California Behavioral Health Planning Council

Patients' Rights Committee Agenda

Wednesday, October 16, 2019
Courtyard Marriot Sacramento Midtown
4422 Y St, Sacramento, CA 95817
Magnolia Room
10:30am to 12:30pm

TIME	TOPIC	TAB
10:30am	**Welcome and Introductions + Approve Minutes** *Walter Shwe and All*	**Tab A**
10:35am	**Updates: AB 2316 and AB 333** *Walter Shwe and All*	**Tab B**
10:45am	**Discussion: San Joaquin Sheriff Mental Health Presentation** *Daphne Shaw and All*	**Tab C**
11:00am	**Question and Answer with Consumer Self Help Center** *Meghan Stanton, Kristy Lunardelli, George Galas*	**Tab D**
11:45am	**Survey Development** *Walter Shwe and All*	**Tab E**
12:25pm	**Public Comment + Plan for Next Meeting**	
12:30pm	**Adjourn**	

The scheduled times on the agenda are estimates and subject to change.

Patients' Rights Committee Members
Chairperson: Walter Shwe
Chair Elect: Catherine Moore
Members: Daphne Shaw, Darlene Prettyman, Richard Krzyzanowski, Susan Wilson, Mike Phillips
Staff: Justin Boese

If reasonable accommodations are required, please contact the CMHPC office at (916) 552-9560 not less than 5 working days prior to the meeting date.

TAB A

California Behavioral Health Planning Council
Patients' Rights Committee

Wednesday, October 16, 2019

Agenda Item: Review and approve meeting minutes from June 19, 2019

Enclosures: Draft of PRC meeting minutes from June 19, 2019

Background/Description:

Enclosed is a draft of the meeting minutes from June 19, 2019, prepared by Justin Boese. Committee members will have the opportunity to ask questions, request edits, and provide other feedback.

DRAFT
Patients' Rights Committee
Meeting Notes
Quarterly Meeting – June 19, 2019
10:30 am – 12:30 pm

Committee Members Present:
Walter Shwe, Chairperson
Catherine Moore, Daphne Shaw, Susan Wilson, Richard Krzyzanowski

Council Staff Present:
Jane Adcock, Justin Boese

Welcome & Introduction

Walter Shwe welcomed all committee members. Committee members and staff introduced themselves. A quorum was reached. Walter made a brief announcement that he and Daphne Shaw have been working to recruit Mike Phillips from San Diego County to take the ad-hoc member seat vacated by Samuel Jain. They are aiming for Mike to start at the October meeting.

Review and Approve Minutes

The meeting minutes from April 17, 2019 were approved. Motion by Susan Wilson, seconded by Richard Krzyznowski.

Updates: AB 2316 and AB 333

Daphne provided an update on the implementation of Assembly Bill 2316, the patients' rights advocate (PRA) training bill. The California Office of Patient's Rights (COPR) has successfully launched the online patients' rights advocate training materials required by the bill, as well as the verification form. After initial technological complications earlier in the year, the system is now working properly, and completed verification forms are being received by the PRC email address that was created for this function. Justin Boese reported that as of May 20, 2019 there were 19 PRAs who completed the training. A list of their names, counties, and the date they completed the training was provided in the meeting materials. Justin will continue to provide updated lists of verifications for each PRC meeting.

Daphne Shaw then updated the committee on Assembly Bill (AB) 333, which would establish whistleblower protections for PRAs who are independent contractors or

employees of contracted organizations. Currently, AB 333 has been referred to both the Senate Judiciary Committee and the Committee on Labor, Public Employment and Retirement. The bill will be amended to specify that AB 333 would establish a private right of action to enforce the rights and protections afforded to PRAs, and that a violation does not require an administrative investigation by the Department of Industrial Relations. This means that PRAs (or a contracted agency) would be able to hire an attorney to file a lawsuit in response to the retaliation. Daphne spoke to Samuel Jain, who said that he thinks it is a good approach and that lawyers will be willing to take up these cases.

