

AGREEMENT

Plaintiffs¹ and Defendants Governor Janice K. Brewer (“Governor”), Arizona Department of Health Services (“ADHS”), and Maricopa County Board of Supervisors (collectively, the “Parties”), hereby enter into this Agreement (“Agreement”)² consistent with the Order Regarding Joint Stipulation to Stay Litigation During Fiscal Budget Crisis, entered by the Court on March 9, 2010 (“Stay Order”).

1. The Stay Order obligated the Defendants to make their best efforts to provide services to the Class Members with all appropriated resources and other resources available to the State during the period of the stay and required the Parties to negotiate in good faith revised Court orders, which redefine the requirements that the Defendants must meet in order to exit the case; address the services, support and benefits to be provided to Class Members;³ and address how such obligations will be objectively measured in the future in order for the Defendants to exit the case. (Stay Order ¶ 18.) In addition, the Parties agreed to negotiate in good faith a revised court order that considers several factors including funding and compliance measures. (Stay Order ¶ 19.)

2. The Parties agree that this Agreement, unless expressly modified by a subsequent Court order, shall be the exclusive means for establishing the specific

¹ For purposes of this Agreement “Plaintiffs” and/or “Class Members” shall refer to all current and future Plaintiff class-members.

² For purposes of this Agreement, “Defendants” shall refer collectively to Governor Janice K. Brewer, the Arizona Department of Health Services, and Maricopa County.

³ For purposes of this Agreement, a Class Member is defined as an adult eighteen (18) years and older that resides in Maricopa County and has been determined to have a serious mental illness, consistent with A.R.S. § 36-550(4).

obligations and requirements of the Defendants and the services and benefits to be provided to Class Members between July 1, 2012 and June 30, 2014.

3. ADHS has no obligation to take any action or fulfill any requirement of this Agreement that is solely the responsibility of Maricopa County. Similarly, Maricopa County has no obligation to take any action or fulfill any requirement of this Agreement that is solely the responsibility of ADHS.

I. ARIZONA STATE HOSPITAL

4. ADHS shall make its best efforts to identify Class Members residing at the Arizona State Hospital (“ASH”) who could benefit from community living arrangements and take steps to facilitate their discharge from ASH. ADHS will ensure that the census at ASH does not exceed fifty-five (55) Class Members.

5. ADHS will not use ASH for acute admissions, but may continue to use ASH for Class Members who need long-term inpatient treatment, but only to the extent the community living arrangements and services are not appropriate to meet the needs of individual Class Members. Acute inpatient services for Class Members shall be provided in units, programs, or facilities which are cost-effective, federally reimbursable, integrated into the general medical provider system that serves nondisabled citizens as close to the home communities of Class Members as practical, and not associated with ASH.

6. ADHS will ensure that there are no admissions or readmissions of Class Members directly into ASH from community mental health agencies or other entities,

programs, or persons. All admissions of Class Members to ASH shall follow attempts to treat in one of the units, programs, or facilities described in ¶ 5.

7. ADHS shall make its best efforts to assure that Class Members are not unnecessarily admitted to ASH and that all admissions to ASH are done in accordance with Chapter 5, Title 36, Arizona Revised Statutes and Arizona Administrative Code R9-21-501 et seq.

II. SUPERVISORY CARE AND BOARD AND CARE HOMES

8. ADHS will use its best efforts to offer community living arrangements to Class Members who reside in supervisory care homes.

9. ADHS will not encourage, recommend, or facilitate Class Members to reside in supervisory care homes.

III. COUNTY SERVICES

10. Some Class Members at the Maricopa County Jail (the “Jail”) could benefit from diversion prior to incarceration at the Jail. The County will make reasonable progress to further develop programs designed to review the appropriateness and necessity for Jail admission of Class Members and to divert Class Members from incarceration when appropriate.

IV. SERVICES

Crisis Services

11. ADHS will make its best efforts to maintain a Crisis System, which provides timely and accessible services and (i) is available twenty-four (24) hours per day, seven (7) days per week, to Class Members experiencing a behavioral health crisis,

including a crisis due to substance abuse; (ii) stabilizes individuals as quickly as possible and assists them in returning to their pre-crisis level of functioning; (iii) provides solution-focused and recovery-oriented interventions designed to avoid unnecessary hospitalization, incarceration, or placement in a more segregated setting; (iv) when safe and clinically appropriate, provides mobile services at the site of the crisis, including the Class Member's residence; and (v) assesses the individual's needs, identifies the supports and services that are necessary to meet those needs, and connects the individual to those services.

