

# DISABILITIES LAW PROGRAM

## FY 2014 PAIMI PROGRAM PRIORITIES

### I. SPECIFIC PRIORITIES FOR INDIVIDUAL ADVOCACY

#### A. ABUSE & NEGLECT

GOAL: Promote a safe environment within mental health settings by actively monitoring the Delaware Psychiatric Center [“DPC”] and DPC diversion sites, investigating abuse/neglect incidents in residential and non-residential settings statewide, and implementing remedial measures.

#### OBJECTIVES:

- 0100 1. Regularly tour DPC units and DPC diversion sites (e.g. Rockford; MeadowWood; Dover Behavioral Health System), screen and assess abuse/neglect incidents, and promote resident well-being through appropriate interventions.

Target Population: The PAIMI Program was historically designed to focus on abuse and neglect of persons with mental illness within residential treatment facilities. The current law and regulations retain guidance directing programs to treat inpatients or residents of facilities rendering care or treatment as priorities and encouraging maintenance of an “ongoing presence” in such facilities. See 42 U.S.C. §§10802(4) and 10804(d) and 42 C.F.R. §51.31. This objective contemplates regular on-site monitoring of Delaware’s only public mental health hospital and licensed private hospital sites and advocacy on behalf of residents of these facilities. According to a March 8, 2013 Court Monitor Report, DPC accounts for 63% of psychiatric inpatient days of care and private psychiatric hospitals account for 37% of inpatient days of care.

Target: DPC units will be visited on at least a weekly basis. New Castle County DPC diversion sites will be visited on at least a bimonthly (2/month) basis. The Dover Behavioral Health System site will be visited on at least a monthly basis. The DLP will review 100% of mental health hospital incident reports shared with the DLP pursuant to recently revised State law (Title 16 Del. C. §5162) and memoranda of understanding. The DLP will screen and assess at least 10 allegations of abuse and 15 allegations of neglect and, in majority of validated cases, facilitate positive change to resident’s welfare or facility policy/practice.

- 0101 2. Respond appropriately to allegations of abuse or neglect of individuals with mental illness within residential and non-residential settings statewide.

Target Population: The historical focus of the PAIMI Program was deterrence of

abuse and neglect. Current law, in recognition of the “downsizing” of mental health institutions, authorizes the PAIMI to extend services to persons living in a broader array of residential sites or independently in the community. See 42 U.S.C. §§10802(4) and 10804(d). This objective contemplates responding to complaints of abuse or neglect involving persons residing outside mental health hospital settings. This would include residents of long-term care facilities, juvenile corrections residential settings, group homes, apartment programs, foster homes, and shelters. It would also include persons living independently in the community. Implementation of DOJ-DHSS Settlement Agreement is expanding the number of DSAMH clients in community-based residential settings. Investigations will be facilitated by recently revised laws (Title 16 Del.C. §§1134, 5181-5186) authorizing DLP to address complaints in both long-term care and community settings. Finally, pending legislation (H.B. No. 154) would expand the definition of “abuse” applicable to long-term care settings and hospitals.

Target: The DLP will screen and assess every reported colorable allegation of significant abuse or neglect and, in majority of validated cases, facilitate positive change to client’s welfare or applicable policy/practice.

- 0102 3. Screen deaths of individuals with mental illness in residential settings with emphasis for follow-up on those in which medication, sepsis, aspiration, seclusion, restraint, assault, suicide, abuse or neglect are potential contributing factors.

Target Population: The PAIMI Program was historically designed to focus on abuse and neglect of persons with mental illness within residential treatment facilities. The current law retains guidance directing programs to treat inpatients or residents of facilities rendering care or treatment as priorities. See 42 U.S.C. §§10802(4) and 10804(d). The law highlights certain forms of abuse (e.g. seclusion, restraint, assault) as “core” contexts of advocacy. See 42 U.S.C. §§10802(1) and 10841(1)(A)(F). Cf. CMS hospital seclusion/restraint regulations, 42 C.F.R. Part 482. The law also envisions PAIMI death investigations. See 42 U.S.C. §§10801(b)(2)(B) and 10802(1) as well as 42 U.S.C. §§290ii and 290jj-1 -290jj-2. This objective contemplates screening of deaths of residents of hospitals, nursing homes, group homes, foster homes, and other supported living sites. Mental health hospitals will be reporting deaths to the DLP pursuant to recently enacted State law (Title 16 Del.C. §5162). Particular scrutiny will be applied to deaths linked to areas of emphasis in the PAIMI enabling law (e.g. restraint). Individual death reviews will also occur through membership in the DHSS Mortality Review Committee and DDDS Mortality Review Committee.