Updates: SB 10 Bail/Pretrial-Detention Reform

Justin Boese provided an update on the bail/pretrial-detention reform that is in progress after the passage of SB 10 in 2018. The agenda item tab in the meeting packet included two materials from the Pre-Trial Justice Institute. The first was an overview of what the effects of SB 10 would be and how they might be implemented, and the second was an article on the science behind pretrial risk assessment tools, which use algorithms to determine which defendants should be released and how they should be released before trial. The agenda tab also included an article about how the law is now on hold until the 2020 election, when it will be placed on the ballot for Californians to vote on. Justin will continue providing any relevant updates between now and then.

Discussion: Denver Office of the Independent Monitor (OIM) Marshall Report

Walter opened discussion of the Marshall Report published by the Denver Office of the Independent Monitor. He said that he found it quite disturbing, and that based on the report, it seemed as though there had been an attempt to cover up the incident. Several other members agreed. Daphne commented that it was very distressing that the nurse's input during the incident was ignored. Catherine Moore said that part of what she was disturbed by was that even though this unit was intended for patients with mental health concerns, very few of the staff had crisis intervention training (CIT). She also said it was very hopeful that one of the things the jail has implemented in response was more CIT training, including example scenarios of crisis situations. Committee members also discussed the use of the "Orcutt Police Nunchakus" (OPN) as a restraint. Susan Wilson spoke about incidences of police force in her community and said that she wondered if there is a need for more civilian community oversight of law enforcement activities in general.

Daphne said that one of the issues with patients' rights in jails is whether PRAs are even allowed in the jails. Some counties don't give PRAs access to the jail. She shared that the San Joaquin County sheriff did a presentation on what they are doing in relation to mental health both in the field and in the jail, which she felt was promising. It was

suggested that the PowerPoint of the presentation be added to the meeting materials for October. Daphne also told the committee about an article she found in the Stockton Record about AB 1185, which would create oversight boards for California county sheriff departments with the authority to issue subpoenas. Daphne asked whether the Council could support the bill. Jane Adcock said that it wasn't currently on the Legislative Committee's list of bills to track as it was not specifically related to the public behavioral health system, but that Daphne could bring it up for Legislation Committee members' consideration.

Richard Krzyzanowski affirmed that oversight mechanisms are valuable, but said that it was necessary to look at their credibility and efficacy, and that they need to be built with more authority than just advisory bodies. He also commented on conservatorships and said that that is an area of patients' rights where a lot of people get lost in the system. Richard said that it is very close to incarceration, and it puts people at risk of losing their rights on many levels. Disability Rights California has done some good work on this issue to decrease the amount of people to be put on conservatorship. He warned against using conservatorship as an approach to reduce homelessness, rather than addressing housing itself.

Jessica Thornton from the Orange County patients' rights office discussed concerns over upcoming changes in their county. She shared that patients' rights services are soon going to be contracted out and the new system will be modeled after San Diego's patients' rights. The San Diego model as no oversight in jails.

Catherine Moore posed the question of what the PRC wants to advocate for regarding oversight in jails, as the committee needs to decide a course of action to pursue. Richard asked if the survey that informed the committee's white paper on patients' rights advocates included data on which patients' rights offices are active in the jails in their counties. Justin answered that individual PRAs were asked how much time they spent in jails, but not every county responded to the survey. Richard asked if perhaps the committee can do another survey to get a clearer picture of the state, including whether PRAs have the capacity to do that work. He also added that the committee could engage in some public education to inform people about the process and implications of conservatorship.

Daphne said that Samuel Jain at one time provided her with a list of recommendations regarding improving patients' rights conditions in jails. She said she will find the recommendations and send them to Justin. Jessica said that she has worked in jail settings and is familiar with many of the issues, including 23/24-hour isolation, Title XV violations, lack of outdoor time, infrequent appointments with psychiatrists, early morning discharges, and lack of programming, therapy, or any stimulation. Catherine observed that while much of patients' rights work is about protecting people from involuntary treatment, in the jails the challenge is to receive treatment at all.

