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DEPARTMENT OF MENTAL HEALTH

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May 1, 2007

TO: Each Supervisor

FROM: Marvin J. Southard, D.S.W.
Director of Mental Health

SUBJECT: **DEPARTMENT OF MENTAL HEALTH BOARD LETTERS INVOLVING RETROACTIVITY**

This memorandum is to advise your Board of two letters which will be submitted for your consideration in the coming weeks which involve the issue of retroactivity.

The first letter, which has been filed for your Board's May 8, 2007, agenda, requests approval of an agreement with Mann & Associates to advertise in specialized, professional publications and newspapers for the recruitment of psychiatrists in the County. In addition, we will be seeking Board authorization for retroactive payments in the amount of $19,021 for professional services provided by Mann & Associates during July 2006.

The services provided by Mann & Associates relate to an advertising and recruitment campaign to encourage psychiatrists to join the County workforce. Prior to this campaign, the vacancy rate for psychiatrists was consistently between 25 percent and 30 percent. Since 2000, the Department has had contact with more than 700 psychiatrists and hired 185 psychiatrists, reducing the vacancy rate to between 10 percent and 15 percent. The majority of the psychiatrists hired were responding to advertisements placed by Mann & Associates.

In August 2006, while reviewing our compliance with countywide contracting and procurement policies and procedures, it was discovered that we had, for a number of years, inappropriately used a blanket purchase order to obtain personnel recruitment and related services from Mann & Associates. These transactions were approved by Department of Mental Health (DMH) program staff unfamiliar with County purchasing policies and procedures, who believed erroneously that the blanket purchase order provided authorization for these services. These transactions were not subject to oversight by centralized administrative support staff responsible for procurement of other services and supplies.

Once that discovery was made no additional services were requested of the vendor. However, at that point, the vendor had already arranged for advertisements in various publications, as requested by the Department, and incurred costs totaling $19,021. Board approval is being requested to authorize a retroactive payment to Mann & Associates for those unpaid invoices.

The second letter, which we anticipate filing in the next few weeks, is to request Board approval to allow DMH to enter into Business Rebate Agreements with three pharmaceutical corporations, effective upon Board approval. We will also be seeking delegated authority to amend the Agreements with these corporations and to enter into new Business Rebate Agreements with additional pharmaceutical corporations as needed for the County to take advantage of additional rebate opportunities.

On March 26, 2002, your Board approved a Business Rebate Agreement with Eli Lilly to receive rebates on medication expenditures for Zyprexa, one of the psychotropic medications used by DMH clients. It was the Department's intent at that time to seek similar agreements with other pharmaceutical companies in order to further reduce medication costs. Therefore, the Department entered into similar agreements with AstraZeneca, Bristol-Myers Squibb Company (BMS), and Pfizer, Inc., although specific delegated authority has not been approved by the Board. These Agreements were executed by program staff, again unfamiliar with County purchasing policies and procedures.

AstraZeneca and BMS have already paid DMH rebates in the amount of $198,992 for Fiscal Year (FY) 2004-05, $389,277 for FY 2005-06, and $821,977 for FY 2006-07 as of March 16, 2007.

Since July 2006, we have taken steps to strengthen Departmental oversight of the procurement process in order to avoid retroactive contracting. The Department has centralized the approval and monitoring of blanket purchase orders by administrative support staff and the execution of contract documents by DMH Contracts Development and Administration staff, who are familiar with and have been trained on the County's procurement and contracting guidelines and policies. It was this revised process that identified these two issues. Further, the Department has educated program managers as well about the use of blanket purchase orders and the need for Board authorization to enter into contracts, not only to make payments for services but also to receive rebates as "revenue" to the Department. The Department will continue to identify additional improvements that may be made to prevent recurrences in the future.

If you have questions or need additional information, please contact me, or your staff may contact Dr. Roderick Shaner, Medical Director, at (213) 738-4603.

MJS:SAS:LB:lkb

c: Chief Administrative Officer
Executive Officer, Board of Supervisors
County Counsel
Auditor-Controller