

# COALITION OF CALIFORNIANS FOR OLMSTEAD (COCO)

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Access Center of San Diego, Inc.

AIDS Legal Referral Panel

Alameda County Network of Mental Health Clients

Americans Disabled for Attendant Programs Today

Arc California

California Alliance for Inclusive Communities

California Foundation for Independent Living Centers

California Network of Mental Health Clients

Central Coast Center for Independent Living

Communities Actively Living Independent and Free

Community Resources for Independence

Disability Resource Agency for Independent Living

Disability Rights Education and Defense Fund, Inc.

Disability Rights, Enforcement, Education, Services

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Independent Living Center of Southern California, Inc.

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Independent Living Resource Center, Inc.

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Multiple Sclerosis – CA Action Network

National Senior Citizens Law Center

The Oaks Group

Organization of Area Boards

People First of California, Inc.

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Public Interest Law Firm

Resources for Independent Living

Self-Advocacy Board of Los Angeles

Self-Advocacy Council, VI

Silicon Valley Independent Living Center

So. California Rehabilitation Services, Inc.

United Autism Alliance

WCIL

World Institute on Disability

## FINAL CONSOLIDATED COMMENTS ON OLMSTEAD PLAN OUTLINE DRAFT 3, DATED 2/25/03

**General Comment: COCO asserts that the Proposed Plan is still missing sufficient outcome measurements and target dates. As the NAPAS Template states:**

**“The State should provide specific measurable goals and these goals must be tied to resource allocation. Time frames and outcome measurements must also include consequences if the time frames are not met or if the goal is not reached. One obvious consequence is that if the state plan is not “effectively working” the state will no longer have a defense to an ADA lawsuit for unnecessarily institutionalizing persons with disabilities.**

**State plans should not be sequential by institutional type or type of disability or age. In other words, the plan must apply the same time frames for the community integration of people in nursing homes and state hospitals as for those in public and private intermediate care facilities.”**

### I. INTRODUCTION

### II. BACKGROUND

### III. PLANNING PROCESS

### IV. CURRENT PROGRAMS AND EFFORTS

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**COCO understands that at least some the provisions which were contained in the Principles and Steps section of Draft 2**

*“A Coalition of Californians working toward community inclusion through the implementation of the Olmstead decision”*

**of the Olmstead plan have, in Draft 3, been divided between the Current Programs and Efforts and Recommended Future Actions sections. COCO has not yet seen a draft of the Current Programs section but is concerned that its comments on the adequacy of certain current actions as they pertain to Olmstead implementation not be lost. Thus, COCO has reprinted those comments here. It is important to know both what is underway and what is planned to ascertain its adequacy in terms of a "comprehensive, effective plan that moves at a reasonable pace". We have also added a section at the end with provisions from Draft 2, which are not current programs, and which have disappeared from Draft 3.**

\* Utilize person-centered planning and individual development teams as part of the Community Placement Planning process for individuals who will be assessed each fiscal year for movement from a developmental center to a community living situation.

\* Utilize the Community Placement planning process to identify the needed resources, services, and supports for those who will be moved from developmental centers each fiscal year.

**COCO Comments: The CPP provides for the assessment and community placement of only a small fraction of the total developmental center (DC) population in a given year. There are already more than 750 developmental center residents who have been recommended for community living arrangements by their individual program planning teams. Fewer than 200 developmental center residents have been included in the CPP each year for purposes of receiving comprehensive assessments or for transition to the community. At that rate, it would take in excess of 18 years to even properly assess the needs of the approximately 3,600 people currently residing in the developmental centers. Under last year's CPP Guidelines each regional center was allowed to choose - at its discretion- how many DC residents it would target for movement to a community home.**

**While the CPP may do a good job of transitioning the fortunate few who make it to the annual list, it is not comprehensive and moves at a glacial rather than a reasonable pace. Thus, reference to the DDS CPP in the Current Programs section is not adequate Olmstead planning -- the CPP must be revised so that regional centers all select adequate numbers of DC residents whose assessments recommend community living for movement. Simply adding the assessment of all Agnews residents to the plan in the Future Recommendations section is NOT enough.**

**The CPP is also inadequate because it applies only to residents of state developmental centers. There is no comparable plan even mentioned for assessing or transitioning regional center consumers with developmental disabilities who reside in other institutions, including nursing facilities, ICF/DDs, and large community care facilities. Currently, for example, more than 1,400 people with developmental disabilities live in skilled nursing facilities, more than 1,000 live in ICF/DDs, and another 2,000 live in large community care facilities.**

**All individuals in the developmental centers and regional center consumers in other institutions are entitled to receive a full assessment of the supports needed for them to move to the community --NOW. Resource development and placements must then occur at a reasonable pace.**

\* Provide follow-up services through Regional Resource Development Projects to developmentally disabled individuals who moved from a developmental center to the community, to help ensure a successful transition.

**COCO comments: If the monitoring currently required by WIC § 4418.3 is needed for individuals moving from the developmental centers, then it should be provided equally to individuals with developmental disabilities moving from other types of institutions to community settings.**

Issue a Request for Proposal in Spring 2003 for a contractor to develop a consumer-focused transition assessment instrument that considers medical, social, and personal needs. This instrument will be made available to Independent Living Centers and other entities involved in assessing individuals moving to the community from an institutional setting.

**COCO Comments: Is there any plan and support for the ILC's to do these assessments? How is this related to previous assessment instrument work sponsored by the LTCC? Who will be assessed?**

## **V. RECOMMENDED FUTURE ACTIONS**

The following lists some next steps for improving the long-term care system so that California residents will have available an array of community care options that allow them to avoid unnecessary institutionalization. The "Guiding Principles" are meant to govern all activities. The "Policy Goals" describe the policy goals to be pursued in order to improve the long term care system, and the

bullets under each of the goals indicate the strategies to be implemented to reach those policy goals. Note that some of the recommended future actions require additional funding. These funding requirements are identified in the text discussing the relevant item, below.

**COCO comments:**

1. Are these "some" or all of the contemplated next steps?
2. To which next steps is there a commitment?
3. When "additional funding" is indicated it appears the item will not occur in FY 2002/03 or 2003/04. Will it be budgeted for in FY 2004-05 or is there no actual commitment?
4. How can the Olmstead plan be viewed as adequate if there is no actual commitment to move forward on certain items? We recognize the budgetary shortfall this fiscal year and thus we believe that the Plan cannot be completed this year -- rather continued planning must occur in the remainder of 02/03 and in 03/04.
5. The State distributed the NAPAS Template of Key Issues in Olmstead Planning as background for the Olmstead planning meetings. In the small group sessions, reference was made to the fact that specifics from this document should be part of California's plan. This has not fully occurred. We have incorporated additional key issues in our recommendations.

### Guiding Principles

**COCO comments in bold with support below:**

- a. A person living in a community must be given the opportunity to fully participate in the community's services and activities through his/her own choices and in the **most integrated setting**. ~~least restrictive manner.~~
- b. **Promote and Honor consumer choice and ensure that consumers have the information on community options, in an understandable form, to assist them in making their choices.**
- c. Emphasize self-determination by consumers of their own lives.
- d. **For individuals who, because of the nature or severity of their disabilities, cannot express their choices and preferences with respect to living arrangements, the presumption is that they would choose to live in the most integrated setting in which their needs can be met rather than to remain unnecessarily institutionalized.**
- e. ~~Promote informed choice for consumers. (Duplicative)~~
- f. Consumers should be involved in the planning.

- g. The fundamental rights to community integration of adults with disabilities cannot be waived by substitute decision-makers.**
- h. For minor children with disabilities, the most integrated setting is at home with their families, whenever possible. Therefore, all references to institutions are understood to include out-of-home placements for minor children with disabilities. Minor children with disabilities who are at risk of out-of-home placement are considered at risk of institutionalization.**
- i. Provide an opportunity for interested persons; including individuals with disabilities and their representatives, to be integral participants in Olmstead plan development and follow-up.
- j. Olmstead planning should involve the entire community (including vendors, providers, family members and other stakeholders).
- k. Emphasize community inclusion.
- l. Plan should cover everyone under the Olmstead decision, regardless of age.
- m. Planning should include choice of services, flexibility, and the opportunity to change services when change is needed.
- n. Services should start in the community.
- o. Services should be to support individuals, not to take care of them.
- p. Services should be culturally competent.

