

California Behavioral Health Planning Council
Patients' Rights Committee
June 19, 2024
Meeting Minutes

Committee Members Present:

Daphne Shaw, Chairperson
Walter Shwe
Catherine Moore

Mike Phillips, Chair-Elect
Richard Krzyzanowski

Other Council Members Present:

Uma Zykofsky

Council Staff Present:

Justin Boese

Item #1: Welcome and Introductions

The committee meeting began at 10:30am.

Daphne Shaw welcomed all Patients' Rights Committee (PRC) members and guests. Committee members, staff, and guests introduced themselves. A quorum was established with 5 of 7 members.

Item #2: Review Meeting Minutes

The committee reviewed the April 2024 Meeting Minutes. No edits to the minutes were requested.

Item #3: Senate Bill 43 and Senate Bill 1238 Updates

Deb Roth from Disability Rights California (DRC) spoke to the committee about Senate Bill 1238, which is follow-up legislation to Senate Bill 43. The Planning Council opposed Senate Bill 43, which expanded the definition of "gravely disabled" in California when it was passed in October 2023. Deb explained that Senate Bill 1238 expands the kinds of facilities that can accept patients for the treatment of stand-alone substance use disorder (SUD) diagnoses, in order to create the infrastructure needed to implement SB

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43. This includes facilities such as skilled nursing facilities and social rehabilitation centers. Deb said that in recent weeks, the California Department of Health Care Services (DHCS) has been providing significant technical support for the bill, so DRC is expecting to see amendments soon.

Daphne Shaw asked Deb if DRC had heard any updates from the two counties that are currently implementing SB 43 (San Luis Obispo County and San Francisco County). Deb responded that they submitted public records act requests to those counties, but she did not have any information on how implementation is going at this time. Deb said that SB 1238 is expected to be passed and signed by the governor.

Item #4: Public Comment

Theresa Comstock commented that one of the top priorities for the California Association of Local Behavioral Health Boards and Commissions (CALBHB/C) is expanding the behavioral health workforce, including patients' rights advocates (PRAs). She encouraged the Patients' Rights Committee to work with the Workforce and Employment Committee on this issue.

Chad Costello from the California Association of Social Rehabilitation Agencies (CASRA) seconded the importance of the patients' rights advocate workforce. He said that with the passage of Senate Bill 43 and other recent legislation, there will be an increased need for PRAs. Chad encouraged the committee to work with counties in advocating for more funding for these positions.

Daphne Shaw responded that the committee would continue to work on advocating for increased PRA staffing. She said that the upcoming Legislative Analysts' Office (LAO) report on patients' rights advocates staffing will be very relevant to this issue. Daphne said that in addition to this, the committee could engage with the county behavioral health directors to make sure they are aware of the importance of PRAs and the lack of adequate staffing for county mental health patients' rights advocacy teams across California.

Item #5: Assembly Bill 2352

Daphne Shaw led a discussion about Assembly Bill 2352, authored by Assemblymember Jacqui Irwin. This bill seeks to create a legal framework for

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psychiatric advance directives (PADs). She went over the position letter by Disability Rights California and asked Deb Roth to comment on their current stance on the bill. Deb told the committee that DRC currently has an “opposed unless amended” position on the bill, citing multiple issues with how the bill is currently written. These include that there is currently no option in the bill for someone to use a public notary to establish a psychiatric advance directive, and that there is no option to designate another person as an agent for decision-making in the event a PAD goes into effect.

Action Item: A motion was made by Catherine Moore and seconded by Mike Phillips for the Patient’s Rights Committee to take an “opposed unless amended” position on Assembly Bill 2352. The motion passed.

Daphne Shaw will share the committee’s position with the Legislation and Public Policy Committee (LPPC).

Item #6: Senate Bill 402

The committee then discussed Senate Bill 402. This bill would add “licensed mental health professionals,” including those who are not employed by or contracted with a county, to the list of those who may be designated by a county to initiate a 5150 hold. Daphne Shaw said that, according to the fact sheet for the bill, the intent of the author is to reduce the role of law enforcement in mental health crisis response to reduce bad outcomes. Deb Roth said that Disability Rights California does not believe that the bill will achieve this goal and has taken an “oppose” position.