12. The Crisis System shall include at least the following components:

- i. A Crisis Hotline that provides crisis intervention services over the phone, which includes triage and referral and telephone-based support to persons in crisis and which often serves as the first place of access to the behavioral health system. The service may also include a follow-up call to ensure the person is stabilized.
- ii. Mobile Crisis Teams that provide crisis intervention services by a mobile team or individual who travels to the place where the person is having the crisis (e.g., person's place of residence, emergency room, jail, or community setting). Crisis intervention services include services aimed at the assessment and immediate stabilization of acute symptoms of mental illness, alcohol and other drug abuse, and emotional distress. The purpose of this service is to stabilize acute psychiatric or behavioral symptoms, evaluate treatment needs,

and develop plans to meet the needs of the persons served. Depending on the situation, the person may be transported to a more appropriate facility for further care (e.g., a crisis services center). Mobile crisis teams shall have the ability to respond within one (1) to two and one-half (2-1/2) hours to a psychiatric crisis in the community (e.g., homes, schools, or hospital emergency rooms).

- iii. Crisis stabilization settings that provide short-term crisis stabilization services (up to seventy-two (72) hours) in an effort to successfully resolve the crisis, returning the individual to the community instead of transitioning to a higher level of care (i.e. an inpatient setting). Crisis stabilization settings can include licensed Level I sub-acute facilities, Level III facilities, and outpatient clinics offering 24/7 access. Crisis stabilization settings can also include home-like settings such as apartments and single family homes, to the extent covered by Medicaid, where individuals experiencing a psychiatric crisis can stay to receive support and crisis services in the community before returning home.

Supported Employment

13. ADHS will make its best efforts to further develop supported employment services. These are services through which Class Members receive assistance in preparing for, identifying, attaining, and maintaining competitive employment. The

services provided may include job coaching, transportation, assistive technology, specialized job training, and individually tailored supervision.

Case Management

14. ADHS will make its best efforts to further develop an individualized support system intended to meet the varying needs of Class Members, including incorporation of supportive case management services through which Class Members receive assistance in care coordination to ensure individualized service plans are developed and treatment goals are met.

Assertive Community Treatment (“ACT”) Teams

15. ADHS will make its best efforts to further develop ACT capacity as supported by clinical need. ACT teams will be available twenty-four (24) hours per day, seven (7) days per week, and deliver comprehensive, individualized, and flexible support, services, and rehabilitation to individuals in their homes and communities. An ACT team is a multidisciplinary group of professionals, including a psychiatrist, a nurse, a social worker, a substance abuse specialist, a vocational rehabilitation specialist, and a peer specialist. Services are customized to an individual’s needs and vary over time as needs change.

Family and Peer Support

16. ADHS will make its best efforts to further develop a system of peer and family support services, including peer and family-run provider organizations.

17. Peer support services are delivered in individual and group settings by individuals who have personal experience with mental illness, substance abuse or dependence, and recovery to help people develop skills to aid in their recovery.

18. Family support services are delivered in individual and group settings and are designed to teach families skills and strategies for better supporting their family member's treatment and recovery in the community. Supports include training on identifying a crisis and connecting Class Members in crisis to services, as well as education about mental illness and about available ongoing community-based services.

Supported Housing

19. ADHS shall make its best efforts to further provide supported housing services. Supported Housing is permanent housing with tenancy rights and support services that enable people to attain and maintain integrated affordable housing. It enables Class Members to have the choice to live in their own homes and with whom they wish to live. Supported Housing will continue to be integrated, scattered site housing throughout Maricopa County and no more than twenty-five percent (25%) of the units in any building should be occupied by Class Members.

20. Support services are flexible and available as needed but not mandated as a condition of maintaining tenancy.

21. Housing supports may include rental subsidies or vouchers and bridge funding to cover deposits and other household necessities.

Living Skills Training

22. ADHS will make its best efforts to further develop living skills training services through which Class Members receive assistance and include learning independent living, social skills, and communication skills in order to maximize their ability to live and participate in the community and to function independently.

Health Promotion

23. ADHS will make its best efforts to further develop health promotion services through which Class Members receive assistance regarding their knowledge of a health-related topic such as the nature of an illness, relapse and symptom management, medication management, stress management, parenting skills, and healthy lifestyles (e.g., diet and exercise).

Personal Assistance

24. ADHS will make its best efforts to further develop personal assistance services through which Class Members receive support to assist in carrying out daily living tasks (cleaning, food preparation, errands) and other activities (self-administration of medication) essential for living in a community.

