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Cheyenne, Wyoming 82001

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING

ANNA MARIA WESTON, by her )  
guardian Barbra Weston, et al., )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
WYOMING STATE TRAINING SCHOOL, )  
et al., )  
 )  
Defendants. )

CIVIL ACTION NO. C90-0004

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**PLAINTIFF'S SIX MONTH REVIEW AND REPORT TO COMPLIANCE  
ADVISORY BOARD**

Comes Now, undersigned counsel by and for Wyoming Protection & Advocacy System, Inc. submits to the Court this six month report to the Compliance Advisory Board ("CAB") pursuant to Section 8.03(e) of the Stipulated Agreement as incorporated in the Consent Decree for the Court's information and review.

Dated this 24 day of November 1991.

Respectfully Submitted,



Michael Reese

Attorney for the Plaintiff

Wiederspahn Lummis & Liepas, P.C.

2020 Carey Ave. Suite 704

Cheyenne, Wyoming 82001

### CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Plaintiff's Six Month Review and Report to Compliance Advisory Board was placed in the United States mail, postage prepaid, this 24 day of November 1991, addressed to:

Shirley Kingston  
Office of the Attorney General  
State of Wyoming  
123 Capitol Building  
Cheyenne, Wyoming 82002

**PROTECTION & ADVOCACY SYSTEM, INC.**  
2424 Pioneer Avenue, Suite 101  
Cheyenne, Wyoming 82001

TTY OR VOICE

**DEVELOPMENTAL DISABILITIES PROGRAM:**

(307) 632-3496 Cheyenne office  
(307) 332-5300 Ext 287 Lander office  
P.O. Box 58  
Lander, Wyoming 82520  
1-800-624-7648 Toll-free  
(307) 638-0815 FAX

**CLIENT ASSISTANCE PROGRAM**

(307) 638-7668 Cheyenne office  
1-800-821-3091 Toll-free  
(307) 638-0815 FAX

**MENTAL HEALTH PROGRAM**

(307) 635-7817 Cheyenne office  
(307) 789-3035 Evanston office  
350 City View Drive, Suite 207A  
Evanston, Wyoming 82930  
1-800-654-7972 Toll-free  
(307) 789-8631 FAX

REPLY TO:

September 11, 1991

**Compliance Advisory Board**

Ms. Sondra Kaska  
DD/MI Clinical Law Project  
College of Law  
University of Iowa  
Iowa City, Iowa 52242

Dr. Peter Blanck  
University of Iowa  
College of Law  
Iowa City, Iowa 52242

Re: Semi-Annual Report to CAB

Dear Compliance Advisory Board Members:

Section 8.03(e) of the Stipulated Agreement provides that "the parties shall jointly compile semi-annual reports outlining the degree of progress...", including "recommendations". It is our belief and expectation that "jointly" does not mean an endeavor which is mutually written but that our report is contemporaneous with the report of the State. It would seem to be more reasonable that CAB receive simultaneous reports from each party reflecting the different perspectives and experiences.

Attached to this letter is a summary of the status of items required by the Consent Decree to have been undertaken prior to the date of this report. However, consistent with the language of the Consent Decree, we respectfully make the following observations, reflections and recommendations:

1. As a general proposition, our working relationship with the State of Wyoming has improved, even though we remain vigilant and committed to strong monitoring and compliance checking. The parade of events over the last six months has been a learning encounter.

2. During the course of implementing the Consent Decree, we naturally become aware of situations and events that have occurred or are occurring that may impede the successful implementation of the Decree within the time frame contemplated and set forth in the Decree. Since the parties have embarked into uncharted waters, sometimes the going is smooth, sometimes rough, and as we break through one wave, another hits. Implementation is a more difficult battle than arriving at the Consent Decree, but we in the State of Wyoming have a golden opportunity to fulfill a vision.

3. Of the situations of which we have become cognizant, they include, among others, concern by staff at WSTS about the capacity of the Superintendent to provide full-time stewardship to WSTS due to a splitting of labor between one task as Superintendent and the other task as Director of Developmental Disabilities. It appears to us that there is a lack of concentrated direction beginning at the top of the organization chart which contributes to low-staff morale. It may well be that this problem is more a matter of embryonic jitters that will improve with the passage of time and getting some innings under the belt. However, it is a concern to us which will be carefully monitored. Our concern is no reflection on the Superintendent's abilities, but on the inherent risks in performing two related but difficult and time consuming assignments.