Target: The DLP will screen: a) each death of a resident of DPC or DPC diversion site; and b) each death in other residential settings reported to the DLP in which abuse or neglect is implicated. The DLP will facilitate positive change in facility policy/practice in majority of cases in which abuse or neglect is validated as contributing cause of death.

- 0103 4. Address individual abuse/neglect issues through participation in DPC Patient Rights Committee meetings.

Target Population: The PAIMI enabling legislation authorizes provision of a wide range of formal and informal advocacy services. See 42 U.S.C. §10805(a)(1). The law also promotes inpatient access to grievance systems. See 42 U.S.C. §10841(1)(L). Delaware law similarly fosters mental health patient access to formal and informal grievance systems and the availability of DLP assistance to patients in the grievance process. See 16 Del.C. §5161(b)(15)(16). This objective contemplates facilitation of both presentation of patient concerns within the context of a DPC committee and resolution of patient concerns through committee membership. It would generally benefit all DPC patients.

Target: The DLP will attend at least 85% of meetings of DPC Patient Rights Committee and facilitate presentation or analysis of at least 6 individual abuse/neglect issues.

## B. OTHER CIVIL RIGHTS

GOAL: Promote compliance with civil rights of individuals with mental illness with emphasis on individuals in residential settings or at risk of institutionalization (e.g. homeless or outpatient committed) or serious harm and further promote self-advocacy through technical assistance and information and referral services.

### OBJECTIVES:

- 0200 1. On a case-by-case basis, represent or accompany individuals to treatment plan meetings to foster: a) consumer choice; b) the offer and implementation of appropriate treatment options; c) adherence to facility policies; and d) if applicable, compliance with bill of rights legislation covering State operated and licensed facilities or July, 2011 DOJ-DHSS Settlement Agreement.

Target Population: Federal and State law emphasize the importance of a treatment plan in defining the scope and types of services to be offered to patients. See 42 U.S.C. §10841(1)(B) and Title 16 Del.C. §§1121(4) and 5161(b)(2). A 2011 Settlement Agreement between the federal Department of Justice (“DOJ”) and State Department of Health & Social Services (“DHSS”) envisions active patient involvement in identification of individual needs and supports. This objective contemplates representation and assistance to patients to ensure consideration of their views and deterrence of unnecessary restrictions of autonomy. Such assistance will benefit mental health hospital patients, particularly DPC patients, and extend to residents of other licensed residential facilities (e.g. group homes; long-term care facilities).

Target: The DLP will actively participate in at least 15 treatment team meetings and, in majority of meetings, prompt inclusion or implementation of consumer-oriented plan components.

- 0201 2. Provide advocacy services to individuals with meritorious claims of non-compliance with facility policies, bill of rights legislation, or July, 2011 DOJ-DHSS Settlement Agreement.

Target Population: Delaware law includes bill of rights standards applicable to mental hospitals, community-based mental health facilities, substance abuse centers, and long-term care facilities. See Title 16 Del.C. §§1121, 2220, 5161, and 5181-5186. These compilations of standards, supplemented by written facility policies, comprehensively cover both procedural and substantive rights. However, patients sometimes require assistance in recognizing and understanding specific rights and enforcement options under such standards as well as the DOJ-DHSS Settlement Agreement. This objective contemplates assistance to individuals with mental illness served in State operated, licensed, or financially supported facilities, including mental health hospitals, community-based mental health facilities, long-term care facilities, group homes, supervised apartments and day treatment programs.

Target: The DLP will address at least 10 instances of non-compliance with facility policies, bill of rights legislation, or July, 2011 DOJ-DHSS Settlement Agreement resulting in positive outcome through restoration of client rights, expansion or maintenance of personal decision-making, or elimination of barriers to personal decision-making.

- 0202 3. Provide advocacy services to ensure: a) deterrence of unnecessary institutionalization proscribed by Olmstead; b) development and implementation of appropriate discharge plans; and c) on a case-by-case basis, reduction of disability-related barriers to plan implementation (e.g. housing discrimination; state-imposed disruption of familial integrity; denial of key public benefits).

