Judgment. This  
5 paragraph does not apply to any proceeding before this Court for  
6 enforcement or payment of contracts or subcontracts for  
7 monitoring this Consent Judgment.

8 B. Budget of the Monitor

9 The Parties and the Monitor have agreed upon the annual  
10 budget for the Monitor's work.

11 C. Reimbursement and Payment Provisions

12 1. The cost of the Monitor, including the cost of any  
13 consultant to assist the Monitor, shall be borne by the  
14 State in this action. All reasonable expenses incurred  
15 by the Monitor or any consultant, in the course of the  
16 performance of the duties of the Monitor, pursuant to  
17 the budget of the Monitor, shall be reimbursed by the  
18 State. The United States will bear its own expenses in  
19 this matter.

20 2. The Monitor shall submit monthly invoices to the  
21 Defendants, with a copy to the United States, detailing  
22 all expenses the Monitor incurred during the prior  
23 month. These invoices shall include daily records of  
24 time spent and expenses incurred, and shall include  
25 copies of any supporting documentation, including  
26 receipts. The Defendants agrees to pay each month's  
27 invoice in full from the Monitor within thirty (30)  
28 days of receipt of the monthly invoice from the

1 Monitor. If the Defendants dispute all or part of the  
2 invoice, the Defendants shall notify in writing the  
3 Monitor and the United States within ten days of  
4 receipt of the Monitor's monthly invoice. The Monitor,  
5 the Defendants and the United States will endeavor to  
6 resolve any invoice disputes promptly and in good  
7 faith. Where the Monitor and the Parties are unable to  
8 resolve any invoice dispute, the Monitor and/or the  
9 Parties may petition the Court to resolve the dispute.

10 D. Responsibilities and Powers of the Monitor

- 11 1. The overall duties of the Monitor shall be to observe,  
12 review, report findings, and make recommendations,  
13 where appropriate, with regard to the implementation of  
14 the foregoing Enhancement Plan at the State Hospitals.  
15 The Monitor shall regularly review the therapeutic and  
16 rehabilitation services provided to individuals to  
17 determine the Defendants' implementation of and  
18 compliance with this Consent Judgment. During the  
19 Monitor's review, the Monitor shall have full and  
20 complete access to all of the State Hospitals'  
21 buildings and facilities, staff, patients, patient  
22 records, documentation, and information relating to the  
23 issues addressed in this Consent Judgment. The State  
24 Hospitals' Executive Directors shall direct all  
25 employees to cooperate fully with the Monitor. The  
26 Monitor shall be permitted to initiate and receive ex  
27 parte communications with the Parties. The Monitor  
28 shall devote such time as is necessary to fulfill the

1 purposes of the duties and responsibilities of the  
2 Monitor pursuant to this Consent Judgment.

- 3 2. The Monitor shall consult with the Parties and shall  
4 submit a written plan with regard to the methodologies  
5 to be used by the Monitor to assess the Defendants'  
6 compliance with and implementation of the Consent  
7 Judgment. The Monitor's evaluation shall include:  
8 regular on-site inspection of the State Hospitals'  
9 facilities and programs for patients, interviews with  
10 administrators, professional and other staff,  
11 contractors, and patients, and detailed review of  
12 pertinent documents and patient records. The Parties  
13 envision that the Monitor may provide specific  
14 recommendations to the Defendants with regard to steps  
15 to be taken to come into compliance with the Consent  
16 Judgment. However, the Defendants retain the  
17 discretion to achieve compliance by any legal means  
18 available to them, and may choose to utilize methods  
19 other than those that may be proposed by the Monitor or  
20 the United States. The Monitor shall not be empowered  
21 to direct the Defendants to take, or to refrain from  
22 taking, any specific action to achieve compliance with  
23 the Consent Judgment. The Parties do not intend for  
24 the Monitor to have the role of a "Special Master."  
25 The Agreement is the product of two governmental  
26 agencies exercising their expertise.
- 27 3. In any instance in which either party disagrees as to  
28 compliance, the Court shall give appropriate deference

1 to the Monitor's assessment of compliance.