Steve Leoni commented that it should be illegal to do the “3 a.m. discharges” from jails and couldn’t believe they were still happening. He went on to say that in the past when there was more interest in Laura’s Law, the official position of DRC was that counties didn’t need to implement Laura’s Law because they could use conservatorship instead, which perhaps has encouraged current renewed interest in it. He suggested that the committee could publish a white paper that highlights deficiencies around the state.

Discussion: National Association for Civilian Oversight of Law Enforcement (NACOLE) Materials

The Committee moved on to discuss materials from NACOLE, a national organization that supports and provides resources for civilian oversight bodies of law enforcement. Richard commented that he was pretty impressed with the organization’s materials, and how much they have on their website. Susan Wilson said that she was impressed as well, but that the people she brought it to in her county felt it was a little too prescribed and would like to be more flexible in their approach.

Catherine brought up the previously mentioned idea of doing another survey, this one focused on patients’ rights issues in jails. Daphne said the first one took a lot of work on the part of a lot of people from the PRC, CAMHPRA, and council staff. She said it probably wouldn’t be possible to survey the jails themselves as the sheriffs would likely not cooperate, but another option would be to ask the local behavioral health boards and commissions instead, who could then get answers from their jails. Jane said that if the Committee establishes the questions and reaches out to Theresa Comstock to help facilitate, then it could help inform the boards as well as get more reliable information. Susan suggested that one place to start regarding jail oversight is to search online to find out which counties have oversight boards or similar organizations and see if they have any reports published. Daphne asked if there was data left over from the survey that wasn’t in the white paper that pertained to PRA work in jails. Justin said he would go back and look at the collected data again.

Daphne suggested that the PRC formulate questions to ask the boards before the next meeting in October. Susan remarked that if the PRC does a survey, she’d like to see more than just questions about patients’ rights in jails on it, which Daphne and Jane said would be possible. Richard said that with the group’s permission, he’d like to share with CAMHPRA that this is a topic the PRC is looking at, which Walter affirmed would be okay. Steve commented that it could be beneficial to also look at other countries who are leaders regarding mental health in jails and prisons, which could help identify best practices.

Planning for the October Meeting

Walter proposed that Justin find a PRA in Sacramento or surrounding counties to come speak to us. The report from San Joaquin sheriff that Daphne received will be shared with the committee. Justin will investigate which counties have oversight bodies, and what kinds of reports they have published. Walter suggested seeing what information NACOLE has about California. There will be an in-between meeting to discuss the questions that will be sent to the behavioral health boards and commissions. Jane suggested inviting a couple other PRAs from other Sacramento area counties for a small panel, which the committee agreed was a good idea. Richard requested a conference line for the October meeting so he can call in.

The meeting adjourned at 12:30 pm.

TAB B

California Behavioral Health Planning Council
Patients' Rights Committee

Wednesday, October 16, 2019

Agenda Item: Updates: AB 2316 and AB 333

Background/Description

AB 2316: In 2018, the Patients' Rights Committee co-sponsored AB 2316, authored by Assemblymember Susan Eggman. The bill passed and was signed into law in August 2018. AB 2316 requires the California Office of Patients' Rights (COPR) to make training materials for county PRAs available for all PRAs at any time online. It also requires counties to verify that newly hired PRAs review these materials within 90 days of being hired, and to keep a copy of that verification and send a copy to the Patients' Rights Committee (PRC). Committee members will be reviewing the verification forms that the PRC has received to date.

AB 333: In 2018, the Patients' Rights Committee co-sponsored AB 2317, authored by Assemblymember Susan Eggman. The purpose of AB 2317 was to extend whistleblower protections to PRA's who are independent contractors or employees of contracted organizations. AB 2317 passed the state legislature but was vetoed by Governor Brown in August 2018.

In 2019, Assemblymember Eggman reintroduced the bill, now AB 333.

