

California Behavioral Health Planning Council
Patients' Rights Committee
October 18, 2023
Meeting Minutes

Committee Members Present:

Daphne Shaw (Chairperson)
Walter Shwe
Richard Krzyzanowski

Mike Phillips (Chair-Elect)
Susan Wilson
Catherine Moore

Council Staff Present:

Justin Boese

Item #1: Welcome and Introductions

Daphne Shaw welcomed all Patients' Rights Committee (PRC) members and guests. Committee members, staff, and guests introduced themselves. A quorum was reached.

Item #2: Review Meeting Minutes

The committee reviewed the June 2023 Meeting Minutes. No edits to the minutes were requested.

Item #3: SB 43 Updates

Samuel Jain, Disability Rights California, joined the meeting to speak to the committee about Senate Bill 43 (SB 43). This bill by Sen. Eggman expands the definition of "gravely disabled" in the state welfare and institution code, which could increase the number of people with mental illness who are involuntarily detained or placed into conservatorship. Disability Rights California (DRC) opposed the legislation.

Samuel Jain provided an update to the committee on the version of the bill that passed in early October. Samuel noted that despite opposition, the signed bill still constitutes a significant expansion of the "gravely disabled" definition. One of the biggest changes is that under this definition, people can be committed to involuntary treatment because of severe substance use disorders alone, without a co-occurring mental illness.

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Mike Phillips asked if implementation of the bill could be delayed. Samuel responded that implementation could only be delayed by explicit action at the county level. He also said that implementation could vary county by county and that rural counties don't have the facilities for increased involuntary detention. Mike agreed that the system is already overloaded and there is currently no room for the increase in involuntary detention and treatment that this bill could cause. Richard Krzyzanowski commented that the bar for institutionalization of people with mental illness has been lowered even more.

Public Comment:

Steve Leoni commented that he felt the Governor is promoting legislation and policies that address the needs of the San Francisco behavioral health system specifically, which has an over-reliance on involuntary services and step-down services. Steve said that as part of the IMD exclusion waiver that California is applying for, the state needs to expand voluntary, community-based treatment, and expressed a concern that things like SB 43 could compromise that process.

Item #4: CARE Act Updates

Veronica Kelley joined the meeting to provide an update on CARE Act implementation in Orange County. She reported that her county has received 9 petitions so far. Of those petitions, 8 have been from family members, 1 was filed by a social worker, and 5 of the 9 met the requirements to be acted on. She noted that some of the people they received petitions for were receiving treatment already or being held on 5150s. Veronica also described some of the difficulties of the process, particularly when it comes to locating and engaging people who are currently unhoused.

The committee members asked several questions about the implementation. Susan Wilson asked if this implementation process would look different in every county, to which Veronica replied that it will likely look different in each county. While the counties in the first cohort started implementation in October 2023, the majority of the counties in California will start in 2025.

Mike Phillips said that as far as he was aware, implementation in San Diego looked fairly similar to Orange County. He added that the county could potentially use the CARE Act process as a step-down from conservatorship in some cases.

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Item #5: SB 519 Discussion

Daphne Shaw updated the committee on Senate Bill 519 (SB 519). When the committee last discussed SB 519 in June 2023, the proposed legislation would give county supervisors the ability to take some control of local jails away from sheriffs by creating a county corrections office with an appointed executive. It would also require California sheriff's departments to release internal records of investigations into in-custody deaths and increase oversight requirements for the Board of State and Community Corrections. The committee was in agreement on supporting the bill at the time.

Since the June 2023 meeting, SB 519 went through major changes and was signed by the Governor. The final version of the bill creates the position of Director of In-Custody Death Review within the Board of State and Community Corrections. The position is appointed by the Governor and subject to state Senate confirmation for a six-year term. Daphne Shaw expressed disappointment in this development, as it weakens the impact of the bill significantly.

Item #6: MHSA Modernization: SB 326 and AB 531

Daphne moved on to the discussion of the MHSA modernization efforts. As of the meeting, both Senate Bill 326 (SB 326) and Assembly Bill 531 (AB 531) passed. Both bills contained provisions that require them to appear jointly on the March 2024 ballot, which will be Proposition 1. The committee members discussed various concerns with Prop 1, including the fact that it will potentially lower funding for some existing programs and services that are already working. Walter Shwe brought up concerns for peer services and wellness centers in particular.

Catherine Moore said that it was very hard to say how it will all turn out if it is implemented, given how big the changes are across the system. She expressed concern over the loss of inpatient beds in the state, as well as the need for board and care and other housing facilities. Catherine said that the reimbursement rates for beds are just too low for them to stay open, which isn't being addressed.

Richard stated that it was an important time for advocates and stakeholders to utilize their connections to collectively voice their concerns and opinions. He emphasized that educating the public and mobilizing voters at a grassroots level would be vital. Susan

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Wilson thanked Richard for his statement and followed up on it by saying she felt the public message to voters needed to be specifically about money. She said that there were already great concerns about existing services being cut, and that is the message that will get people engaged.

Daphne Shaw wrapped up the discussion, stating that this is an important issue that everyone will continue to need to think about, but that there isn't a lot of time left to act.

Item #7: California Office of Patients' Rights (COPR) Semi-Annual Reports to the Department of State Hospitals (DSH)

Justin Boese provided a short update on the COPR Semi-Annual Reports to DSH that the committee had been attempting to get copies of to review. Daniel Wagoner from COPR has said that DSH has not forgotten about this and intends to provide the committee with these reports. However, they are still working to deidentify the data before they can release them. Justin will continue to provide updates on this issue.

Item #8: Planning for Future Meetings/Activities

The committee discussed future activities and meeting planning, which include:

- Writing a letter to DHCS about a recent policy change to stop sending out printed Patients' Rights handbooks and other materials to patient advocacy programs.
- Continuing the discussion of PRA staffing issues and the need for an updated ratio. This includes the possibility of working with a state legislator to request an LAO report on the topic.
- Discussing patients' rights advocacy in residential settings such as board and cares.

The meeting adjourned at 12:30 pm.