**COCO comments:**

**1) The Guiding Principles should govern the entire plan, including current programs. We suggest they be moved to the Introduction.**

**2) The issue of consumer choice is central; however, choices cannot be made adequately without full understandable information on community options.**

**For individuals who, because of the nature or severity of their disabilities, cannot express their choices and preferences with respect to living arrangements, the presumption of the law is that they would choose to live in the most integrated setting in which their needs can be met rather than to remain unnecessarily institutionalized. This presumption is consistent both with common sense and the policy underlying numerous provisions of federal and state law, including the ADA, Government Code 11135, Constitutional liberty principles and the Lanterman Act. As the Supreme Court said, in Olmstead, unnecessary segregation is a form of discrimination on the basis of disability. The ADA thereby establishes a preference for integration of all people with disabilities who can handle and benefit from community living.**

**These fundamental rights to live as part of the community, and not be segregated and stigmatized, cannot be waived by substitute decision-makers. Unless an adult himself or herself expressly objects to movement to the**

**community, community integration must be the presumed choice. It should also be noted that an individual's objection to community placement is merely a waiver of the individual's right to that placement under the ADA. It does not obligate the state to provide the individual with continued institutional care when the individual's needs can appropriately be met in a more cost-effective manner in the community.**

## State Commitment

Policy Goal: Ensure commitment from the Long Term Care Council (LTC Council) and its constituent departments that the rules, regulations, and laws of the State are consistent with the principles of the Olmstead decision.

### **COCO Comments:**

- 1. This Plan is a product of the LTCC, so it should make the commitment in this document.**
- 2. This plan should contain a commitment to serving people with disabilities in the most integrated setting appropriate to their needs, in accordance with the Olmstead decision and federal guidance.**

The LTC Council will review and monitor the implementation of the Olmstead Plan, with the involvement of consumers and stakeholders. The plan shall be updated by April 1, of each odd-numbered year. The next update, for example, could focus on needs of specific populations.

### **COCO Comments:**

**COCO does not believe the Olmstead plan will be "finished" as of April 1, 2003. As is clearly indicated, the development of the data needed to even develop a plan will only occur this year. Moreover, the Governor has not yet had even one budget cycle in which to consider giving priority (even in tight budget times) to the recommendations of the Olmstead Plan. There has been no time to consider the possible cost-savings that could be achieved over time if the State expanded its waivers and moved towards more community-based settings rather than institutions, especially state operated institutions. Thus, it is premature to go to an alternate year monitoring system. As yet, there is no plan to monitor.**

**COCO recommends that the LTCC establish an Olmstead Planning and Monitoring Body with significant consumer participation; each department should also designate an Olmstead compliance entity, with significant consumer participation. The Planning Body would then be involved with all of the various tasks throughout the Plan that indicate the use of stakeholder review and input. After the data gathering is completed and reviewed and with the benefit of another budget cycle additions should be made to the Olmstead plan to achieve a truly comprehensive and effective plan that can address -in a reasonable timeframe - the needs of all institutionalized, or at-risk, Californians. After 2005, an alternate year review schedule may be adequate.**

LTC Council departments will review their strategic plans to see that they are consistent with the principles of the Olmstead decision and present their findings and any recommended changes by the Fall 2003 meeting.

**COCO Comment: Need consumer and representative input in analysis: What are the Olmstead principles that will be used? Need specificity regarding who, what, and when.**

CHHSA Directors who are members of the Long Term Care Council will report at the quarterly Council Meetings on key activities engaged in by their Departments that support the achievement of Olmstead Plan policy goals, including reviewing and revising regulations and policies.

## Data

Policy Goal: Develop and improve information and data collection systems to improve the long-term care system so that California residents will have available an array of community care options that allow them to avoid unnecessary institutionalization. Collect aggregate data on unmet needs for supports, services, and community options. Use aggregate data to develop resource requests.

The Long Term Care Council will immediately begin to identify data needs, based on internal review and consumer/stakeholder input to the Olmstead Plan. Consumers and stakeholders will be asked to review and comment on the identified needs. The Council will identify the data needed for purposes of planning for assessments for persons in institutions, care planning for individuals and services needed for transition, assessments for diversion from institutions, and care planning for individuals and services needed for diversion.

**COCO Comment: Good! Data collection is essential. We suggest additional language above: Aggregate data on unmet needs and the lack of availability of needed home and community options, services and housing will be maintained and used for systemic planning and resource development purposes.**

Data needed may include, but not be limited to:

**COCO suggested changes and additions in boldface:**

### Assessment

- a. Identify all individuals, **including children**, living in publicly-funded institutions. **Data on children with disabilities in out of home placements, including but not limited to special education, juvenile justice and foster care placements, should be compiled.**
- b. **For each person residing in a publicly-funded institution, identify the services and supports, if any, which would enable him or her to live successfully in an integrated community setting.**
- c. Determine, of the individuals so identified, those who, **after receiving information on community options in an understandable form and having the benefit of an assessment, seek and/or do not object to community placement and whose assessment team has identified this as a feasible option.**

**d. The length of time it took to get assessed for community placement.**

**Diversion**

- a. Reasons persons are at-risk for institutionalization for purposes of diversion efforts.
- b. Numbers of people diverted from institutionalization.
- c. Numbers of people not diverted due to lack of community-based services **including identification of the specific services that were needed.**

**Transition**

- a. **Identify the estimated timeframe for actual movement of the resident to a community setting.**
- b. Length of time between when the person was assessed as appropriate for community services and when the individual received the needed community service, including waitlist information.
- c. **Number of individuals moved to the community, type of placement and location of placement and services and supports.**
- d. **Numbers of individuals returning to institutions in the first six months, one year, or five years after moving to the community.**

**Community capacity**

- a. Unmet community service needs and the gap between existing services and consumer needs **and the timeframe and funding which would be needed to undertake the resource development to fill these service gaps.**
- b. **Numbers of trained service providers and location of providers - reviewed for possibility of shortage.**
- c. **Number of community placements available and location of community services .**

**Housing**

- a. **Tabulate the number of affordable, accessible housing units needed for assisting currently institutionalized individuals to transition to the community, organized by county, including information about any specialized housing needs (i.e. need a 2 bedroom unit to accommodate an attendant).**
- b. **Identify and describe all housing subsidy programs that are targeted to persons with disabilities (even if no current vacancies exist), including all specifics regarding target populations and affordability levels and restrictions (i.e. Section 811, Section 202, HOPWA, housing funded by DMH,**

**housing funded by DDS, Section 8 vouchers targeted by statute to people with disabilities, etc.), along with contact people in each county for further information on each program.**

- c. Identify, by county, the number and type of subsidized housing units or Section 8 vouchers currently targeted specifically to person with disabilities.**
- d. Identify, by county, the length of current waiting lists for people with disabilities for subsidized housing generally (public housing, Section 8, project based housing – funded by federal, state or local funds) and for housing targeted specifically to persons with disabilities;**
- e. Estimate, by county, the number of nonsubsidized accessible housing units.**
- f. Calculate the gap (number of units needed) between the housing needs of people with disabilities in institutions and the available housing units.**

### **Quality Assurance and Monitoring**

- a. Incidents of abuse or neglect, name of service provider, location of abuse, type of abuse, resolution taken, follow-up planned.**
- b. Data on consumer satisfaction with services and supports, quarterly, yearly, etc.**
- c. Comments about inadequacy of services by particular providers.**
- d. Grievances, including the issue grieved, the service provider who is the subject of the grievance, if applicable, and the resolution of the grievance.**

The Council should clearly identify what data is currently available, for example what information is available for persons residing in mental health institutions or information gathered through other organizations. The Council should also ensure any activities are compliant with confidentiality and HIPAA rules. Subject to additional resources, the Council will contract for the services of a consultant to collect the data and incorporate it into a data base for use by State departments.

Once the database is available, the LTC Council will convene a meeting with consumers and stakeholders to review the data, identify trends and issues,

recommend actions for improvement in the programs and identify areas for needed cost projections. This activity would be ongoing.

**COCO Comment: More specificity is needed about the tasks and timelines. By what date will the initial data collection be completed?**

**What is the relationship between this activity and the work done by the LTCC data workgroup?**

**Once we have the data it is time for further expanded Olmstead planning - see comment under State commitment above. Use of ongoing data for monitoring progress of Olmstead implementation in California must be included.**

**If the database is conditional on the hiring of a consultant, and the hiring of a consultant is conditional on additional resources, then the meeting to actually make recommendations may never happen.**

**Establishing a data base is so essential to true Olmstead planning that the Governor should - even in these budget times- include adequate funding in the May revise for this function. It should be made clear to the Legislature that this is critical. The cost of data collection will not be high; there are data out there, it just needs to be pulled together. For those areas where data do not exist, plans must be required to collect it in future years.**

DHS will request approval from the federal government to have access to Minimum Data Set (MDS) evaluations for Medi-Cal eligible individuals being placed in nursing facilities. The MDS contains a data regarding an individual's needs that can help provide an initial identification of those individuals in nursing homes who are candidates for more in-depth assessment and transition activities.