Target Population: The PAIMI statute and regulations have historically promoted provision of advocacy services to persons recently discharged from residential facilities. See 42 U.S.C. §10805(a)(1)(c) and 42 C.F.R. §51.7(a)(2). This transition phase can be particularly problematic since housing, public benefits, and family supports often provide the underpinning for successful community living. This objective contemplates assistance with both development of “solid” discharge plans and advocacy to overcome barriers to implementation. The DOJ-DHSS Settlement Agreement contemplates State provision of supported housing through vouchers, subsidies, and bridge funding to 550 individuals either currently institutionalized or at risk of institutionalization by July 1, 2014. The Agreement is also prompting the transition of many DSAMH clients to new community-based providers and development of supportive ACT and ICM teams. According to a March 8, 2013 Court Monitor Report, approximately 500 individuals are now being served by 5 ICM teams. This transition introduces new variables and is proving unsettling to some DSAMH clients in a variety of contexts. Assistance would benefit persons ready for

discharge or recently discharged from residential facilities.

Target: The DLP will participate in the discharge planning of at least 15 individuals. The DLP will address and reduce disability-related barriers to plan implementation on behalf of at least 10 individuals.

- 0203 4. Provide advocacy services to individuals at risk of institutionalization or serious harm aggrieved by housing discrimination, state-imposed disruption of familial integrity, or denial or encumbrance of key public benefits (e.g. children's SSI; Medicaid).

Target Population: Housing, public benefits, and family supports often provide the underpinning for successful community living. This objective contemplates assistance to persons currently living in the community whose housing, key public benefits, or family integrity is significantly jeopardized. For example, the Family Court periodically issues excessive support orders against obligors who have been determined unable to work by the Social Security Administration and whose sole income is SSI or SSDI. This objective benefits non-residential constituents experiencing a significant legal problem in one of the three identified contexts.

Target: As a result of DLP intervention, 15 individuals at risk of institutionalization or serious harm will secure or maintain access to housing, familial integrity, or key public benefits.

- 0204 5. Provide advocacy services to students with mental illness when there is either: a) actual or proposed total exclusion from needed direct or related services creating risk of clinical instability or decompensation; b) a significant threat to health or safety based on lack of services; or c) systemic issues presented by proposed or actual denial of services.

Target Population: Students with mental health profiles are sometimes not appropriately identified and offered critical special education services and accommodations. Moreover, such students have historically been disproportionately subject to discipline, including long-term suspension and expulsion, and inappropriate diversion to the juvenile justice system. National data confirm that students with disabilities are suspended from school at approximately twice the rate of students without disabilities. See <http://disabilitycoop.com/2012/08/08/kids-suspended-twice/16201>. Delaware data similarly confirm the widespread and disproportionate prevalence of discipline of students with disabilities ["Delaware Schools: Discipline numbers flag need to address disabilities" (June 11, 2010)]. This objective contemplates assistance to students with a significant mental illness or emotional impairment whose presenting problem meets one of the above criteria.

Target: As a result of DLP intervention, 10 students will maintain or secure a more appropriate education.

- 0205 6. Offer individual technical assistance and information and referral services on disability law (e.g. housing discrimination; public benefits) affecting individuals with mental illness in the community.

Target Population: The PAIMI enabling legislation and regulations authorize provision of a wide range of formal and informal advocacy services. See 42 U.S.C. §10805(a)(1) and 42 C.F.R. §51.31(a). This authorization has historically been interpreted to include provision of technical assistance and information and referral services. Cf. 42 U.S.C. §10804(b)(2). This objective contemplates provision of technical assistance and information and referral services to groups and organizations, family members, and individuals in the community.

Target: The DLP will provide technical assistance and information and referral services to at least 160 individuals and organizations in the community.

- 0206 7. Ensure the availability of DLP-sponsored patient rights materials upon admission to the DPC and DPC diversion sites (e.g. Rockford; MeadowWood; Dover Behavioral Health System).

Target Population: Persons committed to mental health hospitals, or admitted on a voluntary basis, are often unaware of rights and expectations. The PAIMI program ensures distribution of patient handbooks to DPC patients and adapted materials to diversion site patients upon admission. This objective includes a commitment to ensure the continued availability and distribution of such materials to all new patients within DPC and the three diversion sites. The objective benefits existing and prospective DPC and diversion site patients.

