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December 23, 2004

Carol S. Hood
Deputy Director, Systems of Care
Attn: MHSA Team
California Department of Mental Health
1600 Ninth Street
Sacramento, CA 95814

Campaign for Mental Health
1127 11th Street, Suite 925
Sacramento, CA 95814

Re: Draft Strategies to Implement Proposition 63.

Protection & Advocacy, Inc., (PAI) is the agency designated by the Governor to protect and advocate for the rights of individuals with disabilities under the Developmental Disabilities Assistance and Bill of Rights Act, the Protection and Advocacy of Individuals with Mental Illness Act, the Rehabilitation Act of 1973, and other federal and state statutes. As part of its mandate, PAI advocates for the expansion and strengthening of community mental health services and for the elimination of unnecessary institutionalization. We appreciate this opportunity to comment on the proposed county planning process for the implementation of Proposition 63.

The Campaign for Mental Health did a tremendous job in campaigning for this exciting initiative that promises to transform the California mental health system. In addition, PAI appreciates the efforts that the Department of Mental Health has made to implement Proposition 63 quickly. The quality of the initial materials produced by DMH is impressive. PAI is writing these comments to request that more detail be added to some of the materials. PAI believes that counties should be given clear instructions by the California Department of Mental Health in order to insure that county plans contain certain necessary elements. These include the following:

"Advancing the human and legal rights of people with disabilities."

◆ **Programs funded under Proposition 63 must focus on reducing institutionalization and out-of-home care as well as preventing institutionalization and out-of-home care.**

Community-based services must be made available to people in institutions or out-of-home placements in order to implement the *Olmstead* requirements of the Americans With Disabilities Act. Counties should identify all residents of institutions who could transition to the community with community-based services, and should provide the community-based services that they need in order to begin the transition. Focused input into the planning and delivery process should be obtained from residents of institutions by both the state and the counties. Planning for discharge to the community should be done in accordance with the principles in the California *Olmstead* plan, which can be found at

http://www.dot.ca.gov/hq/MassTrans/doc_pdf/TOE/California_Olmstead_Plan.PDF, and in accordance with the standards set forth in the Center for Medicare and Medicaid Services (CMS) letter to state Medicaid directors, dated January 14, 2000, which can be found at <http://www.healthlaw.org/pubs/Alert000114.html>.

◆ **Cultural competence components in each county plan must address access and quality of care for each underserved community or group and each individual with special health care needs in the county and involve members in all levels of the planning or decision making process.**

Counties must identify all underserved communities or groups and individuals with special health care needs in the county for the purpose of determining how to provide culturally competent services. This includes individuals who are underserved or have special needs based on language, culture, ethnicity, gender, physical, sensory, or developmental disability, sexual orientation, religious and spiritual beliefs, and urban and rural living arrangements that present barriers to access to services. Counties also must identify other consumer and community groups within the health, mental health, and social service populations that have not previously or traditionally been identified and/or included, such as residents of Board and Care Homes, skilled nursing facilities, independent living facilities, IMD's, state hospitals, homeless shelters, SRO's, Supported Housing communities, and adult and juvenile detention and correctional facilities. Each county must provide culturally competent outreach, public information and focus groups in each of the identified groups and communities as part of the planning and service delivery process.

◆ **Counties must demonstrate how they will provide peer services.**

Counties should develop plans containing the best methods for providing peer services. Counties should not seek, nor be granted, waivers from the requirement to develop peer services. Peer services should include services to residents in institutions to assist in identifying services and supports that are needed in order to assist in the transition from the institution into the community.

◆ **Proposition 63 funds may not be used to pay for acute care hospitalization uncompensated care.**

Proposition 63 funds should be used to expand the availability of crisis services so that the need for acute care hospitalization will be reduced. This should be the focus of addressing uncompensated care in acute care hospitals. Acute care hospitalization is an existing program. Use of Proposition 63 funds to pay for the costs of services currently provided under an existing program other than an AB 34/2034 program violates the maintenance of efforts requirements of Proposition 63.

◆ **Proposition 63 funds may not be used to fund implementation of AB 1421.**

Proposition 63 Adult System of Care money is for the expansion of the voluntary AB 34/2034 program. It cannot be used for the expansion of other existing programs such as AB 1421. Moreover, AB 1421 cannot be implemented if implementation would reduce the availability of voluntary services, including AB 34/2034 services funded with State general fund money or Proposition 63 money.

◆ **An inclusive process should be developed by the State Department of Mental Health for determining how Proposition 63 funds should be allocated to the counties.**

On a statewide basis, consumers and family members should be involved in all aspects of the process for determining how funds will be allocated to the counties. There are wide differences in mental health service needs of various counties. Only a broad, inclusive process for identifying the unique needs of various counties can lead to an equitable allocation formula.

PAI appreciates this opportunity to comment on the proposed Proposition 63 planning materials, and to speak at the Campaign for Mental Health forum on the purpose and meaning of Proposition 63.

Carol S. Hood

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For more information on these issues, please contact the following individuals at PAI:

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Thank you again for your consideration.

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Sincerely,

Daniel Brzovic
Associate Managing Attorney