**COCO Comment: No specificity regarding who, when and how this information will be used. Needs to include input by consumers and representatives as well as making aggregate data public and available for Olmstead planning.**

## **Comprehensive Care Coordination**

Policy Goal: Develop and implement a comprehensive plan that will improve the long-term care system so that California residents will have available an array of community care options that allow them to avoid unnecessary institutionalization.

**COCO Comment: Very confusing. Not sure if this refers to an Olmstead plan or an individual care plan. Is the plan the goal, or is increasing the availability of high-quality care coordination the goal?**

The LTC Council will immediately begin to prepare a conceptual design for a comprehensive assessment and care coordination system for individuals placed in, or at risk of placement in, nursing facilities.

**COCO Comment: Why just nursing facilities, when the plan covers “people in all publicly funded institutions”?**

The Council will solicit consumer and other stakeholder comment and review on the conceptual design. This comprehensive system would include elements such as the following:

- a. A state level entity responsible for system administration.
- b. Community care coordination services that build upon existing service systems.
- c. A database containing information on individuals residing in nursing homes, those at risk of placement, and those who have been placed.
- d. A standardized assessment process for all NF residents that includes consumer and family participation as well as professional team members. This process should build upon the past work related to the LTC Council’s California Uniform Assessment Instrument project.
- e. A standardized diversion process for individuals at risk of placement in a nursing facility. Multi-disciplinary teams should be used for those who need it, such as persons with Alzheimer’s disease and related dementia.
- f. Required linkages and protocols between hospitals, physician’s offices, nursing facilities and the local community care coordination services.
- g. Care coordination for each consumer.
- h. The development of a care plan, including needed services and supports for each consumer.

- i. Training for care coordinators in obtaining needed services; establishment of linkages with all needed services (e.g. Local housing agencies.)
- j. A process for assessing unmet community service and support needs, including family caregiver support needs, and requesting resources to respond to those needs.
- k. A system to measure and report the outcomes of individuals placed in care plans.
- l. The implementation of the care plan, with necessary consumer follow-up by the care coordinator.
- m. A process for annual updates of consumer care plans.
- n. A process for appealing items included in or excluded from the care plan.
- o. A process for monitoring any waiting lists that arise and initiating actions to assess that such lists move at a reasonable pace.
- p. The development of information on all available funding options, and creation of a budget methodology to ensure adequate system funding.
- q. The structuring of funding sources into a coherent system of long term care.
- r. Identification of the procedures and regulations to be established by the state oversight entity to ensure system effectiveness and quality, and to ensure that its services reflect and are accessible by the cultural diversity of California's population.

**COCO suggested additions:**

- s. **Comprehensive assessment of the housing needs of institutionalized persons and oversight of the development of resources to assist with identifying affordable, accessible housing for these persons.**
- t. **Elimination of funding and other governmental disincentives to community-based options over institutions.**
- u. **Monitoring processes by all entities involved.**

**COCO Comment: No specifics regarding when, how, by whom this will be accomplished. Final recommendations to be made public.**

Subject to additional resources, begin to implement pilots to test the newly designed assessment/care planning system for persons in or at risk of placement in nursing facilities, in 3-5 locations that represent the diversity of California's urban, rural, valley and coastal communities. Additional resources will be required for staffing to perform oversight, administration and support for the pilot projects. Document the organizational structure and operating procedures, and contract for an independent evaluation to identify practices that work and those that do not work as well. Additional resources will be required for the evaluation contractor. The evaluation will include

recommendations for changes in operating procedures, and/or for additional pilots to test alternative and innovative service delivery options. The evaluation will identify steps to be taken towards full statewide implementation of a comprehensive assessment and care coordination system. Subject to additional resources, expand the system statewide.

**COCO Comment: How does this relate to existing programs such as the Long Term Care Integration projects, MSSP, the Care Navigator system? The state should build on existing models and best practices pilot projects; should explore federal funding and collaborate on efforts to do this.**

The DMH, with consumers, stakeholders, and counties, will immediately begin to develop recommendations to ensure a comprehensive assessment and care-planning system is in place for individuals placed in, or at risk of placement in, institutions due to mental health conditions. The recommendations could include components mentioned in the items “a” through “r” above, and should be integrated into existing county mental health programs. The recommendations should include an implementation schedule and identify needs for additional resources. The recommendations **should** build upon counties’ Adult System of Care or Children’s System of Care. A major focus of the system should be on diverting individuals from entering long term care institutions by developing community based services and supports that meet their needs.

**COCO Comment: Great! Look forward to working with you on this. Plans must be made to implement recommendations.**

The DHS Office of Long Term Care will issue a Request for Applications for up to five development grants and up to five planning grants to local entities intending to implement Long Term Care Integration (LTCI) projects. LTCI projects directly address Olmstead goals by implementing comprehensive and coordinated long-term care systems at the county level.

**COCO Comment: This is a current program and the RFP went out on February 14, 2003.**

DHS will support Long Term Care Integration Pilot Projects and identify ways to coordinate access to services, to organize funding sources and to alleviate the barriers to implementation. Provide technical assistance to LTCI participating counties in order to increase local capacity to divert or transition persons from nursing homes to home and community based services. If determined feasible, support efforts to pilot test LTCI projects administered by non-government entities.

**COCO Comment: Is this a change in the ongoing program?**

Enact legislation to make permanent the Program for All-Inclusive Care for the Elderly (PACE).

DHS will plan for expanding the number of PACE sites statewide with a long-term goal of establishing 10 PACE organizations in California.

**COCO Comment: Some PACE programs are underutilized. It is important to find out why and eliminate any barriers to participation.**

## Assessment

Policy Goal: Provide timely assessments for **all** persons in institutions to determine supports and services needed for **individuals to live successfully in the community**. Provide assessments for persons living in the community, who are at risk of placement in an institution or more restrictive setting, to remain in the community in the least restrictive setting. Assessments should result in an informed choice for the consumer as to the most appropriate and integrated setting.

**COCO Comment: All individuals are entitled to receive an assessment – you do not have to choose community placement in advance.**

The LTC Council departments will review all existing assessment procedures used for individuals residing in institutions and for individuals at-risk for placement in institutions, for consistency with the Olmstead principles and parameters listed below. The departments shall report at the LTC Council meetings, recommended changes for improvement and identification of any additional resources that would be needed.

**COCO Comment: The assessment procedures must be made public. What is the timeline for this – the beginning and ending dates? Need consumer and representative input and public report.**

The parameters shall include, but not be limited to:

### **COCO Recommendations are in boldface.**

- a. Assessment and planning should start with, and seek to implement, the premise that people can live in the communities of their choice with appropriate supports and services.
- b. Assessments should be used to determine the specific supports and services that are appropriate for the person and that he or she needs to live in, or remain in the community, including those needed to promote the individual's community inclusion, independence and growth, health and well being.
- c. Assessment tools and/or planning processes must not act as artificial barriers to individuals moving swiftly to the community.
- d. The individual assessment/planning process should be "person-centered" and focus on the person's goals, desires, cultural and language preferences, abilities and strengths as well as relevant health/wellness/ behavioral issues and skill development/training needs.
- e. People should always be involved in their own assessment/ planning process and must be provided with information in a form they can understand to help them make choices and consider options. **Information on options for living arrangements, meaningful day activities, including work, and integrated leisure opportunities should be included. Experiential information – visits**

**to community options – will be necessary for many individuals with disabilities.**

- f. The individual being assessed for community placement must be given the opportunity to visit and temporarily test out a choice of community services options prior to being asked to choose where one wants to live.**
- g. Individuals must be given understandable information about the results of their assessments and plans, in writing, and sign off on these documents.**
- h. Family members, friends or support people have an important role in the assessment/planning process, to the extent desired by the person with a disability. Assessments should include the individual's "circle of support." Family members, while involved, cannot be allowed to unilaterally "veto" the person's movement to the community when institutionalization has been determined to be unnecessary.**
- i. People must have the supports which best enable them to communicate, e.g., communication devices or the presence of people who can best interpret for them.
- j. Reduce duplicative assessments.
- k. Should be conducted on a defined, periodic basis that reflects the need and situation of the individual.
- l. Peer support and/or independent advocates should be available to assist individuals in the assessment/planning process.
- m. Professionals who prepare assessments and/or participate in planning must be qualified. In order to be qualified, a professional must have knowledge in their field of relevant professional standards and core competencies related to community-based services (including knowledge of the full variety of community living arrangements).
- n. Professionals who work in the community—e.g., Centers for Independent Living or other community organizations or experts that provide or design community-based support—must be involved in assessment and planning. Institutional staff should never be the only ones preparing assessments or determining the content of plans.**
- o. Assessments and determinations as to the most integrated setting must be based on the individual person's needs and desires for community services and not on the current availability or unavailability of services and supports in the community.
- p. Information should be provided to consumers regarding the opportunity to be assessed for placement; on the objective or purpose of assessment; on how to access the system for an assessment; on the timeline for implementation of potential plans and outcomes; on any entitlement to services; on consumer rights; on the option to change living situations, test different options, and change his or her mind; on how to obtain a peer/community advocate; or consumer's individual risk factors faced when moving out of an institution.