Respite Care

25. ADHS will make its best efforts to further develop respite care services for Class Members to provide rest or relief for family members or other individuals caring for Class Members. Respite care services may include a range of activities and may be provided in a range of settings, including apartments and single family homes, to the

extent covered by Medicaid, to meet social, emotional, and physical needs of the Class Members during the respite period.

Medication and Medication Services

26. ADHS will make its best efforts to provide medication and medication services, which prevent, stabilize, or ameliorate symptoms arising from a behavioral health condition or its treatment; assess and manage the effects and side effects of medications; and adjust the type and dosage of prescribed medications when indicated.

V. SERVICE STANDARDS

27. ADHS will ensure that providers of services listed in ¶¶ 11-26 have linguistic and cultural competencies to serve all individuals.

28. ADHS will adopt the Substance Abuse and Mental Health Services Administration (“SAMHSA”) models for ACT,⁴ Supported Housing, Supported Employment, and Consumer Operated Services,⁵ by incorporating these SAMHSA practices into the next Maricopa County Regional Behavioral Health Authority (“RBHA”) contract. During 2012, ADHS will inform the RBHA and its subcontracted providers, through an official communication, that ADHS has adopted these SAMHSA models and that providers should assess their current practices and should begin to modify their practices, as needed, to achieve increased fidelity. In 2014, ADHS through the RBHA will evaluate providers against the SAMHSA practices, and will publicly report this information.

⁴ The Parties may agree to modify the SAMHSA model with respect to the composition of the ACT team.

⁵ Consumer Operated Services relates to the Family and Peer Support Services set forth in ¶¶ 16-18.

VI. QUALITY SERVICE REVIEWS

29. ADHS will use Quality Service Reviews (“QSR”) to identify strengths, service capacity gaps, and areas for improvement at the system-wide level. A QSR collects information through the use of a statistically significant sample of total persons with Serious Mental Illness (“SMI”) and includes a medical record review as well as interviews of Class Members.

30. A QSR will include, but not be limited to, an objective evaluation of whether the needs of Class Members are being identified, whether Class Members need any of the services identified in ¶¶ 11-26, whether these services are available, whether supports and services that they receive are meeting those needs, and whether supports and services are designed around Class Members’ strengths and goals.

31. The QSR will be conducted annually, and the analysis will be considered as part of the service capacity assessment in ¶¶ 33-39.

32. The QSR shall be conducted by an independent entity agreed to by the Parties. The Parties will jointly select this independent entity and agree on the data elements, collection methodology, the instrument, and the report.

VII. SERVICE CAPACITY

33. During the term of this Agreement, ADHS shall focus on assessing and expanding, to the extent identified, the network capacity of a service or services described in ¶¶ 11-26, subject to available funding through legislative appropriation.

34. For Fiscal Year 2013, the Governor will use her best efforts to obtain an appropriation of \$39 million to fund behavioral health services on a statewide basis. The

amount of this appropriation proportional to the number of Class Members will be used to fund the services set forth in ¶¶ 11-26 in Maricopa County, which is in addition to money already budgeted for medication and crisis services. Plaintiffs and ADHS will meet within thirty (30) days of the enactment of the Fiscal Year 2013 budget to discuss ADHS's funding allocation strategy that will be spent for each of the services set forth in ¶¶ 11-26.

35. Plaintiffs and ADHS agree to meet prior to July 1, 2012, to discuss the data elements that will be used to assess the network capacity and ADHS's QSR process, including the adequacy of supported employment, supported housing, peer support, and crisis services.

36. The data elements will include the adequacy of the capacity of each of the services described in ¶¶ 11-26 to meet the needs of Class Members, may be incorporated into the data that the RBHAs collect and submit to ADHS as part of their annual network analysis, and will be considered when determining the next fiscal year budget request. ADHS will also consider any recommendations from this discussion regarding the QSR process. To the extent possible, ADHS will insure that the QSR and other relevant data objectively assess Class Member needs for each of these services.

37. ADHS will collect and analyze data from the QSR, together with other data from its service capacity assessment, to determine whether additional capacity for each of the services described in ¶¶ 11-26 is needed.

38. ADHS shall use an analysis of the data elements for the service capacity assessment process to develop its budget recommendations to the Governor's Office of

Strategic Planning and Budget (“OSPB”). Plaintiffs and ADHS shall meet at least thirty (30) days prior to ADHS’s budget submission to OSPB for each year during the term of this Agreement to discuss ADHS’s budget process for the following fiscal year. ADHS shall share with Plaintiffs’ counsel its analysis of the data elements and its proposed budget recommendation to the OSPB with respect to behavioral health funding at least ten days prior to this meeting. Plaintiffs’ counsel shall provide any comments at least fourteen (14) days after this meeting. ADHS will give serious consideration to any comments provided by Plaintiffs’ counsel before making its final budget proposal to OSPB with respect to behavioral health funding.