4. The difficult portions of the implementation of the Decree are forthcoming, for example, incorporating the recommendations of ENAT as discerned in the reports (which we have not received as of this report), but which we understand the reports to include systemic changes.

5. Some of our more specific recommendations would be that WSTS automatically inform us of placements with the necessary information, for example, a copy of the transition plan. Other recommendations would be that WSTS improve its training to staff in several areas. We have gleaned as a result of monitoring that WSTS is experiencing high worker's compensation claims in such matters as lifting residents, which obviously has a direct correlation to the adequacy of training. What looks good on paper, when carried out, may require change. We will follow up on a more extensive report.

6. The past six months highlighted concerns about: access to information and staff which has been resolved; and, the need for an independent death review committee (which discussion is nearing conclusion). P&A has and is attempting to review the events and circumstances surrounding resident deaths. We will submit our findings to the State and CAB. We did reach conclusion on class

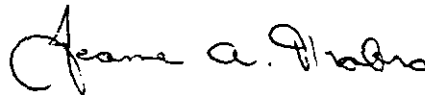
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member eligibility procedures after several months of negotiations, but, as with other elements of the Decree, the struggle may well be in execution.

7. Our experience with CAB in the discussions on the independent death review committee has been positive. CAB can be a facilitating force that decreases the time that otherwise might be spent between the parties in reaching a consensus.

In conclusion, the first six months have been a growth experience for all and the next six months should reflect our mutual learning about each other and the difficult road ahead. Should you have any questions or need for expansion on any issue, please feel free to contact us.

Sincerely,



Jeanne A. Thobro  
Executive Director



Danny S. Wilde  
General Counsel



Michael H. Reese  
Attorney at Law

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Attachment

c: Mr. Steve Zimmerman  
Ms. Jane Sabes

# STATUS REVIEW OF COMPLIANCE

*Note: Scheduled date refers to the time in which the state must submit documents for the review process*

ACTIVITY	STATUS
<p>1. Ombudsman</p> <p>Scheduled date:by December 31,1990</p> <p>Completion date:see notes</p>	<p>This activity was extended initially to June 12, 1991. A second extension was granted by Jeanne Kawcak on June 14, 1991 at the request of Mr. Bob Clabby. The extension allowed the State to inform P&amp;A by June 21, 1991 of its proposal to meet the compliance deadline. Mr. William Ryker was hired by the Division of Developmental Disabilities to start July 15, 1991. Informed by letter dated June 27 1991 by Bob Clabby. This position referred to as Client Rights Specialist.</p>
<p>2. Client rights specialist</p> <p>Scheduled date:by March 13, 1991</p> <p>Completion date:see notes</p>	<p>Completed.</p>
<p>3. Community Integration</p> <p>Scheduled date: no date set in agreement</p> <p>Completion date:see notes</p>	<p>Completed.</p>
<p>4. Organization Chart</p> <p>Scheduled date: no date set in agreement</p> <p>Completion date:see notes</p>	<p>A detailed organization chart was submitted on WSTS by letter dated June 27,1991 by Roxanne Ralls. Section 5.13 of the Agreement sets forth the requirement for the organizational chart. Such a chart has not been prepared by the Department of Health., although a letter dated May 29, 1991 to "Legislator" by Jane Sabes, Director of Department of Health, did not include independent case management.</p>

<p>5. CAB oversight plan</p> <p>Scheduled date: within 45 days of March 13, 1991</p> <p>Completion date: see notes</p>	<p>The State submitted a draft plan dated 4/22/91 to which P&amp;A responded with its plan. At the May 9&amp;10, 1991 meeting in Lander, agreement in principle was reached on staffing. The State promised a new version about the week of July 7,1991 and over the last several months there has been considerable discussion which contributed to the delays in adopting the plan. The State submitted a new draft dated July 5, 1991. P&amp;A responded in letter dated July 18,1991. By letter dated August 27,1991 P&amp;A has provided additional comments on the CAB plan. The proposed plan is still pending.</p>
<p>6. Class member proc.</p> <p>Scheduled date: within 45 days of March 13, 1991</p> <p>Completion date: see notes</p>	<p>This action was to have been completed by May 13, 1991. As of June 19, 1991, this activity was still unresolved. P &amp; A allowed an extension in this matter, and set a June 27, 1991 deadline. A meeting was held in the Governor's conference room on June 27,1991 in an attempt to resolve differences. From P&amp;A were Michael Reese and Danny Wilde; from the State were Steve Zimmerman, Jane Sabes, Ken Heinlein, Bob Clabby, Pat Arp, Dennis Coll and Rowena Eckert. Danny Wilde was delegated the responsibility to draft language on the independence of the evaluation team which was completed on June 28, 1991. Other issues unresolved from this meeting included the issue of case managers for non-class members. With proposals back and forth, agreement was reached and Appendix A was filed with the Court on August 2, 1991.</p>
<p>7. Submit final list of class members</p> <p>Scheduled date: within 45 days of march 13, 1991</p> <p>Completion date: see notes to #6 above</p>	<p>Not completed. The state submitted a list on May 29, 1991 which has not been reviewed for verification, nor whether this list complies with the definition of class members.</p>

