

Patients' Rights Committee 2013-2015

The California Mental Health Planning Council (CMHPC) is mandated in federal and state statute to advocate for children with serious emotional disturbances, and adults and older adults with serious mental illness; to review and report on the public mental health system; and to advise the Administration and the Legislature on priority issues and participate in statewide planning.

The 40-person Council is made up of consumers, family members, subject matter experts, and behavioral health providers. One of the four committees within the CMHPC is the Patients' Rights Committee (PRC). Welfare and Institutions Code 5514 states "There shall be a five-person Patients' Rights Committee formed through the California Mental Health Planning Council. This committee, supplemented by two ad hoc members appointed by the chairperson of the committee, shall advise the Director of Health Care Services and the Director of State Hospitals regarding department policies and practices that affect patients' rights. The committee shall also review the advocacy and patients' rights components of each county mental health plan or performance contract and advise the Director of Health Care Services and the Director of State Hospitals concerning the adequacy of each plan or performance contract in protecting patients' rights."

Purpose:

The purpose of this report is to provide a summary of the committee's findings regarding patient's rights and to inform the public of the recommendations made by the CMHPC PRC. This information was obtained from surveys sent to Patients' Rights Advocates (PRA). The surveys asked about their procedures to promote patients' rights and the effectiveness of their advocacy efforts to ensure patients' rights.

The role of the county Patients' Rights Advocate is to act on behalf of clients to ensure that their human, civil and legal rights are upheld by the staff of the facilities in which they receive services. The Advocate also monitors mental health facilities to ensure that mental health services are accessible to all mental health consumers. It is also the Advocate's responsibility to educate patients about their rights at all phases of treatment.

While response rate to the surveys was not as high as anticipated, the responses received were from a good mix of small, medium, and large counties in all geographic regions of the state. Additionally, the counties that did respond represent 65% of the state's total population. The bulk of feedback came from information obtained at the Patients' Rights Advocacy Training

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(PRAT). The CMHPC PRC also reached out to the California Association of Mental Health Patients' Rights Advocates (CAMHPRA), and to the County Mental Health Boards and Commissions.

The PRCs goal for 2014-2015 was to measure each county's level of compliance with Welfare and Institutions Code 5520(a)–(e). The code states as follows:

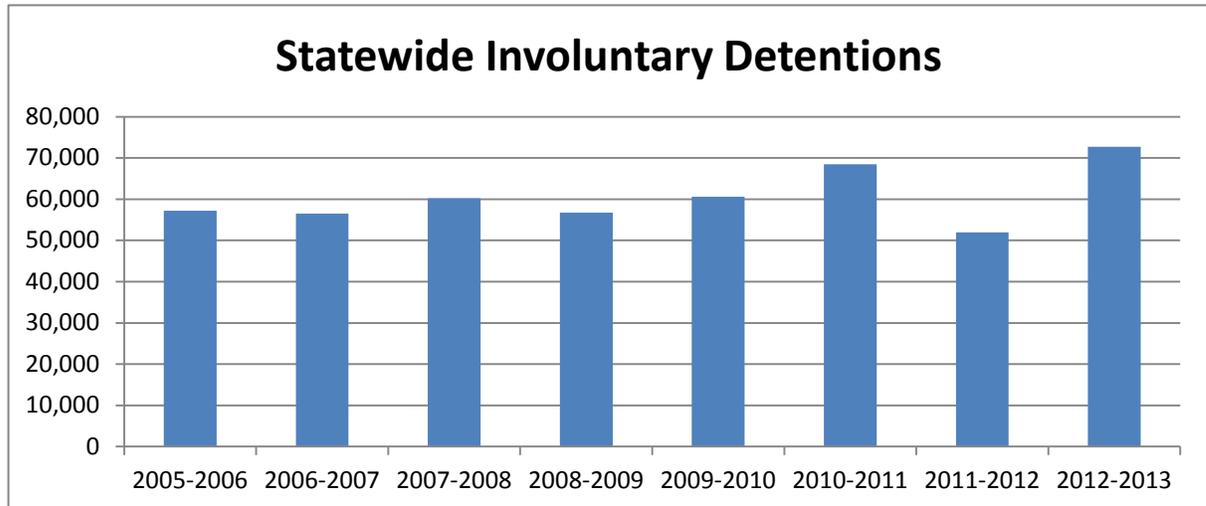
“Each local mental health director shall appoint, or contract for the services of, one or more county patients' rights advocates. The duties of these advocates shall include, but not be limited to, the following:

