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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. STATE OF CALIFORNIA; THE HONORABLE ARNOLD SCHWARZENEGGER, Governor of the State of California, in his official capacity only; STEPHEN W. MAYBERG, Director of the California Department of Mental Health, in his official capacity only;	CASE NO. _____ CONSENT JUDGMENT

psychiatric, medical, and psychosocial history and previous response to such services.

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

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

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

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

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

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

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

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

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

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

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

vi. implement interventions appropriately throughout the individual's day, with a minimum of 20 hours of active treatment per week. Individual or group therapy included in the individual’s WRP shall be provided as part of the 20 hours of active treatment per 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 mall 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

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;

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

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

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

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

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

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

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

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

receives an Admission Medical Assessment that includes:

1) a review of systems;

2) medical history;

3) physical examination;

4) diagnostic impressions; and

5) management of acute medical conditions.

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

1) psychiatric history, including a review of presenting symptoms;

2) complete mental status examination;

3) admission diagnoses;

4) completed AIMS;

5) laboratory tests ordered; and

6) consultations ordered.

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

1) psychiatric history, including a review of present and past history;

2) psychosocial history;

3) mental status examination;

4) strengths;

5) psychiatric risk factors;

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.

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

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

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

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

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

to inform the therapeutic and rehabilitation service planning process;

ii. if behavioral interventions are indicated, a structural and functional assessment shall be performed, consistent with generally accepted professional standards of care, by a professional having demonstrated competency in positive behavior supports; and

iii. additional psychological assessments shall be performed, as appropriate, where clinical information is otherwise insufficient, and to address unresolved clinical or diagnostic questions, including differential diagnosis, "rule-out," "deferred," "no-diagnosis" and "NOS" diagnoses.

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

3. Nursing Assessments

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

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

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

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

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

4. Rehabilitation Therapy Assessments

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

b. Each State Hospital shall ensure that each individual served shall have a rehabilitation assessment that, consistent with 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);

2. Each State Hospital shall ensure that, beginning at the time of admission and continuously throughout the individual's stay, the individual is an active participant in the discharge planning process, to the fullest extent possible, given the individual's level of functioning and legal status.

3. Each State Hospital shall ensure that, consistent with generally accepted professional standards of care, each individual has a professionally developed discharge plan that is integrated within the individual's therapeutic and rehabilitation service plan, that addresses his or her particular discharge considerations, and that includes:

   a. Measurable interventions regarding these discharge considerations;

   b. The staff responsible for implementing the interventions; and

   c. The time frames for completion of the interventions.

4. Each State Hospital shall provide transition supports and services consistent with generally accepted professional standards of care. In particular, each State Hospital shall ensure that:

   a. Individuals who have met discharge criteria are discharged expeditiously, subject to the availability of suitable placements; and

   b. Individuals receive adequate assistance in transitioning to the new setting.

e. Each State Hospital shall ensure regular monitoring, using a validated rating instrument (such as AIMS or DISCUS), of tardive dyskinesia ("TD"); a baseline assessment shall be performed for each individual at admission with subsequent monitoring of the individual every 12 months while he/she is receiving antipsychotic medication, and every 3 months if the test is positive, TD is present, or the individual has a history of TD.

f. Each State Hospital shall ensure timely identification, reporting, data analyses, and follow up remedial action regarding all adverse drug reactions ("ADR").

g. Each State Hospital shall ensure drug utilization evaluation ("DUE") occurs in accord with established, up-to-date medication guidelines that shall specify indications, contraindications, and screening and monitoring requirements for all psychotropic medications; the guidelines shall be in accord with current professional literature. A verifiably competent psychopharmacology consultant shall approve the guidelines and ensure adherence to the guidelines.

h. Each State Hospital shall ensure documentation, reporting, data analyses, and follow up remedial action regarding actual and potential medication variances ("MVR") consistent with generally accepted professional standards of care.

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,

ii. the development and implementation of a facility-wide behavioral incentive system, referred to as "BY CHOICE," that encompasses self-determination and choice by the individuals served.

b. Each State Hospital shall ensure that the Chief of Psychology has the clinical and administrative responsibility for the Positive Behavior Support Team and the BY CHOICE incentive program.

c. Each State Hospital shall ensure that:

i. behavioral assessments include structural and functional assessments, and, as necessary, functional analysis;

ii. hypotheses on the maladapative behavior are based on structural and functional assessments;

iii. there is documentation of previous behavioral interventions and their effects;

iv. behavioral interventions, which shall include positive behavior support plans, are based on a positive behavior supports model and do not include the use of aversive or punishment contingencies;

v. behavioral interventions are consistently implemented across all settings, including school settings;

vi. triggers for instituting individualized 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.

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

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

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

3. Nursing Services

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

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

i. safe administration of PRN medications and Stat medications;

psychiatric technicians have successfully completed competency-based training regarding:

i. mental health diagnoses, related symptoms, psychotropic medications and their side effects, monitoring of symptoms and target variables, and documenting and reporting of the individual's status;

ii. the provision of a therapeutic milieu on the units and proactive, positive interventions to prevent and de-escalate crises; and

iii. positive behavior support principles.

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

4. Rehabilitation Therapy Services

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

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

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

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

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

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

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

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

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

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

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

8. Infection Control

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

a. Each State Hospital shall establish an effective 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;

educational needs and monitoring their individual progress.

b. Each State Hospital shall ensure that all Individual Education Plans ("IEPs") are developed and implemented consistent with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq. (2002) ("IDEA").

c. Each State Hospital shall ensure that teachers providing instruction to students at the State Hospital have completed competency-based training regarding teaching and academic instruction, behavioral interventions, monitoring of academic and behavioral progress, and incident management and reporting.

d. Each State Hospital shall ensure that students receive instruction and behavioral supports appropriate to their learning abilities and needs, consistent with generally accepted professional standards of care.

e. Each State Hospital shall provide appropriate literacy instruction, consistent with generally accepted professional standards of care, for students who show deficits in one or more common areas of reading (e.g., decoding or comprehending).

f. Each State Hospital shall, on admission and as statutorily required thereafter, assess each student's capacity to participate, with appropriate supports and services, in an integrated, non-

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

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

8. Each State Hospital shall:

a. Develop and implement a plan to reduce the use of side rails as restraints in a systematic and gradual way to ensure individuals' safety; and

b. Ensure that, as to individuals who need side rails, their therapeutic and rehabilitation service plans expressly address the use of side rails, including identification of the medical symptoms that warrant the use of side rails, methods to address the underlying causes of such medical symptoms, and

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;

Escape/AWOL	6.1	Any escape attempt/unauthorized absence within facility
	6.2	Any escape attempt/unauthorized absence outside of facility
Falls	7.1	Any fall resulting in major injury
	7.2	Three or more falls in 30 consecutive days
Illicit Substances	8.1	Any incident of an individual testing positive for illicit substance (street drug) use
Medication Variance (Error)	9.1	Any medication error that results in major injury or exacerbation of a disease or disorder (i.e., prescribing, transcribing, ordering/procurement, dispensing/storage, administration, and documentation)