39. ADHS agrees to submit to OSPB its anticipated budgetary needs to operate the behavioral health system in Maricopa County in accordance with this Agreement. The Governor agrees to make her best efforts to obtain this level of funding each year from the Legislature based upon her assessment of the competing funding needs and priorities of all other state services. The Defendants will make their best efforts to provide services, support, and benefits to Class Members as set forth in this Agreement subject to available funding through legislative appropriation.

VIII. NONCOMPLIANCE

40. Notwithstanding the provisions of this Agreement that specifically reference best efforts, Defendants agree to make reasonable progress to implement all other terms of this Agreement. Plaintiffs may bring any action to enforce this Agreement for material noncompliance with its terms, provided, however, the Plaintiffs shall not allege contempt or initiate contempt proceedings. Prior to initiating any action for

material noncompliance, the Plaintiffs shall provide written notice to the Defendants detailing their allegations of material noncompliance. The Parties agree to meet in person to seek a good faith resolution of these issues without court intervention prior to initiating any action.

41. The common law doctrine of impossibility of performance may be raised as a defense in any action or proceeding to enforce compliance with the terms of this Agreement. This includes an inability of one or more Defendants to obtain the funds necessary to implement the requirements imposed by this Agreement.

42. If any of the provisions of this Agreement are held impossible to perform, the remaining provisions of this Agreement shall remain binding and in full force and effect.

IX. REVISION OR TERMINATION OF ORDER

43. This Agreement and the Defendants' obligations herein shall automatically terminate effective June 30, 2014 ("Termination Date").

44. In the event the statutes upon which this case is based are modified to eliminate or substantially reduce Defendants' obligations thereunder, including the repeal of these statutes, either party may request the Court to vacate this Agreement and may seek dismissal of this case with prejudice.

45. The Parties agree to meet beginning July 2013 to negotiate whether to extend, amend or revise this Agreement for the period beginning July 1, 2014, and to negotiate exit criteria for the case in accordance with the terms of ¶ 19 of the March 9,

2010 Order Regarding Joint Stipulation to Stay Litigation During Fiscal Budget Crisis as well as with the SAMHSA standards as adopted in ¶ 28.

46. If the Parties are unable to agree on exit criteria and on whether to extend, amend or revise the terms of this Agreement by January 31, 2014, the Court shall appoint a mediator to help resolve any differences. If the mediator is unable to help the Parties' resolve their differences by April 30, 2014, any party may move the Court extend this Agreement or issue any new orders or revisions to the existing Court orders, effective after July 1, 2014.

47. Unless otherwise ordered by the Court in accordance with ¶ 49, the 1996 Agreement on Exit Criteria, the 1998 Agreement on the Supplemental Agreement, and the 2004 Agreement on Completion Dates will become enforceable again on July 1, 2014.

48. During the pendency of the Agreement, no party shall engage in activities which delay, prolong or frustrate performance of the obligations set forth herein with the aim of taking advantage of the time-limited nature of this Agreement.

49. This Agreement and any resulting order entered by the Court may be amended, modified, or supplemented by a written agreement entered into between all Parties and subsequently approved by the Court. Any party may petition the Court to amend, modify or supplement this Agreement if the Parties are unable to reach an agreement.

50. Other than contempt as set forth in ¶ 40, nothing herein is intended to alter the inherent authority of the court.

X. ATTORNEYS' FEES

51. The Parties agree that Class Members can recover reasonable and non-duplicative attorneys' fees and taxable costs incurred in this matter. Such attorneys' fees and costs are strictly limited to those incurred through the course of monitoring the implementation by Defendants regarding the obligations set forth in this Agreement.

52. The Parties agree that attorneys' fees and taxable costs incurred by Class Members for monitoring any and all obligations set forth in this Agreement, as well as for the negotiation of new court orders described in ¶¶ 45-46, shall be subject to an annual cap in the amount of \$150,000 in Fiscal Year 2013 and \$200,000 for Fiscal Year 2014 ("Annual Monitoring and Negotiation Cap"). Time spent on legislative lobbying is not a compensable monitoring activity. The Parties further agree that attorneys' fees and taxable costs incurred by Class Members for enforcing any and all obligations set forth in this Agreement, including all activities that are directly related to an allegation of material noncompliance and any non-frivolous, good faith motion alleging material noncompliance, shall be subject to an annual cap in the amount of \$50,000 in Fiscal Year 2013 and \$25,000 for Fiscal Year 2014 ("Annual Enforcement Cap"). Each twelve (12) month period shall begin on the date of entry of the order adopting this Agreement by the Court, during which time Class Members are only entitled to recover from Defendants their reasonable attorneys' fees and taxable costs incurred up to the amount of the Annual Monitoring and Negotiation Cap and Annual Enforcement Cap. Each twelve (12) month period begins a brand new billing period with no carryover hours or expenses allowed from prior years.