- q. If an individual is unsatisfied with recommendations made or results, she or he must have the right to appeal and be informed of how to do so.
- r. Assessments should clearly identify the range of services needed and preferred to support the person in the community, including where appropriate, housing, residential supports, day services, personal care, transportation, medical care, and advocacy support.
- s. **People living in institutions will be reassessed for community placement appropriateness at least every 6 months.**
- t. **Assessment for children with disabilities should include assessment for educational placement needs and right to placement in the least restrictive environment, as required by state and federal laws.**
- u. **Children in out-of-home care shall be assessed immediately upon placement in out-of-home care, whether placed for special education, child welfare, or juvenile justice purposes, for the services and supports that are necessary and should be made available to the child and her family to enable them to transition to the least restrictive environment.**

**COCO comment: Great progress. We request the above additions.**

DDS will assess all residents at Agnews Developmental Center to determine the services and supports that will be needed to transition from Agnews to another living arrangement in preparation for the proposed closure of Agnews in June 2005. All activities will be conducted consistent with the Olmstead principles emphasizing informed choice.

**COCO Comments: There is no stated commitment or plan to transition any substantial number of Agnews residents to the community (as opposed to other developmental centers). The addition of the last sentence is not sufficient -- COCO recommends the following alternate language.**

*“DDS will assess all residents at Agnews Developmental Center to determine the services and supports, if any, that could successfully meet their needs and choices in an integrated community setting in preparation for the proposed closure of Agnews in June 2005. Those who can successfully transition to the community will be provided with the services determined to be needed in their assessments. All activities will be conducted consistent with the Olmstead principles and with the Lanterman Act.”*

**Note: Californians with developmental disabilities have Lanterman Act rights to community services that are even stronger than the federal ADA.**

**COCO further recommends that, because the current assessment process at the DCs does not meet the above parameters, additional activities will be necessary -- e.g. at most DC planning meetings there is no one present with the**

**required knowledge of community options and consumers do not receive adequate understandable information on community options. Steps must be included in the Plan to remedy this and other deficits.**

**COCO also recommends the Agnews process be instituted in 2004 for the residents of Lanterman Developmental Center and that, consistent with the Legislative Analyst's report, a proposal for the closure of that developmental center be started.**

**COCO recommends that the Plan must also include specifics regarding the need to do full assessments of needed community services for the approximately 5000 people with developmental disabilities in other types of institutions and then to dedicate funding, as in the CPP, for the development of the needed resources. Some of these individuals are also covered by other sections of the proposed plan as they live in nursing facilities or mental health institutions.**

**COCO believes the above are needed for the Olmstead plan to move at a reasonable pace. COCO further believes that this and the other references to Agnews closure activities DO belong in the Plan even though they are in the "proposal" stage.**

DDS and DHS will seek a federal Home and Community-Based Services Independence Plus Waiver to fund the continuation and expansion of self-determination for regional center consumers.

**COCO Comments:**

- 1. Why is this the only population for whom the state is seeking an Independence Plus waiver?**
- 2. Have you considered the possibility that this waiver could bring in FFP for consumers on IHSS who receive advance pay?**

The LTC Council will identify options to reach residents in institutions in order to inform and educate them regarding the Olmstead decision.

**COCO Comment: This item belongs in the transition section. Also, does this include informing residents on how they can exercise their rights to be served according to Olmstead; that is, whom to call for help? Needs specificity – who, what, when. Needs to be done in collaboration with consumers and advocates, with results published.**

**Further COCO Assessment Recommendations:**

**For children with disabilities in out of home placements, including but not limited to special education, juvenile justice and foster care placements, assessment tools must be developed to 1) avoid unnecessary out of home placements in the first instance, and 2) transition children from out of home institutional placements to home and community based placements.**

**DMH and the California County Mental Health Directors should conduct a statewide evaluation of need for persons placed in institutional settings, and implement a statewide integration plan that includes the following:**

- a. Identification of the number of persons whose needs could be appropriately met in the home- or community-based setting of their choice with the provision of home- and community-based services, including but not limited to: (i) integrated system-of-care services; (ii) self-help and peer counseling; (iii) public and subsidized housing programs, such as public housing units and section 8 subsidies, shelter plus care, or the California Statewide Supportive Housing Initiative Act (which includes rental subsidies and/or security deposits); and (iv) Medi-Cal Specialty Mental Health Services (which include crisis residential services and one-to-one mental health services).**
- b. Client-directed evaluations of all persons placed in institutional settings, including: state hospitals (for both LPS conservatees and forensic patients<sup>1</sup>); Skilled Nursing Facilities with Special Treatment Programs (SNF/STPs); SNFs without STPs; Mental Health Rehabilitation Centers; Community Treatment Facilities; short-term acute care facilities (which includes persons held on administrative day status); private, residential care facilities with 16 or more beds; prisons, jails and juvenile detention facilities; and homeless shelters.**
- c. Evaluation should also include and identify persons who are at risk of placement in a segregated setting (such as children at home who are at risk of out-of-home placement; adults residing in single room occupancy hotels; older adults residing in board-and-care homes).**
- d. Conducting a preliminary cost estimate for the provision of long-term services and programs for persons who are evaluated, consistent with their preferences and rehabilitation or recovery goals. This cost estimate should include information about the current, total cost of service provision (such as supplemental rates to SNF/STP and CTF providers).**
- e. Implementing a plan, including funding requirements, to ensure the system capacity is increased so that persons with psychiatric disabilities**

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<sup>1</sup> State law provides for mental health treatment and supervision in the community for forensic patients under the Forensic Conditional Release Program (CONREP). (Welf. & Inst. Code § 4360). Recommendations for CONREP program placement should be based on the full scope of home and community based services available, including but not limited to Medi-Cal covered crisis residential and adult transitional residential services.

**have reasonably prompt access to needed home- and community-based services.**

## **Diversion**

Policy Goal: Develop a care plan for each consumer that identifies the needed and preferred supports and services to divert individuals from entering institutions and to ensure that the individual is served in the most integrated setting appropriate.

**COCO Comment: The above statement is a good strategy, but not a goal. The goal should be to divert individuals from institutional settings, and to, overall, decrease the use of institutions. What is California's goal for shifting funds and people from institutional care?**

The LTC Council departments will review current procedures for care planning that diverts persons from placement in institutions for consistency with the Olmstead principles and parameters listed below. The departments shall report at the LTC Council meetings, recommended changes for improvement and identification of any additional resources that would be needed.

**COCO Comment: Again, what is the timeline for this?**

The parameters shall include, but not be limited to:

- a. The care plan should consider a full array of services, not just what is currently available.
- b. Care plans, based on the assessments, should clearly identify the range of services needed and preferred to support the person in the community, in all relevant areas, including where appropriate, housing, residential supports, day services, personal care, transportation, medical care, and advocacy support.
- c. Provide care coordination for each consumer to connect the individual with community providers and assist in any transition activities as necessary. Clarity as to who is responsible to connect the individual with community providers.
- d. Care planning should be conducted on a defined, periodic basis and include follow-up with consumers on the care plan and updates as necessary.
- e. Persons involved in the transition/planning process should be qualified and knowledgeable of community living options, such as including experts in transportation and housing.
- f. Consumer and families should be educated about community placement.
- g. All materials should be clear and understandable to the consumer **and family.**
- h. Care planning should be person centered and consumer driven. **For**

**minor children and their families, care planning should be child and family centered and driven by child and family strengths.**

- i. Data regarding unmet needs should be used to identify need for more services for the individual and in the aggregate.