- 2 4. The Parties envision that the United States and the  
3 Monitor shall conduct a "baseline" evaluation of the  
4 Defendants' compliance with the terms of this Consent  
5 Judgment at the State Hospitals within the first 180  
6 days after the filing of this Consent Judgment. This  
7 initial baseline evaluation is intended to inform the  
8 Parties and the Monitor of the status of compliance  
9 with this Enhancement Plan. The Monitor shall produce  
10 a written report to the Parties with regard to the  
11 State's compliance with particular provisions of the  
12 Consent Judgment as soon as possible, but at least  
13 within 60 days of each visit.
- 14 5. Following the baseline tour, the Monitor shall conduct  
15 subsequent tours of each State Hospital at least  
16 semi-annually, upon reasonable notice to the State  
17 Hospital, in order to fulfill his or her obligations  
18 pursuant to this Consent Judgment. In connection with  
19 the baseline tours, the Parties and the Monitor shall  
20 attempt to agree upon a schedule of subsequent tours  
21 and reports for the upcoming year, to be repeated  
22 annually thereafter.
- 23 6. The Monitor shall provide the Parties with a written  
24 report as soon as possible, but at least within 60 days  
25 of each tour and shall detail with as much specificity  
26 as possible how the State is or is not in compliance  
27 with particular provisions of the Consent Judgment.  
28 Drafts of the Monitor's reports shall be provided to

the Parties for comment at least ten (10) business days prior to issuance of the reports. Upon the achievement of eighteen (18) months of substantial compliance with any substantive paragraph(s) of this Agreement, no further reporting shall be required on that paragraph.

7. The Defendants shall notify the Monitor immediately upon the death of any current State Hospital patient, including any person who died following transfer due to medical condition from a State Hospital to another medical facility. The Defendants shall forward to the Monitor copies of any completed incident reports related to deaths, autopsies and/or death summaries of residents, as well as all final reports of investigations that involve State Hospital patients. The Defendants shall also notify the Monitor immediately if they receive a citation or threat to de-certify a State Hospital from the Centers for Medicaid and Medicare Services.

E. The United States' Access to Information and the State Hospitals

1. The United States shall have full access to, and shall, upon request, receive copies of any documents, records, databases, and information relating to the implementation of this Consent Judgment. The Defendants shall provide any requested documents, records, databases, and information to the United States as soon as possible, but no later than within thirty (30) business days of the request, or



1 within a time frame negotiated by the parties if the  
2 volume of requested material is too great to reasonably  
3 produce within thirty days. The United States, upon  
4 reasonable notice, shall have full access to all of the  
5 State Hospitals' buildings and facilities, staff,  
6 patients, patients' records, documentation, and  
7 information relating to the issues addressed in this  
8 Consent Judgment. The State Hospitals' Executive  
9 Directors shall direct all employees to cooperate fully  
10 with the United States. The United States may receive  
11 and respond to unsolicited calls or contacts from State  
12 personnel outside the presence of State  
13 representatives.

### 14 PART III

#### 15 MODIFICATION OF TERMS

16 A. If the Parties reach a subsequent agreement that varies from  
17 the Plan, the new agreement shall be reduced to writing, signed,  
18 and filed with the Court for approval.

### 19 PART IV

#### 20 COMPLIANCE AND TERMINATION

21 A. The purpose of this Consent Judgment is that the Defendants  
22 will be able to achieve desired outcomes for and provide the  
23 necessary protections, supports, and services to the  
24 individuals served by the State Hospitals. All of the terms of  
25 the Plan set forth in Part I hereof shall be implemented at the  
26 State Hospitals within 36 months of the Enhancement Plan's  
27 effective date, except that § 1.3 of the Plan and all provisions  
28 of the Plan having to do with suicide prevention measures shall

1 be implemented at the State Hospitals upon the effective date of  
2 this Consent Judgment. This Consent Judgment will be terminated  
3 and the case dismissed five (5) years after the effective date of  
4 the Consent Judgment. This Consent Judgment may terminate at an  
5 earlier date if the Parties agree that the Defendants are in  
6 substantial compliance with each provision of the Consent  
7 Judgment, and the State has maintained compliance for at least  
8 eighteen (18) months ("maintained sustained compliance"). If  
9 Defendants and the Monitor contend that the Defendants have  
10 maintained sustained compliance and the United States disagrees,  
11 Defendants may move this Court for an order terminating this  
12 Consent Judgment. In any instance in which the parties disagree  
13 as to compliance, the Court shall give appropriate deference to  
14 the Monitor's assessment of compliance. Noncompliance with mere  
15 technicalities, or temporary failure to comply during a period of  
16 otherwise sustained compliance shall not constitute failure to  
17 maintain substantial compliance. At the same time, temporary  
18 compliance during a period of sustained noncompliance shall not  
19 constitute substantial compliance.

20 B. At all times, the State shall comply with applicable federal  
21 and state licensing requirements.

22 C. If the United States maintains that the Defendants have  
23 failed to carry out any requirement of this Consent Judgment, the  
24 United States shall notify the Defendants with specificity of any  
25 instance(s) in which it maintains that the Defendants have failed  
26 to carry out the requirements of this Consent Judgment.