Target: The DLP will monitor practices and provide a sufficient supply of materials to ensure no lapse in availability of materials for individuals admitted to the DPC or DPC diversion sites.

- 0207 8. Offer self-advocacy and patient rights training on a regular basis at the DPC and, on request, at other residential settings statewide.

Target Population: The PAIMI law has historically promoted the education and empowerment of residential patients. See 42 U.S.C. §§10841(1)(C)(K)(M). This objective contemplates the regular provision of training in self-advocacy and substantive rights at DPC and provision of such training at diversion sites (Rockford; Meadowood; Dover Behavioral Health System) upon request. Patients in the latter sites generally have shorter stays. Given the This objective benefits existing and prospective DPC and diversion site patients.

Target: The DLP will conduct at least 16 consumer training sessions.

## II. SPECIFIC PRIORITIES FOR SYSTEMIC ADVOCACY

### A. ABUSE & NEGLECT

GOAL: Promote a safe environment in residential and non-residential mental health settings through a broad array of systemic interventions, including legislative, regulatory, administrative and judicial advocacy.

#### OBJECTIVES:

##### 1. Mental Health Legislation, Regulations, & Governmental Oversight Initiatives

- 0300 a. In collaboration with advocacy organizations and councils, assess and provide input on State agency budgets with significant impact on the safety of individuals with mental illness in residential settings, including staffing, environment, and program supports.

Target Population: The PAIMI regulations envision PAIMI program collaboration with other organizations to avoid duplication of effort and foster more effective advocacy. See 42 C.F.R. §51.21(a). The regulations also require inclusion of legislative and systemic activities in the PAIMI program priorities and specifically authorize evaluation and commentary on budgets. See 42 C.F.R. §§51.24(a) and §51.31(f). The PAIMI program has historically provided input on State budgets in collaboration with State councils authorized to educate policymakers. See 42 U.S.C. §§15005(1), 15008, 15021(1) and 29 Del.C. §§7909 and 8210. This objective contemplates collaborative education of policymakers in Fall and Spring budget hearings focusing on health and safety within residential mental health settings. Advocacy under this objective would benefit constituents in State operated, licensed, or regulated residential settings.

Target: The DLP will analyze budgets and submit testimony at both Fall Budget Office hearings and Spring Joint Finance Committee hearings.

- 0301 b. In collaboration with advocacy organizations and councils, prepare affirmative legislation and monitor and offer technical assistance and analysis of pending legislation, regulations, and strategic plans affecting safety and quality of services in the public mental health service delivery system.

Target Population: The PAIMI regulations envision PAIMI program collaboration with other organizations to avoid duplication of effort and foster more effective advocacy. See 42 C.F.R. §51.21(a). The regulations also require inclusion of

legislative and systemic activities in the PAIMI program priorities and specifically authorize evaluation and commentary on laws and regulations. See 42 C.F.R. §§51.24(a) and 51.31(f). Consistent with past practice, this objective contemplates preparation and presentation of monthly analyses of legislative and regulatory initiatives affecting safety and quality of services to advocacy organizations and councils. For example, in July, 2013 the DLP identified some technical concerns with legislation (H.B. No. 154) intended to facilitate prosecution of abuse in DPC, hospitals, and long-term care facilities which may prompt amendments in FY14. The DLP will assist the Department of Education in drafting regulations implementing DLP-authored legislation (S.B. No. 100) limiting use of seclusion and restraint in public schools. Overall, this objective contemplates advocacy benefitting residential and non-residential constituents who use the public mental health system.

Target: The DLP will collaborate with advocacy organizations and councils to assess and analyze the majority of State legislation, published regulations, and strategic plans affecting safety and quality of services in the public mental health service delivery system.

## 2. DSAMH, DPC, & DPBHS Policies

- 0302 a. Monitor and influence State mental health agency and DPC policies affecting resident safety through active participation in councils and committees, including the Governor's DSAMH Advisory Council, DPBHS Advisory & Advocacy Council, DPC Patient Rights Committee, and DHSS Mortality Review Committee.

Target Population: The PAIMI regulations envision PAIMI program collaboration with other organizations to avoid duplication of effort and foster more effective advocacy. See 42 C.F.R. §51.21(a). The regulations also authorize PAIMI Program monitoring, evaluation, and commentary on policies. See 42 C.F.R. §51.31(f). This objective contemplates participation in councils which influences DSAMH and DPBHS safety-related policies and practices and participation in a committees which analyze deaths and influences DSAMH safety-related policies and practices. This objective benefits constituents in DHSS and DPBHS operated, licensed, or regulated residential settings.