**COCO Comment:**

- 1. References to transition are out of place.**
- 2. How will people who are at-risk be identified and offered alternatives?**
- 3. What about the timeliness needed for diversion, and the importance of getting people on all appropriate waiting lists?**
- 4. We recommend adding more specifics about the need to address housing issues in the diversion process, including the possibility that short term expenditures such as payments for mortgage down payments, rental deposits, ramps and other modifications, and rental arrearages could help maintain affordable accessible housing.**

The LTC council departments will evaluate existing crisis response programs and report to the LTC council on identifying recommended models that could be incorporated in counties without existing programs. The models should focus on timely actions that can maintain an individual in community settings with appropriate services and supports. Stakeholders and counties should participate in this activity.

**COCO comments: All information must be public. The Olmstead Planning Body should participate. Dates, etc. There need to be commitments to developing the additional crisis and emergency services needed for diversion.**

The Department of Developmental Services will use the Regional Resource Development Project approach currently required by WIC 4418.7 for people whose community home is failing and for whom developmental center placement is a likelihood to assist regional center consumers at risk of institutionalization.

**COCO comments: The above is a current statutorily mandated effort and should be moved to section IV given how the plan is now arranged. However, additional activities must be inserted here if the plan is to be comprehensive. Specifically, the Regional Project approach currently required by WIC§ 4418.7 for people at risk of developmental center placement, must be expanded to apply to all regional center consumers at risk of any institutionalization. This would require additional resources. The need for diversion of people with developmental disabilities from other institutional settings is clear -- there are almost 5000 people in institutions other than the DCs and the number in SNFs is up close to 50 from 2001 to 2002.**

**COCO recommendations:**

**The LTCC shall assist DMH and DHS conduct the analysis required by Senate Bill 1911 and if the analysis demonstrates the requisite treatment improvements and cost savings, the Council should apply for a HCBS waiver, as required by the bill.**

**Supports and services identified in minor children's care plan should be based on family strengths, individualized, unconditional – in accordance with Children's System of Care and Wraparound principles.**

**Supports and services for minor children should be designed with the cooperation and coordination among agencies such as but not limited to Juvenile Probation, Child Welfare, County mental health departments, and schools.**

**COCO overall comment: There are NO action steps related to diversion of people in nursing facilities and other institutions. While California authorizes and pays for the initial placement of approximately 100,000 Californians annually in NFs, the Plan offers only vague intentions about deflection, pre-placement assessments and offering alternative community supports prior to NF placement. The state must set measurable goals and outcomes for diversion.**

## **Transition**

Policy Goal: Develop a care plan for each consumer that identifies the needed and preferred supports and services to transition individuals from institutions and to ensure that the individual is served in the most integrated setting appropriate.

**COCO Comment: Again, the above is a good strategy to reach a goal. The goal should be to move people out of institutions whenever appropriate. Another goal should be a user friendly, integrated long term care system.**

The LTC Council departments will review current discharge planning procedures for consistency with the Olmstead principles and parameters listed below.

**COCO Comment: Whose discharge planning procedures will be reviewed? Nursing homes, hospitals, developmental centers? What is the timeline for this activity? Needs consumer and representatives input.**

The departments shall report at the LTC Council meetings, recommended changes for improvement and identification of any additional resources that would be needed. The parameters shall include, but not be limited to:

- a. The care plan should consider a full array of services, not just what is currently available.
- b. Care plans, based on the assessments, should clearly identify the range of services needed and preferred to support the person in the community, in all relevant areas, including where appropriate, housing, residential supports, day services, personal care, transportation, medical care, and advocacy support.
- c. Provide care coordination for each consumer to connect the individual with community providers and assist in any transition activities as necessary. Clarity as to who is responsible to connect the individual with community providers.
- d. Care planning should be conducted on a defined, periodic basis and include follow-up with consumers on the care plan and updates as necessary.
- e. Persons involved in the transition/planning process should be qualified and knowledgeable of community living options, such as including experts in transportation and housing.
- f. Consumer and families should be educated about community placement.
- g. All materials should be clear and understandable to the consumer.

- h. Care planning should be person centered and client/consumer-driven and maximize the natural supports and relationships--familial and otherwise--that will enable the individual to remain in the least restrictive, most integrated environment.**
- i. Data regarding unmet needs should be used to identify need for more services for the individual and in the aggregate.

**COCO Recommendations:**

- a. Reunification services and probation orders for children with disabilities in foster care of the juvenile justice systems should include a comprehensive array of home and community-based support to enable the child to return home or transition to a less restrictive environment and avoid future involvement with the justice systems.**
- b. Children otherwise in out-of-home care should be transitioned out of the out-of-home placement and returned to their home in the community or a less restrictive placement using the services and supports developed pursuant to the assessment conducted upon placement.**
- c. Experiential opportunities, as part of informed consumer choice, must be provided.**
- d. Transition plans must include opportunities to compensate for lost skills due to institutionalization, and for costs of transition.**

The DHS Office of Long Term Care will work with a county that is assessing the potential for the MDS-Home Care assessment tool to be used as a mechanism to transition nursing facility residents to a community setting. DSS and DHS will evaluate the cost to increase IHSS hours to the maximum allowed during the first 90 days after an individual transitions from an institution to the community. This transition period is when consumers, especially those living alone, are most vulnerable to transfer trauma that can result in re-institutionalization.

Expand the DHS Medical Case Management Program by increasing the service capacity in Los Angeles, the San Francisco Bay Area, and Fresno, and by opening up a new office in Redding.

**COCO Comment: How will this enhance transition, except from hospitals?**

DDS will continue the downsizing eleven large residential facilities, moving persons with developmental disabilities to smaller community homes, and will

survey its regional centers to identify additional facilities for downsizing.

**COCO comment: More than 1,000 people with developmental disabilities live in ICF/DDs, and another 2,000 live in large community care facilities. Yet these individuals are included in the proposed plan, only if they are in one of the three large ICF/DDs or eight large community care facilities slated for "downsizing". An unspecified number of additional large facilities are merely to be "identified" at some unspecified time "in the future." Any plan that does not, within a reasonable and specified time frame, include all residents who are unnecessarily segregated in all institutions cannot be said to be comprehensive, effectively working, or to move at a reasonable pace. The State cannot leave it up to the regional centers to identify facilities for downsizing. If the facilities do not wish to downsize then efforts must be made to offer the institutionalized residents the information and assessments that will enable them to move, if they do not object.**

Establish a "Regional Service Hub" as part of the Bay Area Project to meet the service and support needs of persons with developmental disabilities residing in the Bay Area region, including Agnews Developmental Center residents moving to the community. The Regional Service Hub is proposed to utilize Agnews Developmental Center staff expertise to meet consumer service and support needs that are difficult to procure in the region.

**COCO comments: This is improved in clarity.**

The Department of Aging and the Department of Health Services will explore expanding the existing authority for nursing home residents to make transition visits to adult day health care programs. These visits assist nursing home residents in determining whether the services of adult day health care programs can meet their needs, which in turn will help them gauge the feasibility of community living.

**COCO Overall Comments: There are no provisions or timelines to assess all individuals currently residing in NFs to determine if less restrictive community alternatives would be appropriate or desirable.**

**Sample COCO recommendations:**

**For people who have already been assessed as being appropriate for community living – get them OUT NOW!**

**State should convene statewide meeting to develop and implement a consumer and public awareness campaign to highlight options in LTC, including the availability of HCBS waivers.**

**Public guardians should not be able to sell the houses of people who are institutionalized and who want to return home. Develop a state mandatory policy and guiding principles around the states commitment to avoid institutionalizing people on conservatorship whenever possible. Benefits and case management training for conservators, including property managers who work for the conservatorship offices.**

**Mandate access for teams, such as AAA/IL community living teams, into institutions. Involve community groups and peer advocates in helping people get out or stay out of institutions, including awarding outreach grants for the groups.**

**Other Transition Services which should be considered for inclusion in the Olmstead Plan are listed in Element Four of the NAPAS Template.**

## Community Service Capacity

Policy Goal: Develop a full array of community services so that individuals can live in the community and avoid unnecessary institutionalization, including participating in community activities, developing social relationships, and managing his or her personal life by exercising personal decisions related to, among other things, housing, health care, transportation, financial services, religious and cultural involvement, recreation and leisure activities, education and employment. Services should be appropriate to individuals living with and without family or other informal caregivers. Increase capacity for local communities to divert consumers from institutionalization and re-institutionalization. Support family caregivers by providing an array of information and services that will allow them to support a family member with disabilities in their home.

