

## **DMH AND ASSOCIATED NON-PROFIT ORGANIZATIONS**

Some foundations and other non-profit entities are referred to as governmental associated organizations, as having a close relationship between a public agency such as DMH, and the non-profit organization through funds, personnel, purposes and/or organization. Such organizations, because they are separately chartered and private legal entities registered with the Secretary of State, are normally outside the purview of governmental audit, legislative oversight and the appropriation process.

Even though a non-profit associated with a governmental agency may share a common purpose with the agency, the non-profit must operate separate and apart from the agency, such as DMH, and its individual inpatient and outpatient facilities, as well as the DMH Mental Health Commission and local CMHC boards.

Many of these associated non-profits are “501(c) (3)” organizations. Internal Revenue Service code 501(c) (3) provides for tax exempt status for eleemosynary entities created and operated for a charitable, educational, literary and/or scientific purpose. The non-profit may by its express or implied purpose in its charter, support the mission of a public educational, health, social services, etc. agency, and/or the persons whom it serves (e.g. indigent persons with mental illness.)

The associated non-profit, in accord with its charter and organization, may provide funds or other direct support to the agency and/or persons whom the agency serves. However, the public agency may not support the non-profit through public resources (DMH funds, personnel, equipment, office space, vehicles, etc.), unless such resources are provided by contract showing a clear exchange of value. For example, a local MHC may by contract pay a fair (e.g. market value or less) value for office space, services, etc. provided by the non-profit.

### General Guide for DMH inpatient/outpatient facilities, the State Mental Health Commission and CMHC Boards:

- 1) The address of the non-profit’s office, its agent, records, funds, method of recording, bookkeeping, staff, property, etc. must all be separate and apart from DMH;
- 2) In general, the non-profit must be physically and operationally separate from DMH;
- 3) Use of any DMH resources by, and/or benefiting, the non-profit must be by contract reflecting a fair exchange of value for DMH;
- 4) Such contracts should include the right to audit and similar access to the non-profit’s financial records which relate to the contract between DMH and the associated non-profit;
- 5) Funds to be paid by DMH (or in kind exchange of things of value, such as office space, personnel, etc.) under contract must be at fair (market value or less) and reflected in DMH accounting

- 6) In general, the governing board of the associated non-profit must be completely separate from – not include -- management employees or officials of DMH.
- 7) While an employee or official of the non-profit or DMH may serve as liaison with the other entity, or even in an advisory capacity (ex-officio) on the other entity's board, that employee or official must not have voting or other authority over the other entity's operations.