Enclosures:

1. Assembly Bill 333. Access online at: http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB333
2. List of received AB 2316 PRA training verification forms, by PRA name and county.

California Behavioral Health Planning Council

Patients' Rights Committee

AB 2316 PRA Training Verification Forms Received

5.31.19 – 9.9.19

Name	Date	County
Michael Lopez	5.31.19	Orange
Dionna Smith	6.4.19	San Diego
Whitney Wilson	6.10.19	San Diego
Yasmeen Farhat	6.10.19	San Diego
Andrew Fox	6.13.19	San Diego
Leslie A Glass	6.13.19	Butte
Olivia Ruiz	6.14.19	San Diego
Mike Phillips	6.19.19	San Diego
Caitlin Woodruff	6.24.19	San Diego
Jean McDonald	6.26.19	San Diego
Lauren Wong	6.27.19	San Diego
Elizabeth McAllister	7.6.19	Plumas
Alexandra Rhodes	8.27.19	Fresno
Sarah Jiminez	9.9.19	Sacramento

TAB C

California Behavioral Health Planning Council
Patients' Rights Committee

Wednesday, October 16, 2019

Agenda Item: Discussion: San Joaquin Sheriff Mental Health Presentation

How This Agenda Item Relates to Council Mission

To review, evaluate and advocate for an accessible and effective behavioral health system.

This agenda item provides the Council members with information regarding mental health, law enforcement, and patients' rights in California jails, which affects many people with mental illness. This will facilitate the Council members in evaluating what kind of advocacy may be necessary to ensure that the interactions between law enforcement and mental health consumers are informed by an understanding of behavioral health.

Background/Description:

During the June 2019 Patients' Rights Committee meeting, Daphne Shaw spoke briefly about a presentation by the San Joaquin County Sheriff's Office that she attended, which details their plan for how law enforcement approaches and resolves incidents involving people with mental health conditions, as well as treatment within the county jail. Daphne provided a physical copy of the presentation slides. Also enclosed for review are slides from a presentation on patients' rights advocacy in the Orange County jail, originally presented to the Planning Council in June 2018.

Enclosures:

1. San Joaquin County Sheriff's Office Field Contact and In-Custody Mental Health Treatment Plan.
2. Patients' Rights Advocacy Services: Rights for individuals in the Orange County Jail.

Please contact Justin Boese at Justin.boese@cbhpc.dhcs.ca.gov for electronic copies of the enclosed materials.

TAB D

California Behavioral Health Planning Council
Patients' Rights Committee

Wednesday, October 16, 2019

Agenda Item: Q&A with Consumer Self Help Center

How This Agenda Item Relates to Council Mission

To review, evaluate and advocate for an accessible and effective behavioral health system.

This agenda item informs Council members about patients' rights issues in jails so that they may evaluate California's jail systems and advocate for accessible and effective care for mentally ill inmates.

Background/Description:

The Consumer Self Help Center's (CSHC) Office of Patients' Rights Advocacy provides advocacy services in Sacramento, Yolo, San Joaquin and Contra Costa Counties. Speakers from CSHC will be available to speak with the Patients' Rights Committee about their work in the Sacramento County Jail:

- Meghan Stanton, Executive Director
- Kristy Lunardelli, Program Director, Office of Patients' Rights
- George Galas, Patients' Rights Advocate

TAB E

California Behavioral Health Planning Council
Patients' Rights Committee

Wednesday, October 16, 2019

Agenda Item: Survey Development

<u>How This Agenda Item Relates to Council Mission</u>

To review, evaluate and advocate for an accessible and effective behavioral health system.

This agenda item will help Council members in evaluating the state of patients' rights in California counties, particularly regarding patients' rights in county jails.

Background/Description:

At the June 2019 PRC Meeting, the committee decided to develop a survey to gather more information about patients' rights in county jails, as well as other potential topics. Since there are significant barriers to surveying the county jails themselves, the intended target population for the survey would be the local behavioral health boards and commission. Committee members will be discussing and developing questions for the survey during this time.