Target: The DLP will attend at least 90% of meetings of the DSAMH Advisory Council; 85% of meetings of the DPC Patient Rights Committee; and 80% of the meetings of the DPBHS Advisory & Advocacy Council and DHSS Mortality Review Committee.

- 0303 b. Ensure appropriate access to DPC and DSAMH records, including seclusion/restraint statistics and internal investigative records, to facilitate effective systemic monitoring and individual DLP abuse/neglect investigations.

Target Population: The PAIMI law confers broad access rights to constituent records.

See 42 U.S.C. §§10805(a)(4) and 10806. This includes internal investigation records [42 U.S.C. §10806(b)(3)]. The law also highlights certain forms of abuse (e.g. seclusion; restraint) as “core” contexts of advocacy. See 42 U.S.C. §§10802(1) and 10841(1)(A)(F). This objective contemplates maintenance of practices and procedures to obtain seclusion/restraint statistics and internal investigative records. DLP access to such statistics, incident reports, and investigative records is addressed in a DLP-DSAMH memorandum of understanding revised in 2010. This objective primarily benefits DPC patients and constituents residing in DHSS operated, licensed, or regulated settings.

Target: The DLP will maintain timely access to seclusion/restraint statistical reports, PM 46 (abuse/neglect) investigation records and similar documents on routine basis.

- 0304 c. Ensure implementation of recently revised laws [Title 16 Del.C. §§561(b)(6) and 5162] requiring: 1) mental health hospitals to report deaths and critical incidents to the DLP; and 2) mental health hospitals to implement procedural safeguards in context of restraint.

Target Population: The PAIMI law envisions DLP death investigations. See 42 U.S.C. §§10801(b)(2)(B) and 10802(1) as well as 42 U.S.C. §§290ii and 290jj-1 - 290jj-2. The PAIMI law also encourages DLP focus on certain types of incidents (e.g., seclusion and restraint). See 42 U.S.C. §§10802(1) and 10841(1)(A)(F). Cf. CMS hospital seclusion/restraint regulations, 42 C.F.R. Part 482. This objective contemplates: 1) affirmative DLP efforts to ensure full implementation of recent legislation requiring mental health hospital reporting of deaths and critical incidents; and 2) mental health hospital adoption of procedural safeguards in context of restraint. This objective will benefit residents in mental health hospitals.

Target: Recently-adopted protocols will be implemented to both facilitate mental health hospital reporting of deaths and critical incidents and implement safeguards in use of restraint.

### 3. Law Reform Litigation

- 0305 Address selected systemic abuse/neglect issues through resort to affirmative administrative and judicial remedies.

Target Population: The PAIMI regulations require inclusion of systemic activities in the PAIMI program priorities. See 42 C.F.R. §51.24(a). The PAIMI enabling law and regulations authorize provision of a wide range of formal and informal advocacy services. See 42 U.S.C. §10805(a)(1) and 42 C.F.R. §51.31(a). The PAIMI regulations require the PAIMI Program to engage in systemic advocacy. See 42 C.F.R. §51.31(f). Indeed, the law includes a cap on technical assistance and training activities. See 42 U.S.C. §10804(b)(2). The PAIMI program attempts to maintain a

“mix” of individual and systemic advocacy to fulfill the multiple expectations in the PAIMI law and regulations. This objective contemplates fulfillment of the authorization to pursue administrative and legal remedies on behalf of constituents to obtain systemic reform in the abuse/neglect context. Judicial adoption of the July, 2011 DOJ-DHSS Settlement Agreement offers the DLP a new option for resolving systemic issues within the DSAMH mental health system. The objective benefits residential and non-residential constituents who are victims of abuse/neglect or at risk of victimization.

Target: The DLP will prompt systemic reform through individual or collaborative pursuit of at least one targeted administrative or judicial action or resolution by judicial monitor.

## B. OTHER CIVIL RIGHTS

GOAL: Address systemic violations of civil rights of individuals with mental illness in residential and non-residential settings, as well as systemic disability-related barriers to implementation of discharge plans.

