

Fifth Anniversary of Passage of Prop. 63 – California Mental Health Services Act

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**PROP. 63 COAUTHOR FILES WHISTLEBLOWER COMPLAINT  
WITH STATE AUDITOR  
Alleges Department of Mental Health Failures, Violations**

**Sacramento** –Today, on the fifth anniversary of the passage of Prop. 63, California’s landmark Mental Health Services Act (MHSA), Rose King, one of the authors of the measure and the former Attorney General’s consultant to a Prop 63 oversight commission, filed a Whistleblower Complaint Report with California State Auditor Elaine Howle, and released a statement of allegations to the public. The complaint alleges misuse of tax revenue, incompetence, and potential for conflicts of interest in Prop. 63 funding and policy. Allegations regarding performance of the California Department of Mental Health include: (1) Diversion of tax revenue to fund noncompliant, inefficient, and wasteful programs, generating unnecessary bureaucracy and years of delays. (2) Fragmented, disjointed, and incompetent implementation policies, and failure to manage and fund integrated services. (3) Operation of a dysfunctional structure and process, absent a foundation of system knowledge or documented goals, fostering special interest influence and potential conflicts-of-interest.

“The language of the law and legal ballot statements promised expansion of existing county mental health Systems of Care—a proven model of service. DMH, Director Dr. Stephen Mayberg, and the state of California did not keep that promise.” Rose King said. “After five years and \$5.4 billion in MHSA revenue, county systems cannot report improvements in quality and access to decent mental health treatment. The state cannot or will not get the money out the door. The Sacramento County crisis illustrates the results.”

A May 2008 Performance Audit by the Office of State Audits and Evaluations reported that DMH failed to even produce an implementation plan. Public complaints to the Oversight and Accountability Commission (OAC) created by Prop 63 cite funding delays and minimal benefits. Surveys by advocate organizations report waste due to excessive meetings, committees, events, consultants, etc, and a “dual system” of services.

King said “The state did not comply with a requirement to provide better services to more people. The state did not manage a coordinated implementation, but created a disorganized, fragmented, and wasteful process requiring counties to submit six different plans. The state ignored guidelines—and operated with no known structure, and no definition of the starting point, progress, or success. Entrepreneurs are invited to attend.

“DMH has spent more than half of the MHSA annual administrative budget, now approaching \$50 million, on private contracts, with little or no explanation of the benefits of expenditures,” King concluded.

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## **PROP 63, MENTAL HEALTH SERVICES ACT OF 2004 (MHSA)**

December 2009 Update from Rose King, Co-author of the ballot measure

**Where did Prop 63 come from?**

**Where did benefits go?**

**ORIGIN:** The writing of Prop 63 was preceded by five comprehensive investigations of California's mental health system, published from 2000-03 by the governor's Little Hoover Commission, a Joint Legislative Committee on Mental Health Reform, the California HealthCare Foundation, and the state's Planning Council, which released its official Master Plan on Mental Health. Findings in these reports combine with positive evaluations of pilot programs, developed over a period of 15 years, and offering comprehensive, integrated services. These resources formed a solid foundation for Prop 63 and the provisions expanding the integrated service programs, defined in law as "Systems of Care." Prop 63 would fund the recovery model programs and standards of service, previously unavailable to the vast majority of consumers. Existing county systems are allocated 75 % of tax revenue for expansion. Years of research, public review, and participation of diverse constituencies affirmed the benefits of programs that only lacked funding.

**STATUS:** The State Department of Mental Health (DMH) took the lead in rejecting the Standards of Service and Systems of Care funded by the MHSA. In defiance of logic and the law, DMH and its many implementation partners started over to "reinvent the wheel," fund untested, new programs for new clients, and abandon the existing system, along with its clients deprived of adequate services. The state does not efficiently fund direct services in proven systems, and counties continue to spend for MHSA planning five years after enactment. A critical state performance audit and community grievances are ignored, along with all recommendations in respected reports preceding the new law. An Oversight and Accountability Commission created by Prop 63 has never published a status report or evaluation of any process, policy, or expenditure. Benefits accrue to consultants, contractors, and special interests, and the appearance of conflicts of interest is reported at state and local levels. There is no documented implementation plan for this multi-billion dollar program.

## **THE RECORD OF FIVE YEARS OF IMPLEMENTATION.**

**ONE. Voters Supported Expansion of Proven Programs.** In November 2004, voters passed Prop 63 to pay for expanding successful mental health programs and creating new preventive measures. The ballot statement explained that 75% of new tax revenue would improve existing county systems to meet the standard of service in proven programs, with principles and treatment options already specified in law.

**TWO. DMH Rejected Model System.** Within months of passage, the state Department of Mental Health (DMH) personnel and consultants had thrown out the program model and the standards developed over years of public review. State DMH leaders said they would not follow the statutory requirement to integrate all of the services in a single implementation plan. And then, DMH management told counties the state would not fund expansion of existing programs as the law provided—instead, counties would be required to create new programs for new clients, excluding clients already denied decent services.

**THREE. State, Local Agencies Reinvent the Wheel.** By March 2005, the state DMH had profoundly changed the intent of the law, and launched a noncompliant implementation and funding process. Prop 63 is funding the consequent new bureaucracy and an industry of planning, training, conferences, and committees. Money for direct services is diverted for untested new programs, and wasted to endlessly reinvent the wheel in every county.

**FOUR. Public and Private Leaders Ignore Call for Compliance.** In May 2008, a Dept of Finance Office audit sharply criticized the noncompliant, inefficient, and wasteful policies of DMH, calling for 19 “corrective actions,” still not completed. The Governor and legislature, along with many implementation partners, ignored the critical audit. Legislation effectively legitimizing DMH incompetence and waste was enacted in a 2009 special session. County and state agencies, an Oversight and Accountability Commission (OAC) created by Prop 63, and stakeholders have not publicly challenged the persistent violation of law and diversion of funds intended for vital services.

**FIVE. Grievances, Complaints Mount, along with Waste, Conflict of Interest.** Individuals have filed grievances with local and state agencies, and appealed to the OAC. On the fifth anniversary of passage, November 2, 2009, I filed a Whistleblower Complaint with the California State Auditor, alleging Violations of Law, Waste and Inefficiency, Potential Conflicts of Interest. The OAC hired a public relations firm, but has not produced an oversight report. Severely ill people grow sicker and some die.

**SIX. Mental Health Emergency Not Relieved by Prop 63—Special Interests Benefit** State and local projects and funding priorities operate with no known objectives or context to guide expenditures. Service dollars are invested in studying problems with known solutions. An industry of consultants is enriched, special interests may influence decisions, and potential conflicts of interest are supported by the state DMH and OAC. A private contractor will evaluate MHSA performance for the 10<sup>th</sup> Anniversary of passage.