STATE OF CALIFORNIA EDMUND G. BROWN JR., *Governor*

COMMISSION ON CALIFORNIA STATE GOVERNMENT ORGANIZATION AND ECONOMY
11th & L BUILDING, SUITE 550, (916) 445-2125
SACRAMENTO 95814

SUPPLEMENTAL REPORT

ON

STATE HOSPITALS

STATE DEPARTMENT OF HEALTH

STATE OF

CALIFORNIA

SUPPLEMENTAL REPORT ON

STATE HOSPITALS

I. Quality of Care Standards and Licensing of State Hospitals

Finding: The Commission is encouraged by statements from the Licensing Division that state hospitals will be expected to meet the same structural and staffing standards as have been established for community facilities. It is distressing to note, however, the lengthy timetable presented by the Department for achieving full compliance with the standards. The Chief Deputy Director indicated at the November 18 hearing that meeting licensing standards was not a high priority. The Department's complete plan for renovation and scaling-down of the state hospitals will not be provided to the Legislature until May. The Commission will not be able to present specific further findings and recommendations in this area until that report has been reviewed.

Recommendation: (1) The Licensing Division should agree upon reasonable deadlines for correction of the various deficiencies in the state hospitals. The priority for needed renovation must be advanced. These deadlines should not favor state-owned and operated facilities over community facilities merely because of the various delays imposed by Civil Service rules, budgetary restraints, or other administrative delays, but should take into account:

(a) The danger posed to state hospital residents while deficiencies remain;

(b) The magnitude of deficiencies to be corrected;

(c) Temporary actions that could be taken to reduce the danger to the residents and employees.

It should be noted that as long as serious fire and life safety deficiencies are allowed to continue at the state hospitals, the state will remain highly vulnerable to civil, and possibly criminal liability suits by patients and their families. Such liabilities could run into millions of dollars. It is estimated that it will cost approximately 180 million to correct existing fire and safety deficiencies. Much of these funds could be made available without an increased expenditure if the Commission's 1976 recommendations are implemented.

(2) The Department should not wait until structural defects are remedied before the Department should fully implement the 1973 staffing standards. A larger staff should partially compensate for the structural deficiencies.

While the Commission understands that the Department has increased its recruitment efforts for treatment personnel, the following further recommendations are made:

(a) Increased allocations should be made for overtime to compensate for staffing shortages;

(b) The Board of Vocational Nurses and Psychiatric Technicians should cooperate fully with the Department of Health in ascertaining the availability of the estimated 6,000 licensed psychiatric technicians who are presently unemployed;

(c) The practice of funding psychiatric technician training out of salary savings due to vacancies should be halted and the

Department should begin budgeting realistically as a separate item for present and future training needs. SB 18 (Alquist) provides for a more rational approach to the employment and training of psychiatric technicians.

(d) Psychiatric residency programs should be continued and increased at the state hospitals.

(3) Volunteer programs should be instituted only in hospitals that are adequately staffed. Volunteers should not act as substitutes for paid staff, nor should they be imposed upon an understaffed program where they could be more of a liability than an asset. Such conditions pose danger to staff, volunteers and patients alike. The orientation outline of the Governor's volunteer program recognizes the desired role of volunteers and provides for special training prior to individual assignment.

II. Treatment Modalities

Finding: The Commission stated in its January 1976 report: "Some treatment modalities may be completely inappropriate under any circumstances, others misused under certain conditions, utilized without professional staff trained and knowledgeable about the treatment modalities, or not effective for selected problems." Of special concern is the state hospitals' indefensible pattern of poorly monitored administration of drugs. These observations have been repeated since then by district attorneys, patient rights groups, witnesses at our hearings, and by the Department of Health itself.

Recommendation: The Department continues to place a low priority on our recommendation that it "Have an independent review made by psychiatric professionals of all treatment modalities in use by state hospitals." We repeat this recommendation and further recommend that

the Department consider the offer of assistance at no costs made by the California Psychiatric Association at our January 13 hearing.

III. Patient Treatment, Special Incident Reporting and Patient Rights

Finding: The Department has initiated a statewide system for uniform reporting of all special incidents. It has reclassified one position at each state hospital to a special investigative position to check on suspected violations of state hospital system laws, rules and regulations including, but not limited to, patient deaths, patient abuse, staff misconduct and employee intimidation. In addition, the Department is in the final stages of investigating all of the deaths that occurred in state hospitals over the last three years.

The Commission, by unanimous vote at its January 13 hearing, requested the Attorney General to investigate all deaths occurring in state hospitals over the last five years and report his findings to the Commission by June 30. Pending receipt of the Attorney General's report, the Commission will defer any comments on what further measures may be necessary to insure adequate reporting of special incidents.