### OBJECTIVES:

#### 1. Mental Health Legislation, Regulations, & Plans

- 0306 a. Prepare affirmative legislation, monitor, and offer technical assistance and analysis of pending legislation, regulations, and policies with significant impact on either: 1) the civil rights of individuals with mental illness in residential and non-residential settings; or 2) implementation of discharge plans.

Target Population: The PAIMI regulations envision PAIMI program collaboration with other organizations to avoid duplication of effort and foster more effective advocacy. See 42 C.F.R. §51.21(a). The regulations also require inclusion of legislative and systemic activities in the PAIMI program priorities and specifically authorize evaluation and commentary on laws and regulations. See 42 C.F.R. §§51.24(a) and 51.31(f). Consistent with past practice, this objective contemplates preparation and presentation of monthly analyses of legislative and regulatory initiatives to advocacy organizations and councils. The focus is on initiatives impacting civil rights and implementation of discharge plans. It includes provision of technical assistance to the Delaware Guardianship Commission which plans to assess laws and policies which may undermine DHSS efforts to deflect individuals with mental illness from institutional settings. It also includes continued promotion of expanded legislative (S.B. No. 143) or regulatory protections for residents of licensed long-term care facilities threatened with involuntary discharge or bars to readmission after off-site treatment. It encompasses assistance with development of

an improved grievance system for non-institutional DSAMH clients and persons served by community-based providers in implementation of Title 16 Del.C. §5182(7). Finally, it includes provision of extensive technical assistance to a study group established by H.J.R. No. 17 revising the mental health commitment code and outpatient commitment standards. This objective benefits residential and non-residential constituents throughout the State.

Target: The DLP will collaborate with councils and agencies to screen and analyze the majority of pending State legislation, published proposed State regulations, and identified proposed policies in the above contexts. The DLP will participate in at least 80% of meetings of the study group established by H.J.R. No. 17. Additional protections for residents of long-term care facilities will be adopted through legislation (e.g. DLP co-authored S.B. No. 143) or regulations.

- 0307 b. Assess and provide input on State agency budgets and strategic plans with significant impact on either: 1) the civil rights of individuals with mental illness in residential and nonresidential settings; or 2) implementation of discharge plans.

Target Population: The PAIMI regulations envision PAIMI program collaboration with other organizations to avoid duplication of effort and foster more effective advocacy. See 42 C.F.R. §51.21(a). The regulations also require inclusion of legislative and systemic activities in the PAIMI program priorities and specifically authorize evaluation and commentary on budgets. See 42 C.F.R. §§51.24(a) and §51.31(f). The PAIMI program has historically provided input on State budgets in collaboration with State councils authorized to educate policymakers. See 42 U.S.C. §§15005(1), 15008, 15021(1) and 29 Del.C. §§7909 and 8210. This objective primarily contemplates collaborative education of policymakers in Fall and Spring budget hearings focusing on the two identified contexts. It also envisions submission of input on agency strategic plans (including the DSAMH/DPBHS mental health block grant application) in the same contexts. Finally, it envisions provision of input to the judicially-appointed monitor who will be issuing at least semi-annual DOJ-DHSS Settlement Agreement compliance reports. Advocacy under this objective would benefit residential and non-residential constituents throughout the State.

Target: The DLP will submit commentary at Fall Budget Office hearings and Spring Joint Finance Committee hearings. The DLP will submit input to the DOJ-DHSS Settlement Agreement monitor to facilitate compliance reports. The DLP will analyze and submit commentary on the majority of identified proposed strategic plans in this context.

- 0308 c. Participate in the Governor's Commission on Community-based Alternatives for Individuals with Disabilities and the Commission's Housing Committee to promote the availability of affordable supportive housing options and reduce unnecessary institutionalization of persons with mental illness.

Target Population: The PAIMI regulations envision PAIMI program collaboration with other organizations to avoid duplication of effort and foster more effective advocacy. See 42 C.F.R. §51.21(a). The regulations also require inclusion of systemic activities in the PAIMI program priorities and involvement in systemic advocacy. See 42 C.F.R. §§51.24(a) and 51.31(f). This objective contemplates continued participation in the strategic planning and implementation activities of the Housing Committee of a Governor’s Commission addressing barriers to community living affecting persons with disabilities. The objective benefits residential and non-residential constituents throughout the State.

Target: The DLP will participate in at least 75% of Committee meetings.