<p>8. IPP Criteria</p> <p>Scheduled date: within 60 days of March 13, 1991</p> <p>Completion date: see notes</p>	<p>Not completed. P&amp;A has made additional comments and the State has not responded.</p>
<p>9. Civil Rights Handbook</p> <p>Scheduled date: 60 days from date of agreement</p> <p>Completion date: see notes</p>	<p>Not completed. Another draft was prepared by WSTS and P&amp;A responded in memo dated May 7, 1991 that the draft was not acceptable.</p> <p>As of September 10, 1991 P&amp;A has not received any further draft.</p>
<p>10. Substitution roster plan</p> <p>Scheduled date: June 1, 1991</p> <p>Completion date: see notes</p>	<p>Not completed as of September 10, 1991. The State by and through Shirley Kingston is responding to changes suggested by P&amp;A after a meeting with Shirley Kingston and Danny Wilde in September 1991. A formalized plan was submitted on August 29, 1991, which is after the original scheduled date.</p>
<p>11. CAB Budget</p> <p>Scheduled date: within 90 days of appointment, i.e. March 12, 1991</p> <p>Completion date: see notes</p>	<p>After several drafts and comments, the CAB budget was adopted for the first year..</p>



<p>12. Staff training plan</p> <p>Scheduled date: 90 days of date of agreement</p> <p>Completion date: See notes</p>	<p>Not completed. P&amp;A has suggested values based training and submitted information on such training. No resolution of this issue. Based on a recent monitoring check to WSTS, P&amp;A will follow through with more comment and suggestion on training needs.</p>
<p>13. Abuse and neglect reporting system at WSTS</p> <p>Scheduled date: Within 3 months of date of agreement</p> <p>Completion date: see notes</p>	<p>Not completed. P&amp;A has submitted comments; awaiting response from the State.</p>
<p>14. Plan for technical assistance to the community programs</p> <p>Scheduled date: 90 days of effective date of agreement</p> <p>Completion date: see notes</p>	<p>The technical assistance plan as submitted by the State accompanied the training plan and essentially incorporated the training plan as the technical assistance plan. See previous comments on the training plan..</p>

<p>15. Civil and legal rights of the class members</p> <p>Scheduled date: June 21, 1991</p> <p>Completion date: see notes</p>	<p>A one page document had been handed out during the May 9 &amp;10, 1991 meeting in Lander This one-page document was commented on and Ken Heinlein was to make changes. P&amp;A has no information on the use of such a document or if the change suggested by P&amp;A was ever made.</p>
<p>16. IEP for each WSTS resident under the age of 21 years</p> <p>Scheduled date: June 30, 1991</p> <p>Completion date: see notes</p>	<p>P&amp;A has been told that this element is completed; however, compliance will verify whether IEPs have been completed .No documents have been submitted to verify this activity.</p>
<p>17. Private, comfortable and sanitary residential setting at WSTS</p> <p>Scheduled date: June 30,1991</p> <p>Completion date: see notes</p>	<p>P&amp;A acknowledges receipt of a June 27, 1991 report on this matter but P&amp;A has questions in this area and is conducting monitoring to verify the accuracy of the report.</p>

<p>18. Resident population          &lt;=301</p> <p>Scheduled date: June          30, 1991</p> <p>Completion date:</p>	<p>Completed.</p>
<p>19. Public education plan          for the state</p> <p>Scheduled date: June 30,          1991</p> <p>Completion date: see          notes</p>	<p>On-going. Several meetings have occurred during the last few months in a mutual and concerted effort to provide public education. However, the State was lax in informing parents and family members about the Consent Decree, which led to some unfavorable publicity during the summer of 1991.</p>
<p>20. Internal Quality          Assurance Plan WSTS</p> <p>Scheduled date: no date          set but upon agreement,          July 1, 1991</p> <p>Completion date: see          notes</p>	<p>The state has submitted a plan but P&amp;A has not yet responded.</p>