Catherine Moore noted that in most instances law enforcement will continue to be involved because if the person in question does not want to go voluntarily, they will still need to be transported by the police. Daphne Shaw agreed and said that this means that the bill would just make it easier to detain people involuntarily without making the process safer.

Action Item: Walter Shwe made a motion for the Patients’ Rights Committee to take an “oppose” position on Assembly Bill 402. Catherine Moore seconded the motion. The motion passed.

Daphne Shaw will share the committee’s position with the Legislation and Public Policy Committee (LPPC).

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Item #7: Assembly Bill 2154 and Patients' Rights Materials

Daphne Shaw reviewed Assembly Bill 2154 with the committee. This bill would require a facility to which a person is brought for involuntary detention to provide a patients' rights handbook (published by the Department of Health Care Services) to a family member of the detained person. A recent amendment has added that if a patients' rights handbook is given to a family member, then the facility must also provide one to the patient. However, there is currently nothing that guarantees that a patient will be offered a handbook in absence of a family member being given one first.

Mike Phillips explained that in law, the handbooks must be provided to a patient when admitted to a Lanterman-Petris-Short (LPS) designated facility, but that could be after multiple days of being held in an emergency room without that information. He expressed that while families should have this information, it is frustrating that the patients themselves are not the ones being prioritized.

Richard Krzyzanowski said that in his experience, there is a big demand for patients' rights information in the community. He said it is particularly valuable to have before there is a crisis or a need for these services, so people are prepared and know what their rights are.

Action Item: Mike Phillips made a motion for the Patients' Rights Committee to take an "oppose" position on Assembly Bill 2154. Walter Shwe seconded the motion. The motion passed.

Daphne Shaw will share the committee's position with the Legislation and Public Policy Committee (LPPC).

Item #8: Senate Bill 1184

The committee then discussed Senate Bill 1184, which impacts Riese Hearings (also known as Riese Petitions) for medication treatment orders. Senate Bill 1184 would allow an order for medication treatment, which originally went into effect after a determination of incapacity was established during a Riese Hearing, to remain in effect for subsequent hold periods until a court issues a new decision. Deb Roth said that Disability Rights California opposes the legislation.

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Action Item: Mike Phillips made a motion for the Patients' Rights Committee to take an "oppose" position on Senate Bill 1184. Walter Shwe seconded the motion. Richard Krzyzanowski abstained. The motion passed.

Daphne Shaw will share the committee's position with the Legislation and Public Policy Committee (LPPC).

Item #9: Committee Updates

Daphne Shaw and Mike Phillips provided brief updates on several items and ongoing activities.

Daphne told the committee that the Legislative Analyst's Office (LAO) is conducting a report on PRA staffing at the request of Senator Eggman's office. This report is expected to be completed by the end of August 2024. Though Senator Eggman is terming out of the state legislature, Daphne will be in contact with the LAO and should be informed when the report is done.

Mike said he will work with his team to draft a response to the letter received from DHCS regarding the distribution of patients' rights handbooks. It was suggested that the committee could reach out to Stephanie Welch, the Deputy Director of Behavioral Health of the California Health and Human Services Agency. Mike's goal is to get patients' rights handbooks to Patients' Rights Advocate (PRA) teams directly, as was done in the past before DHCS changed their policy on the distribution of handbooks. He said it is possible that the California Office of Patients' Rights could support this effort. Mike will continue keeping the committee updated on this issue.

Item #10: Planning for Future Meetings/Activities

The committee discussed future activities and meeting planning. Topics that were put forth include:

- Requesting information from San Francisco County about local implementation of Senate Bill 43.
- Reaching out to Professor Alex Bernard for a presentation on his work on LPS conservatorship in California.

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- Talking to Daniel Wagoner from the California Office of Patients' Rights about updates to the online PRA training materials.
- Updates on bills currently being tracked by the committee.
- Updates on the California Legislative Analyst's Office report on patients' rights advocate staffing.
- Updates on the implementation of the CARE Act.

The meeting adjourned at 12:30 pm.