## 2. DSAMH, DPC, & DPBHS Policies

- 0309 a. Monitor and influence State mental health agency and DPC policies affecting residents’ civil rights and implementation of discharge plans through periodic meetings with DSAMH Administration and DPBHS Administration and active participation in councils and committees, including the Governor’s DSAMH Advisory Council, the DPBHS Advisory & Advocacy Council, and the DPC Patient Rights Committee.

Target Population: The PAIMI regulations envision PAIMI program collaboration with other organizations to avoid duplication of effort and foster more effective advocacy. See 42 C.F.R. §51.21(a). The regulations also authorize PAIMI Program monitoring, evaluation, and commentary on policies. See 42 C.F.R. §51.31(f). This objective contemplates participation in councils which influence DSAMH and DPBHS policies and practices, participation in a committee which influences DPC policies and practices affecting residents’ civil rights and implementation of discharge plans, and provision of input and technical assistance to the DOJ-DHSS Settlement Agreement court monitor. This objective also envisions continuation of periodic meetings between DSAMH Administration, DPBHS Administration, and PAIMI Program representatives to promote dialog and effect informal resolution of issues related to civil rights and implementation of discharge plans. This objective benefits constituents in State operated, licensed, or regulated residential settings.

Target: The DLP will attend 100% of scheduled meetings with DSAMH and DPBHS Administration, at least 90% of the meetings of the DSAMH Advisory Council, 85% of the meetings of the DPC Patient Rights Committee, and 80% of the meetings of the DPBHS Advisory & Advocacy Council.

- 0310 b. Promote improvement and monitor implementation of enhanced grievance system for DPC patients.

Target Population: The PAIMI law promotes inpatient access to grievance systems. See 42 U.S.C. §10841(1)(L). Delaware law similarly fosters mental health patient access to formal and informal grievance systems. See 16 Del.C. §5161(b)(15). Recent revisions to the Delaware law should enhance the viability of the DPC grievance system but require adoption of implementing regulations and policies. Proposed regulations published in September, 2011 were never finalized given a negative critique by the DLP and multiple councils. The law also contemplates nomination of impartial hearing officers by the State Council for Persons with Disabilities. This objective would generally benefit all DPC patients.

Target: DHSS will issue regulations implementing revised grievance law and demonstrate uninhibited access to system.

- 0311 c. Promote appropriate discharge planning, treatment and accommodations for DPC patients with dual diagnoses or special needs (e.g. intellectual disability; traumatic brain injury; drug/alcohol dependency; sex offender profile; geriatric profile).

Target Population: The PAIMI regulations require PAIMI Program priorities to address the needs of persons with co-occurring mental illness and other disabilities. See 42 C.F.R. §51.24(a). This objective contemplates targeted advocacy to address the needs of special populations. For example, the DLP anticipates supporting consumer-oriented implementation of the Diamond State Health Plan Plus, assisting DHSS committee analyzing participation of DSAMH constituents in attendant services program, and facilitating implementation of interagency agreements. This objective benefits DPC patients with dual diagnoses or special needs.

Target: The DPC will: 1) adopt and implement discharge plans for residents with dual diagnoses or special needs capable of living in less restrictive settings; and 2) implement interagency agreements covering such individuals. The DLP will participate in majority of meetings of DHSS committee reviewing attendant services program.

### 3. Forensic Patient Programs & Policies

- 0312 a. Monitor adequacy of law library access and legal research resources available to DPC forensic patients.

Target Population: The PAIMI law authorizes advocacy for constituents in hospitals as well as correctional and forensic settings. See 42 U.S.C. §§10802(3). DPC maintains a forensic unit which may include patients determined incompetent to stand trial, not guilty by reason of insanity, and guilty but mentally ill. Such patients have a right to effective access to the courts which includes legal research resources for pro se litigants. This objective envisions monitoring the availability and scope of legal research resources provided to DPC forensic patients.

Target: DPC will maintain adequate and uninterrupted access to legal research/assistance in conformity with law library access policy.

- 0313 b. Prompt judicial review, discharge, and successful transition of long-term NGRI (not guilty by reason of insanity) DPC forensic patient(s) determined appropriate for community placement by treatment team(s).