- (a) To receive and investigate complaints from or concerning recipients of mental health services residing in licensed health or community care facilities regarding abuse, unreasonable denial or punitive withholding of rights guaranteed under the provisions of Division 5 (commencing with Section 5000).
- (b) To monitor mental health facilities, services and programs for compliance with statutory and regulatory patients' rights provisions.
- (c) To provide training and education about mental health law and patients' rights to mental health providers.
- (d) To ensure that recipients of mental health services in all licensed health and community care facilities are notified of their rights.
- (e) To exchange information and cooperate with the Patients' Rights Office.

Surveys were gathered and evaluated by the committee throughout 2014 and 2015. The PRC sought to obtain a snapshot of the services provided by Patients' Rights Advocates as well as collect and report on current efforts to ensure the rights of patients within the California mental health system. The Summary of Findings and Recommendations come directly from the surveys, conversations with Patients' Rights Advocates, and information obtained at the Patients' Rights Advocacy Training (PRAT).

Summary of Findings:

- The counties reviewed for this report are aware of and are largely in compliance with WIC 5520(a)-(e).
- Follow up to patient complaints and grievances are hampered by the amount of time spent by advocates in 5250 Probable Cause Hearings. There has been a 26.6% increase in 5250 involuntary detentions across the state between 2005, [57,386] and 2013, [72,683].



Obtained from the California Department of Health Care Services website- "FY Tables: Involuntary Detentions in California.pdf"

- The MHSA, as well as the Affordable Care Act, have expanded MH services and therefore increased the workload of advocates. From one advocacy office to the next, there is consistent reporting that patients' rights advocates are overwhelmed and more advocates are needed throughout the state.
- There is a formula being used currently to estimate the number of PRAs a county should have. This formula is 1 PRA for every 500,000 residents. This ratio doesn't allow for sufficient representation to ensure compliance with state law.
- Health professionals, hospital staff and ER doctors need more training and education in patient's rights. Training is also needed on the role of patients' rights advocates.
- While consumers of Crisis Residential Facilities and Board and Care programs should have access to education and patient's rights advocacy services, there is a lack of trained staff to fulfill this obligation in these facilities.
- Advocates are in need of more training in co-occurring disorders as this population has high rates of recidivism within psychiatric care facilities.

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- California is home to a large number of veterans who often need patients' rights advocacy services. More training in mental health advocacy issues specific to veterans is needed for advocates to assist this population more effectively.
- In one county, a person with administrative responsibilities to patients is serving as patient advocate. This arrangement is not acceptable as advocacy services must come from a separate entity that monitors the Mental Health Department. WIC 5500 (d) states, "Independent of providers of service" means that the advocate has no direct or indirect clinical or administrative responsibility for any recipient of mental health services in any mental health facility, program, or service for which he or she performs advocacy activities."
- Los Angeles County has found it helpful to provide advocacy services in the jail setting to inmates who have mental illness. This is an innovative practice which could ensure that inmates with mental health issues are recognized as such and receive the access to treatment that they need.
- In Tulare County, Patients' Rights Advocates provide linkage to other services or resources as a part of their training and education component.
- Patients' Rights Advocates in Sutter/Yuba serve as members of the Quality Improvement Committee and the Outreach Task Force. The PRA also participates in External Quality Review Organization (EQRO) and DHCS onsite patients' rights reviews.
- In some counties there was resistance to exchange information with Patients' Rights Advocates. This action may constitute a violation of WIC 5520.

Recommendations:

1. Increase the number of Patients' Rights Advocates by amending the ratio formula. The new formula to determine ratios should be based on annual data which reflects the number of people in a county who are receiving mental health services in state or county licensed facilities.
2. The Office of Patients' Rights, as well as county mental health systems, should provide training for health professionals, hospital staff and ER doctors which could satisfy their continuing education unit requirements.

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3. Counties should monitor compliance of WIC 5500 in each facility to ensure that patient advocates are not serving in clinical or administrative roles within the mental health system.
4. Patients' Rights Advocates should receive additional training to assist patients who are veterans, diagnosed with co-occurring disorders, and/or living in Crisis Residential Facilities or Board and Care settings.