The Department of Health Services will request approval from the federal Centers for Medicaid and Medicare Services to expand by 300 the number of Nursing Facility waiver slots, in order to serve everyone currently on the waiting list.

**COCO Comment: The Plan indicates that HCBS waivers will provide the sole source of case management services and transition assessments for NF residents, as well as the community-based services and supports needed to move people out and keep them out. It is neither logical nor practical for DHS to request only enough additional waiver slots for those currently on the wait-list---this ensures another wait-list immediately as there will be no capacity for expansion.**

**There is no evidence that 300 more slots will be sufficient to meet the needs of the approximately 100,000 persons currently institutionalized in NFs throughout California. Given that the existence of the waiver and the means for getting on it has not been well known this is even truer. DHS should expand NF waiver slots annually to ensure that all individuals on the wait list are served and to provide additional slots to be used for both transition and diversion.**

**Finally, there are a number of problems with the current waivers that create barriers to community placement, that are not addressed in the Plan (e.g. low cost caps, lack of available providers, failure to provide timely assessments, failure to inform individuals of the waitlist process, and lack of needed transitional costs).**

**DHS should amend the waiver to include habilitation services and transition costs, and to permit supported living providers. DHS should change the cost cap to be aggregate instead of individual.**

The LTC Council will identify state actions that could be used to improve the

availability of paratransit services based on consumers' need for services, coordinate paratransit services across transit districts, and expand rural services.

5. The LTC Council departments will analyze their current waitlists and report at the quarterly LTC Council meetings on the status and movement of those waitlists and describe efforts to ensure waitlists move at a reasonable pace.

**COCO Comments:**

1. **What is the state's standard or goal for reasonable pace? This must be included with input from consumers and their representatives.**
2. **By when will this be done?**
3. **This information should be made public.**

Subject to additional resources, expand programs that assist consumers in living in the community. These includes programs that provide in-home care and services; transportation and housing; nutrition; care management; caregiver assistance; day programs; and other services and supports.

**COCO Comments: More analysis is needed on different options, costs and impact. Requires participation by the Olmstead Planning Body.**

The DOR will implement a Workforce Inclusion Initiative. This initiative supports the goals of equality of opportunity, full participation, independent living, and economic self-sufficiency for people with disabilities. Working in cooperation with the State Employment Development Department, this initiative will increase the employment of individuals with disabilities by assuring that they are able to access the full array of state and local employment programs.

The DOR will work with one-stop career centers to enhance the centers' abilities to establish policies regarding working with persons with disabilities. DHS will support the use of social health maintenance organizations, which utilize community-based organizations to provide social and health care services and supports, which allow participants to avoid nursing facility placement.

To promote human resource development, DMH will develop and disseminate to county mental health departments a technical assistance manual on working with high school career academies in promoting career paths into mental health professions.

The Health and Human Services Agency will evaluate the projects funded under the Governor's Caregiver Training Initiative and identify additional job training and skills training that would be beneficial for direct-care staff.

The Department of Social Services will explore the need for and feasibility of licensing assisted living type facilities for younger individuals with disabilities

The Department of Social Services will review licensing regulations and statutes to identify any barriers to placement or retention in community care facilities, including looking at social rehabilitation facility models and developing residential treatment alternatives to acute and long-term institutional care.

Subject to additional resources, provide additional rate increases for community long term care service providers.

Subject to additional resources, expand caregiver resource support services in order to allow them to serve more family caregivers.

Subject to additional resources, develop and implement strategies to increase the supply of health professionals and other paid caregivers.

### **COCO Comments:**

- 1. Again, there is no specificity. When will these activities take place?**
- 2. Consumers and other stakeholders must be included.**
- 3. There are no community capacity activities targeted to regional center consumers. This is not acceptable. As a result of even current CPP activities and the Agnews closure plan major resource development will be needed. As set forth above, more is needed for a comprehensive plan.**
- 4. Specific areas where expanded community capacity is needed for people with developmental disabilities which should be acknowledged in the Olmstead Plan include:**

**Supported living: More providers are needed in almost every regional center area and the rate cap issue needs to be resolved.**

**Specialized services for those with dual diagnoses of developmental and psychiatric disabilities. These services will require interagency cooperation between DMH and DDS and thus are very appropriate for a statewide Olmstead Plan.**

**Services for those with significant medical/nursing needs. This could be addressed in part by expansion of the ICF-DD-CN pilot waivers.**

**Services for children and adolescents with challenging behaviors, including expanded supports (wraparound) for families.**

- 5. Expanding community capacity for persons with disabilities could be funded in part by creating a mechanism to dedicate and use funds generated by the sale or lease of developmental center land. This should be included in the Agnews Closure proposal.**
- 6. The State should financially support Wraparound and Children's System of Care programs in every county and should explore new Medicaid home and community based waivers and/or options to help**

**children with disabilities avoid unnecessary institutionalization or transition from institutional placements.**

- 7. The state should develop policies, including legislation that guarantees that families will not unnecessarily need to relinquish custody of their children with special needs in order to obtain services and supports for them.**
- 8. DMH should conduct the analysis of the individuals who can be served and the services that can be provided to allow children with psychiatric conditions, who are institutionalized or at risk of institutionalization, to transition back or remain in their communities, pursuant to a Medicaid 1915(c) waiver, as required by SB11.**
- 9. The California Mental Health Planning Council should review, assess, and make systemic recommendations regarding the following:**
  - a. The adequacy and equity of rates for private, residential care facilities that serve persons with psychiatric disabilities. In addition, this review should assess and make recommendations regarding the current and future role of private, residential care facilities in the state's mental health system.**
  - b. The statewide frequency of and reasons for inter-county (and interstate) transfers of persons with psychiatric disabilities, including children.**
  - c. The development of performance standards governing access to home- and community-based service options for all persons placed at state hospitals.**
  - d. The development and use of self-help and peer supports by persons with psychiatric disabilities in all areas of the state.**
- 10. The California Legislature should review, assess, and make recommendations to eliminate fiscal and other incentives that perpetuate the unnecessary confinement of persons with psychiatric disabilities in institutional settings, including but not limited to the following:**
  - a. Rates of reimbursement for care in institutional settings.**
  - b. Rates of reimbursement for home- and community-based services.**
  - c. State and county supplements for care in institutional settings.**
  - d. State and county supplements for home- and community-based services, including but not limited to state rates for supplemental security income (SSI).**

**Other Areas of Community Support Infrastructure which should be considered for inclusion in the Olmstead Plan are listed in Elements Four and Eight of the NAPAS Template.**

## Housing

Policy Goal: Seek ways to expand the availability of housing options for persons with disabilities. A person's living environment must be such that it is not limited to the usual housing supply of the community and can be augmented by supports that facilitate the full inclusion of the person into the community.

### **COCO Suggested Additions:**

**Housing and services should be provided separately, so that receipt of services is not a mandatory condition of obtaining or keeping housing.**

**Affordable, accessible, integrated housing remains an integral part of successfully transitioning individuals from institutional care into the community.**

Subject to the availability of additional resources, the HCD will develop a database of housing resources available to persons with disabilities in each city and county. Information will be collected on the number of Section 8 housing vouchers available; number of subsidized public housing units; number of subsidized units that are accessible; number of subsidized accessible units that are occupied by people without disabilities; the number of bedrooms and bathrooms in each unit; and any other data deemed relevant for planning purposed by the department. This information would be made available to the public in a data base where individuals can learn about the availability of accessible and affordable housing in their community. HCD will encourage local public housing agencies to make this information locally available, and to identify units as accessible or convertible. Additional resources will be needed to collect, maintain, and disseminate the data.

**COCO Comments: We support this recommendation. See additional suggestions in the data section above. In the short run, HCD could quickly and for minimal cost create an online database of housing units funded by HCD, and in particular of those units that are accessible, with contact and waiting list information (see, for example, the online databases maintained by CHFA, TCAC and/or the City of San Francisco's Mayor's Office of Housing.) In addition, HCD could at relatively low cost collect the Section 504 plans from all local public housing authorities and evaluate whether they are fully complying with their federal obligations to provide a percentage of accessible housing units in their programs. If not, proposals could be developed to enforce compliance through state regulatory or legislative action.**

The Department of Housing and Community Development will implement Proposition 46, including the supportive housing program and Grants for Ramps program. To the extent permitted under state law, HCD will ensure that housing for persons with disabilities is a priority use for Proposition 46 funds. HCD will award State dollars only to projects that require that ground floor apartments be reserved for individuals with disabilities, and that require all apartments to be convertible for use by persons with disabilities.