53. The Parties agree that Class Members are to submit to Defendants a statement of attorneys' fees and taxable costs, a form of stipulation, and proposed order to the Court, in order to recover attorneys' fees and costs incurred each quarter. Defendants shall be permitted a reasonable time to review each request and attempt to resolve any questions or concerns they may have with Class Members regarding same. Any request submitted by Class Members to Defendants for their attorneys' fees and taxable costs shall be submitted no more than three (3) months following the last calendar day for the three (3) month period. If a request is not submitted within this time to Defendants through their respective counsel(s), counsel for the Class Members shall be deemed to have waived any entitlement to recover any fees or costs incurred during the applicable period.

54. Class Members shall have the sole discretion to determine the individual lawyers who should perform work on their behalf and should therefore submit billing statements that provide sufficient detail of the work performed, the lawyer who did the work, and the time spent. The billing rate for Steven Schwartz shall be \$400 per hour, Anne Ronan shall be \$300 per hour, and Edward Myers (ACDL) shall be \$240 per hour. If additional or different lawyers or paralegals than those stated above are to be included in the quarterly billings, Class Members shall notify Defendants in writing of their intent to submit billing statements and their hourly rates for such lawyers/paralegals. The billing rates in this paragraph shall remain fixed during the term of this Agreement for all work billed. Class Members do not concede the rates represent fair market rates, because the Parties arrived at the rates through a process of negotiation and compromise.

55. The provisions of this Agreement regarding attorneys' fees and taxable costs are applicable to proceedings brought in the Maricopa County Superior Court, the Arizona Court of Appeals, and the Arizona Supreme Court.

56. The Parties agree that Defendants' obligation to pay Class Members' attorneys' fees and taxable costs which are ordered by the Court may be satisfied by making payment to counsel for Plaintiffs who are affiliated with the Arizona Center for Law in the Public Interest, for deposit into that firm's trust account to be later disbursed to the other attorneys or firms of record who incurred fees and taxable costs through the course of their representation of Plaintiffs.

XI. ADDITIONAL PROVISIONS

57. The Parties agree that Defendants' obligations under this Agreement apply only to Class Members.

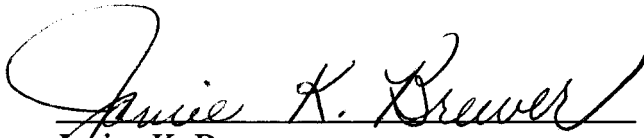
58. During the term of this Agreement, the Parties will meet as needed to discuss their progress and any obstacles which they have encountered.

59. The Court shall hold a fairness hearing and provide reasonable notice to Class Members pursuant to Rule 23(d)(2), Arizona Rules of Civil Procedure, before entering its order following submission of this Agreement. The Parties will represent to the Court that this Agreement is fair and reasonable under Rule 23. The Parties retain the right to appeal from any order which modifies or alters this document.

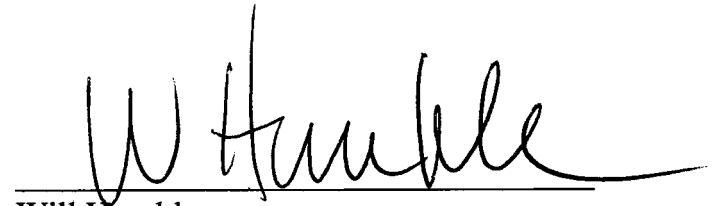
60. Although Defendants have agreed as part of the negotiation process, which was conducted under Ariz. R. Evid. 408, to undertake certain actions, such agreement and

this Agreement do not constitute an enlargement of the Judgment or an admission of any matter.

61. Once this Agreement is approved, and a corresponding order is entered by the Court, it shall be binding on all Parties.



Janice K. Brewer
Governor



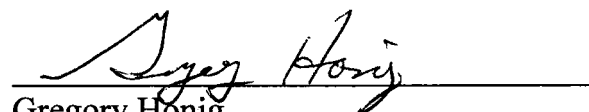
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