27 D. With the exception of conditions or practices that pose an  
28 immediate and serious threat to the life, health, or safety of

1 individuals served by the State Hospitals, the Defendants shall  
2 have thirty (30) days from the date of a deficiency notice from  
3 the United States to cure the claim of noncompliance. During  
4 this period, the Parties shall coordinate and shall discuss areas  
5 of disagreement and attempt to resolve outstanding differences.

6 E. Unless specified to the contrary elsewhere herein, in any  
7 compliance or other adversarial hearing prior to final dismissal  
8 of this action, the burden of proof will be on the Party moving  
9 the Court.

10 F. All provisions of this Consent Judgment shall have ongoing  
11 effect until the final dismissal of this action. The Court shall  
12 retain jurisdiction for all purposes until such time as this  
13 action dismissed. Independent of the foregoing, if the United  
14 States and the Defendants agree that the State Hospitals have  
15 achieved substantial compliance with each section of this Consent  
16 Judgment, the Parties shall file a joint motion to dismiss this  
17 action.

18

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20

21 DATED: This 22 day of February, 2006.

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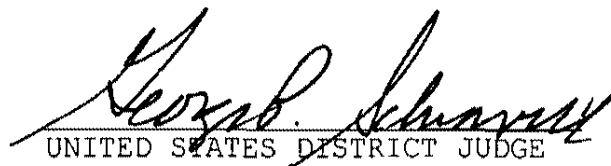
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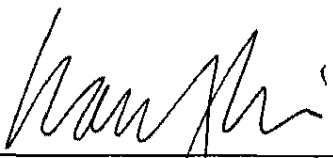
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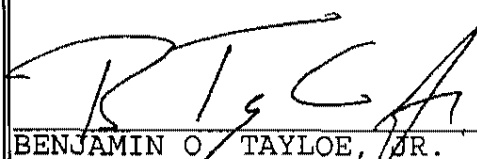
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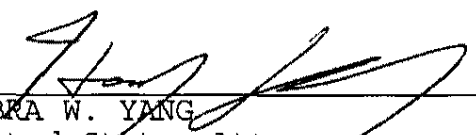
  
UNITED STATES DISTRICT JUDGE

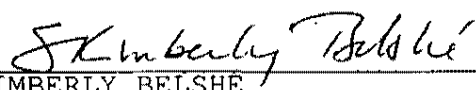
1 APPROVED AS TO FORM AND CONTENT:

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5 WAN J. KIM  
6 Assistant Attorney General

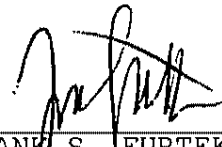
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8 SHANETTA Y. CUTLAR  
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11 BENJAMIN O. TAYLOE, JR.  
12 LEE R. SELTMAN  
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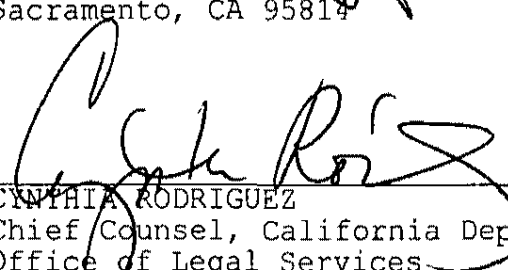
4 Secretary, State of California  
5 Health and Human Services Agency  
6 State of California  
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8 1600 Ninth Street, Room 460  
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Sacramento, CA 95814

PROOF OF SERVICE BY MAILING

I am over the age of 18 and not a party to the within action. I am employed by the Office of United States Attorney, Central District of California. My business address is 300 North Los Angeles Street, Suite 7516, Los Angeles, California 90012.

On October 31, 2006, I served **AMENDED CONSENT JUDGMENT** on each person or entity named below by enclosing a copy in an envelope addressed as shown below and placing the envelope for collection and mailing on the date and at the place shown below following our ordinary office practices. I am readily familiar with the practice of this office for collection and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

Date of mailing: October 31, 2006. Place of mailing: Los Angeles, California.

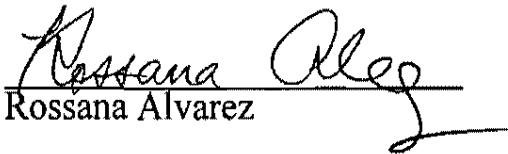
**Person(s) and/or Entity(ies) to Whom mailed:**

Cynthia Rodriguez  
Office of Legal Services  
California Department of Mental Health  
1600 9<sup>th</sup> Street, Room 153  
Sacramento, CA 95814

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on: October 31, 2006 at Los Angeles, California.

  
Rossana Alvarez