**COCO Comments: While we support this recommendation, we believe most of these steps are already required by law. Furthermore, reservations of units for people with mobility impairments (we assume this is the particular disability community being targeted here) should not be limited to ground floor units, but should be considered in connection with all units that meet physical accessibility requirements (ground floor units, accessible units in elevator buildings). Those units should be required to be fully accessible if they are being reserved for people with mobility impairments. We also urge HCD to include physical modifications other than just ramps (visible smoke detectors, etc.) in its grants for ramps program. We urge HCD to ensure that the supportive housing program does not require a mandatory link between maintaining services and maintaining housing.**

The HCD will review programs, services and funds for accessibility and Local Government Housing Elements to insure that they include adequate sites for all housing needs including households with special needs. HCD will provide local housing entities with information on the Olmstead decision and emphasize the importance of making housing available in order to meet Olmstead goals. HCD will require that Consolidated Plans and Housing Elements reflect Olmstead goals as a condition of certification. The HCD will consider establishing an Olmstead Ombudsman and grievance procedures to process reports of non-compliance.

Increase local capacity for home modification by providing planning grants from local Community Development Block Grant (CDBG) funds. Utilize funding from the CDBG program, the HOME Investment Partnership Act Proposition 46 funds and other sources to increase funding for home modifications.

**COCO Comment: We have no objection to this proposal, but the plan fails to identify how state agencies are going to require local governments to spend their CDBG and HOME funds in a particular manner. If this is meant to address limited state CDBG and HOME funds, many more specifics are necessary (such as the amount of funds, the mechanism and time line for distributing the funds, how many communities and individuals are likely to be**

**served by the proposal.) Would these funds be available only to those rural counties usually served by state CDBG and HOME funds?**

Subject to additional resources, add rental housing after Proposition 46 resources are allocated, and resources for housing specifically designed to meet the needs of individuals with disabilities.

**COCO Comment: This is extremely vague – what kind of rental housing from what source of money on what timeline?**

Subject to additional resources, expand DMH's Supportive Housing projects. Subject to additional funding, provide funding for county planning grants to co-plan housing and transit.

The Department of Housing and Community Development will request that the federal Housing and Urban Development commit to a major expansion of federal rental assistance so that each eligible household or person can get aid .

**COCO Comment: We recommend that a permanent structure be established to address ongoing issues of affordable, accessible housing. We recommend that it include the Attorney General's office, so that legal action could be taken by the state to enforce housing accessibility actions against noncompliant parties. It should also include other housing agencies such as TCAC and CHFA, not just HCD. We recommend that housing "best practices" from various agencies involved in the Olmstead process be collected and shared. We recommend that specific goals (with timetables, responsible parties/lead agency, concrete objectives, resources) be established in the following areas:**

- 1. Increase funding sources for housing for individuals with disabilities to enter/re-enter independent living in the community, specifically to increase the supply of safe, decent, affordable, accessible, integrated housing options.**
- 2. Increase funding sources for home modifications for accessibility.**
- 3. Evaluate legislative and regulatory options for expanding accessibility in the private and public housing sectors and for eliminating barriers (see below). (i.e. requiring redevelopment low/mod housing funds to include a certain percentage of accessible units; modifying resource limits in TANF and other state benefit programs so that people can save enough for rental deposits.)**
- 4. Provide better education to the public, state and local agencies, redevelopment agencies, lenders, and builders on fair housing laws, accessible housing, and ADA compliance.**
- 5. Increase funding for state fair housing enforcement of laws prohibiting housing discrimination against people with disabilities.**

- 6. Expand options for enforcing building codes, especially those that follow ADA guidelines for multi-family dwellings. This will increase the availability of accessible housing in the private sector.**
- 7. Development and coordinate a comprehensive housing plan for people with all types of disabilities.**
- 8. Increase available information regarding community-based housing options, including development of a comprehensive on-line data base of affordable, accessible housing units.**
- 9. Develop training materials for assessing the housing needs of individuals in institutions and training personnel in how to identify and access community housing resources.**
- 10. Coordinate state funding and development of housing resources for people with disabilities, through education of state housing agencies (TCAC, HCD, CHFA, DDS, DMH) and possible revision of regulations and RFPs.**
- 11. Establish a state coordinator to give technical assistance to local public housing authorities so that they apply for and prioritize accessible, affordable, integrated housing for people with disabilities so that they can leave or be diverted from a nursing home or other institution.**
- 12. Identify ways to address the following barriers to obtaining housing for people with disabilities:**
  - i. Difficulties in locating and accessing safe, affordable, ADA compliant housing and the supports needed to remain in the environment of choice.**
  - ii. Lack of community supports such as attendant care, transitional care, skills training and case management.**
  - iii. Difficulties in financing both rental and ownership housing. People with disabilities have a difficult time saving money for down payments, closing costs, repairs, and maintenance.**
  - iv. Training in such things as maintenance and home living skills as needed to assist the consumer with maintaining or increasing self-sufficiency in community-based housing.**
  - v. Examine and modify resource limits in state and federal benefit programs that bar people from saving enough funds for down payments and rental security deposits.**
  - vi. Barriers to “de-linking” housing and supports.**
  - vii. NIMBY barriers to affordable housing generally, and housing for people with disabilities specifically.**

**COCO further comment: When State Developmental Centers close, consideration should be given to leveraging any sale or lease of the land to**

**create affordable housing resources for persons with disabilities. This was done with the East campus of Agnews and should be part of the plan for closure of the remaining portion of Agnews.**

### **“Money Follows the Individual” and Other Funding**

Policy Goal: Develop a “Money Follows the Individual” model to provide resources for individuals to live in the community rather than an institution. Seek opportunities to increase resources and funding options.

**COCO Comment: The first three items below could go in Community Capacity, and the last in Transition. Again, there is no timeline or inclusion of the community in the process. Evaluation of HCBS options should be made public.**

Identify new federal funding sources and apply for grants that further the Olmstead principles.

Evaluate the options of expanding the HCBS waivers.

The Department of Health Services will explore proposing to the Centers for Medicare and Medicaid Services that the existing institutional bias in funding in the Medicaid program be replaced by a new policy. The new policy would specify that long term care services are to be provided in community settings whenever feasible.

The LTC Council, with input from consumers and stakeholders, will design one or more models for programs in which "the money follows the person" for individuals seeking to move from institutions, and implement pilot programs to test each model. Based on evaluations from the pilots, the models would be expanded statewide. Additional resources would be needed to develop and implement the pilots and statewide system.

**COCO Recommendation: The state should conduct the analysis required by SB 1911 to determine whether a home and community based waiver program for children with psychiatric conditions would help**

- a) avoid unnecessary institutionalization,**
- b) transition children from institutions who can be served in their communities, and**
- c) create new services not currently available under the Medicaid state plan that would prevent unnecessary institutionalization, because**
- d) using Medicaid funds to house these children in institutions rather than serving them in the community with the same funds would be a way to implement a "money follows the person" program for children with psychiatric disabilities.**

**COCO Comment: Where are the commitments to a diversion program, and**

**the other options identified by stakeholders as priorities?**

## **Consumer Information**

Policy Goal: Information regarding services should be available to persons with disabilities in order to make informed choice and for care planners for planning purposes. No individual with disabilities should be prevented from living in the community due to a lack of information. To meet this goal, the State should facilitate the development of information, education and referral systems, and ensure that this information is available to communities so that community planning can be conducted to address the needs of that community's disabled population.

DSS will evaluate the option of opening the IHSS registries for use by all individuals, while ensuring compliance with confidentiality rules.

**COCO Comment: The Public Authorities operate registries, not IHSS. If this refers to expanding the registry use to non-IHSS consumers, how does this have an impact on consumer information?**

The CDA will incorporate the Alliance for Information and Referral Systems (AIRS) standards into the California Code of Regulations and train general Information and Referral providers and Area Agency on Aging Information and Assistance providers accordingly. Utilizing these standards will help ensure that the AAAs are best enabled to provide information to families and stakeholders than can help them meet their care needs in their home communities.

The DHS will, upon request, provide outreach and training on Medicaid Home and Community-based Services Waiver programs to state and local entities including potential providers of services, regional centers, and hospital nursing facilities on available services, waiver capacity, and applications for service.