Target Population: Some long-term NGRI DPC patients face special obstacles to securing discharge and off-campus privileges given restrictive judicial orders. Both the PAIMI law and State law disfavor unnecessary restrictions on liberty. See 42 U.S.C. §10841(1)(A) and Title 16 Del.C. §5161(b)(1). This objective contemplates targeted advocacy to obtain off-campus privileges or discharge for NGRI patients when such options are supported by their treatment team. It is supported by the July, 2011 DOJ-DHSS Settlement Agreement, pp. 3 and 16. This objective would benefit long-term NGRI DPC forensic patients.

Target: The DLP will prompt and maintain discharge or transitional off-campus privileges of covered patient(s) through targeted litigation, including M.D. v. State of Delaware, G.J. v. State of Delaware, C.G. v. State of Delaware, G.I. v. State, H.W. v. State, A.R. v. State, and J.H. v. State.

#### 4. Community Education

- 0314 Co-sponsor seminars on the mental health delivery system to promote informed decision-making and access by consumers and their representatives.

Target Population: The PAIMI enabling legislation authorizes provision of a wide range of formal and informal advocacy services, including training. See 42 U.S.C. §§ 10804(b)(2) and 10805(a)(1). This objective includes continued PAIMI program participation in the design team for Delaware's largest multi-topic disability-related conference as well as sponsorship of seminars on mental-health related topics. The DLP also envisions offering training in congregate community-based settings (e.g. drop-in centers). This objective benefits residential and non-residential constituents throughout the State.

Target: The DLP will: 1) attend at least 75% of design team meetings for the LIFE XVI conference and 2) sponsor multiple individual seminars on mental health-related topics.

### III. PAIMI STAFF AND ADVISORY COUNCIL TRAINING AND SUPPORT

GOAL: Improve quality of services to clients and other agencies through training and education of PAIMI staff and PAIMI Advisory Council members.

#### OBJECTIVES:

- 0400 A. Provide PAIMI staff with regular opportunities for in-house and commercial training to enhance both knowledge of substantive mental health law and advocacy skills.

Target Population: The PAIMI law requires the PAIMI program to assure that its staff is trained in provision of advocacy services to persons with mental illness. See 42 U.S.C. §10821(a)(2) and (b). This objective contemplates offering training opportunities to PAIMI program staff to enhance technical skills and knowledge necessary for effective advocacy. This objective would ultimately benefit all existing and prospective PAIMI Program clients.

Target: The DLP will provide each PAIMI staff member with the opportunity to attend at least 2 PAIMI-related training events annually.

- 0401 B. Conduct regular meetings with PAIMI staff to promote advocacy coordination and assess progress towards meeting goals and objectives.

Target Population: The PAIMI law requires the PAIMI program to assure that its staff is trained in provision of advocacy services to persons with mental illness. See 42 U.S.C. §10821(a)(2) and (b). The law also requires compilation of an annual report describing activities and accomplishments. See 42 U.S.C. §10805(a)(7). The PAIMI regulations require advocacy coordination within the PAIMI Program. See 42 C.F.R. §51.31(b). This objective implements these mandates by requiring periodic staff meetings which include training, statistical updates, progress reports, and advocacy planning. This objective would ultimately benefit all existing and prospective PAIMI Program clients.

Target: The DLP will conduct at least semiannual statewide staff meetings supplemented by at least semiannual advocacy meetings.

- 0402 C. Provide training opportunities to the PAIMI advisory council to enhance understanding of current mental health issues and effective collaboration in fulfillment of PAIMI program objectives.

Target Population: The PAIMI regulations authorize provision of training to PAIMI advisory council members. See 42 C.F.R. §51.31. This objective contemplates offering regular training at each council meeting supplemented by the opportunity to attend independent training events. This objective benefits council members. An

educated and informed council ultimately benefits all existing and prospective PAIMI Program clients.

Target: The DLP will offer training on at least 1 topic at each Council meeting and remind Council members at least semi-annually of the availability of subsidized attendance at NDRN-sponsored or commercial training events through the PAIMI program.

- 0403 D. Promote cultural diversity in membership of governing board and advisory council to assure input and guidance from a variety of perspectives.

Target Population: The PAIMI regulations require continuing efforts to include members of racial and ethnic minority groups on the board and advisory council. See 42 C.F.R. §51.22( c) and 5123(b). This objective contemplates inclusion of such representatives on the board and advisory council. This objective benefits board and council members. A culturally diverse board and council ultimately benefits all existing and prospective PAIMI Program clients.

Target: Both the governing board and advisory council will include members of cultural minorities.