The Department states that it has taken action to reduce the incidence of patient abuses and deaths by reinstituting in-service training programs and establishing a system of patient advocates in each hospital. It is difficult to assess any long-range impact of these recent measures, but the Commission would like to make the following observations:

(1) No amount of investigation into past or present abuses should be viewed

as a substitute for adequately trained treatment personnel and adequate staffing. A considerable amount of retraining of state hospital treatment personnel will be necessary, if the Department's November 20, 1976 task force report on Metropolitan State Hospital is any indication of conditions statewide. One-third of all of the recommendations in that report point out significant areas in which staff lack understanding of medical practices, patient rights, legal practices, or management practices. How does the Department intend to step up its effort in testing and training when it allocates the same amount for training in 1977-78 as it allocated in 1976-77?

(2) The Department has come under repeated attack from attorneys, consumer groups and individuals for its attempts to initiate a patient advocate program in the state hospital system. Charges range from labeling the Department's actions as merely a token gesture to accusing the system of having a built-in conflict of interest. However, the various witnesses from the public arrived at no consensus as to the necessity of establishing an advocate system independent of the Department.

(3) The Department has allegedly obstructed the establishment of any independent efforts to advocate for patient rights. It has been charged that the cloak of client confidentiality has been used by the Department to protect the facility more than the patients. This Commission sees no justification for barring access to outside patient advocates unless all outside groups and representatives--such as volunteers, tours, inspection teams--are also barred from the state hospitals.

(4) The State Hospital Advisory Boards, the legally-designated citizen watchdogs of state hospital operations, are nearly non-functional at this time because the Governor has failed to fill a large number of vacancies since he took office two years ago. There are 14 boards with a total of 98 advisory positions. Presently, there are 58 board members and 40 vacancies. Not only is there a 41% vacancy ratio, but many of the current members are carry-over appointees from the prior administration and their terms have long since expired.

Recommendations: (1) The appropriation to state hospitals for in-service training should be increased to reflect the statewide projection of the training needs outlined in the Metropolitan State Hospital Task Force report of November 20, 1976. Included in that allocation should be a sufficient amount to cover training and supervision of all volunteers.

(2) Adequate funds should be allocated, without robbing from treatment staff, to provide a patient advocate system with a reasonable advocate-to-patient ratio. The Department should investigate advocate systems in other states to determine the appropriate ratio that would assure representation of all patients. Once the funding level is determined, the budget committees of the Legislature should open to public debate the various proposals for establishing the advocate system either within or independent of the Department.

(3) The Department should draft regulations to allow reasonable access by outside advocate groups while at the same time protecting both the

confidentiality and privacy of state hospital patients. Pending the enactment of such regulations, the Department should develop interim agreements which are subject to close monitoring and revocable at any time.

(4) The Governor should immediately fill the 40 vacancies on the state hospital advisory boards, and re-appoint or replace those members whose terms have expired.

IV. Dual Administration

Finding: Prompt action has been taken by the Department in implementing AB 4146 (Lanterman, 1976) that required the establishment of a single head for each state hospital. Acting directors for each hospital were appointed in December and permanent directors have now been appointed pursuant to the newly-established Civil Service classification. The State Personnel Board is to be commended for rapidly establishing this new classification.

V. Budgetary/Fiscal Practices

Finding: The Department has taken action to insure a more timely allocation of budgeted state hospital funds and a more adequate system of monitoring and reporting hospital expenditures. The Commission still sees the need, however, for integrating the hospital expenditure reports into the Department's accounting system for informational and fiscal control purposes.

The Commission is not satisfied with the Department's response to the recommendation that the Department should "establish a uniform system

of managing and disbursing the personal funds of patients in all state hospitals". The Department believes instead "that one uniform system is not desirable and that funds should be handled on an individual basis depending upon each hospital resident's ability to handle and spend his or her own money."

Recommendations: (1) The Department should adopt a uniform, statewide policy for the management of patient funds. Such policy should parallel any policy established for individuals receiving out-of-home community care through the regional center system or the Short-Doyle system.

(2) This policy should specify various steps available in an appeal process that would assure an impartial evaluation of the hospital's management of the client's funds.

(3) The Department should discontinue the practice of borrowing state hospital positions to staff the Department headquarters or to conduct non-hospital research.

VI. Community Placement

The Commission agrees with the Department that difficulties in placing state hospital residents in the community are more often due to lack of appropriate community placement than to problems with the state hospital system. Therefore, the Commission reserves an in-depth commentary on this issue until it has completed hearings on community care later this year.

However, one factor contributing to the lack of prompt community placement could be dealt with immediately. It was pointed out during our hearings that many individuals are held in state hospitals beyond their discharge date merely because they are awaiting receipt of state or federal financial assistance (SSI, Medi-Cal). It is recommended that the state set up a revolving fund out of its state hospital appropriation to cover the cost of community placements pending the receipt of federal or state funds. Most often, when eligibility is determined, aid is granted retroactively, so this revolving fund could be reimbursed.

VII. Professional Activities

A preliminary report from the Attorney General's office has been received regarding alleged conflict of interest of state hospital treatment personnel. As a result of that report, indicating substantial outside employment of a questionable nature, a strong conflict of interest statement has been proposed by the Department. The Commission will comment further on this matter upon receipt of the final report from the Attorney General and the adoption of the conflict of interest statement. As an interim measure, the Director has prohibited all outside employment financed by the Medi-Cal program.