**COCO Comment: DHS should offer such training (and include Olmstead requirements), to state ombudsman, IHSS staff, Area Agencies on Aging and others, as well as the list above, and not wait for requests.**

The LTC Council will continue to provide consumer information via the internet at [www.calcarenet.ca.gov](http://www.calcarenet.ca.gov), and will identify ways to expand internet and hard copy access to comprehensive information about community-based services, including information on crisis services, by improving the existing systems and developing new ones as appropriate. This could include a directory of all relevant Internet sites. Additionally, the LTC Council will develop hard copy materials for distribution to the public in regular text and

alternative formats, including non-English languages. Additional resources may be needed to develop materials, disseminate information, develop new internet based systems.

The LTC Council will request assistance from consumers and stakeholders to identify and document best practices, based on the input received through the Olmstead forums, and make this information available to policy makers and other interested parties.

**COCO Comments:**

- 1. The last bullet is unclear.**
- 2. Again, there is no timeline.**
- 3. Nothing in this section leads directly to more and better information, for consumers, about long term care options. Consumer information is one of the most crucial gaps in long term care. This plan should, in collaboration with consumers and representatives, launch a consumer education campaign which includes not only internet access but outreach efforts, to really reach consumers and families when and where they need the information.**

## Community Awareness

Policy Goal: Educate communities regarding the Olmstead decision. Provide background information on the Americans with Disabilities Act and the Fair Housing Amendments Act to community decision makers, to ensure that they take the needs of individuals with disabilities into account when making decisions regarding public services and resources.

The LTC Council will inform and advise state and local entities, including the courts, regarding the Americans with Disabilities Act (ADA), the federal and state Fair Housing Amendments Acts (FHA), and the Olmstead decision, and seek the assistance of local and grass roots disability groups in this activity. The Council will also share this information with local and grass roots disability groups and request their assistance in similarly informing and educating these entities.

**COCO Comment: This activity should be carried out in 2003, and should be done with the collaboration of stakeholders and community groups, who showed their interest and willingness to work on Olmstead issues by holding forums around the state. We recommend adding other state fair housing laws, and state housing element laws relating to persons with disabilities, to the list of information to be distributed.**

The LTC Council, subject to additional resources, would hire a consultant to develop, in concert with consumers and stakeholders, a public awareness campaign to ensure that the public is aware of the existence of long term care options other than institutional options. Additional resources would be required to hire a consultant to produce and implement the public awareness campaign.

## Quality Assurance

Policy Goal: Improve quality assurance based on desirable outcomes and measures.

**COCO COMMENT: The goal should be to improve the quality of services and the level of consumer satisfaction.**

The LTC Council departments will review their current quality assurance efforts for consistency with the criteria below, which are intended to promote the use of outcome based models. The departments will identify any instances in which their current efforts do not meet the criteria, and specify the improvements that will be made. The departments will report their findings and recommendations to the Long Term Care Council. The criteria include:

- a. Service, quality and program standards, as appropriate.
- b. Measurable and measured outcomes. Outcome measures should allow for an acceptable level of risk management by care planners and the consumer.
- c. Data collection and key indicator reporting.
- d. Fraud, abuse and exploitation prevention, including ombudsman
- e. Grievance and Appeals process.
- f. Monitoring, auditing and evaluation methodology, considering the use of tools such as program accreditation and certification.
- g. Education and training for providers and family caregivers. For example, training should include training that is provided by consumers, or long-term care facilities should include independent living training.
- h. Peer support.
- i. Consumer rights.
- j. Examine evidence-based practices: successful community models should be used to assist clients during transition and diversion.
- k. Provide incentives/awards for good practices.
- l. People should be allowed to live in their own homes without intrusive oversight.
- m. Publication of results, such as Medicaid Waiver quality assurance and performance monitoring activities that are required by CMS.

**COCO COMMENTS: Consumers are completely omitted from this function.**  
**1. State should have task force, within one year, develop outcome-based model for quality of services. (modeled on DDS outcome system).**

- 2. Consumers define quality, and should make up at least half the task force.**
- 3. Tie funding with quality of service outcomes.**
- 4. Using model program approach, reward high-quality programs for being a mentor for programs who need to improve.**
- 5. There should be public “report cards” on the quality evaluations of each service provider.**

DSS will develop training, educational materials and other methods of support to (1) aid IHSS consumers to better understand IHSS and to develop skills required to self-direct their care, and (2) aid providers in better meeting the needs of consumers.

DSS will revise regulations to further strengthen the criminal background check process for those who operate, own, live or work in community care licensed facilities.

Make available on DMH web site and in hard copy, mental health performance outcome measures as provided to the State Quality Improvement Council.

CDA will monitor and improve Area Agency on Aging Information Assistance services to ensure program consistency statewide.

CDA will encourage general information and referral providers and Area Agency on Aging Information and Assistance workers to become certified Information and Assistance/Referral (I&A/R) specialists through the California Association of Information and Referral Specialists (CAIRS), the California AIRS associate.

The DSS will evaluate the IHSS enhancements made pursuant to AB 1682, including a provider registry, provider referral system and qualifications investigations, to determine the impact on service quality.

The DMH will recommend that the Mental Health Planning Council (MHPC) review state and local mental health quality improvement plans to identify modifications that should be made to include a section on IMDs/SNFs/MHRCs in order to ensure that the MHPC's platform statements on in-facility focus and IMD transition are addressed:

- a. In-facility focus: Guided by client self-determined goals, facilities should provide treatment, recovery, and support services that prepare the client for successful placement into the community.
- b. IMD Transition: The client's community placement goal should be identified at admission and be the organizing focus of treatment, rehabilitation, and support services. Discharge planning should identify treatment and recovery services and enlist the support of family and friends to ensure a successful transition to community placement.

The MHPC will make recommendations to state and local entities as needed.

DMH will audit statewide the extent to which county Mental Health Plans are providing covered Medi-Cal Specialty Mental Health Services consistent with statewide medical necessity criteria, including but not limited to the provision of the following services:

- a. Individual Mental Health Services.
- b. Targeted Case Management/Brokerage Services.
- c. Crisis Residential Treatment Services.
- d. Adult Transitional Residential Treatment Services.
- e. Crisis Intervention Services.

Revise the current DDS quality assurance systems into a “Quality Management Model” utilizing the Centers for Medicaid and Medicare framework. This model incorporates within it the quality measures identified through DDS’ Service Delivery Reform effort.

**COCO comments: While the amendment of this section to indicate that the new model will incorporate the Service Delivery Reform efforts is good news it does not mitigate the need for these further activities to involve DD system stakeholders.**

**Other areas of Monitoring and Quality Assurance which should be considered for inclusion in the Plan are listed in Element Seven of the NAPAS Template.**

## **VI. Missing Provisions and Comments**

### **Assessment**

Modify the PASRR Level II process to provide more specific references to community placement, to include more detailed information about waivers and other community resources, and to provide Level II evaluators with specific training about waivers and community placement.

#### **COCO comments:**

- 1. Why was this provision removed?**
- 2. PASSR should be administered in all skilled nursing homes and IMD’s. In addition, the plan should specify that the state should undertake client-directed evaluations of all persons placed in institutional settings, including state hospitals (for both LPS conservatees and forensic patients<sup>1</sup>); Skilled Nursing Facilities with Special Treatment Programs (SNF/STPs); SNFs without STPs; Mental Health Rehabilitation Centers; Community Treatment Facilities; short-term acute care facilities (which includes persons held on administrative day status); private, residential care facilities with 16 or more beds; prisons, jails and juvenile detention**

**facilities; and homeless shelters.**

**3. The state should set up a process to monitor the results of evaluations and ensure that recommendations are carried out.**

\* Conduct initial and periodic face-to-face assessments of individuals who seek or are enrolled in a Medicaid Home and Community-based Waiver.

**COCO comments: The state should conduct face-to-face assessment meetings with all applicants for HCBS waivers within a week after receipt of the request or application. Assess need, review documents for providers, and inform the consumer of all available waiver and State plan services. Place consumers on all applicable waiting lists in order of their dates of application.**

Identify/establish a state level office and community-based offices to administer a system to ensure that persons in or at risk of placement in nursing facilities are served in the most integrated setting appropriate.

**COCO Comment:**

**Why was this recommendation removed?**

**It is unclear whether the functions are adequately included elsewhere in the plan.**

Appendices

- A. Inventory of existing long-term care services
- B. List of local Forums
- C. Summaries of input receive via Olmstead Forums and Surveys
- D. Workgroup meeting agendas
- E. Summaries of stakeholder recommendations made at Olmstead Work Group meetings
- F. Other stakeholder input
- G. Listing of Work Group Participants