

California Behavioral Health Planning Council

Patients' Rights Committee Agenda

Wednesday, April 20, 2022

Sonesta Silicon Valley

1820 Barber Lane, Milpitas, CA 95035

Douglas I Room

10:30am to 12:30pm

TIME	TOPIC	TAB
10:30am	Welcome and Introductions <i>Catherine Moore and All</i>	
10:35am	Approval of January 2022 Meeting Minutes <i>Catherine Moore and All</i>	TAB A
10:40am	PRC 2021 Survey Analysis - Final Updates <i>Justin Boese and All</i>	TAB B
10:45am	Discussion: CARE Court Framework <i>Catherine Moore and All</i>	TAB C
11:15am	Public Comment	
11:20am	LPS Involuntary Detention and Conservatorship Data <i>Catherine Moore and All</i>	TAB D
11:35am	Public Comment	
11:40am	Discussion with Local PRAs <i>TBD</i>	TAB E
12:15pm	Public Comment	
12:20pm	Plan for Next meeting	
12:30pm	Adjourn	

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

Patients' Rights Committee Members

Chairperson: Catherine Moore

Chair Elect: Daphne Shaw

Members: Walter Shwe, Darlene Prettyman, Richard Krzyzanowski, Susan Wilson, Mike Phillips

Staff: Justin Boese

If reasonable accommodations are required, please contact the CBHPC office at (916) 701-8211 not less than 5 working days prior to the meeting date.

TAB A

**California Behavioral Health Planning Council
Patients' Rights Committee**

Wednesday, April 20, 2022

Agenda Item: Review and approve meeting minutes from January 19, 2022.

Enclosures: Draft of PRC meeting minutes from January 19, 2022

Background/Description:

Enclosed is a draft of the meeting minutes from January 19, 2022, 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 – January 19, 2022
10:30am – 12:00pm

Committee Members Present:

Catherine Moore (Chairperson)
Walter Shwe
Richard Krzyzanowski
Mike Phillips

Daphne Shaw (Chair-elect)
Darlene Prettyman
Susan Wilson

Other Council Members Present:

Steve Leoni

Council Staff Present:

Justin Boese, Jane Adcock, Jenny Bayardo

Welcome & Introductions

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

Nomination of Committee Chair/Chair Elect

The committee discussed the nomination of a committee chair-elect. Currently, Catherine Moore is the committee chairperson and Daphne Shaw is the chair-elect, and they have both served one year in this position so far. The committee has the option to extend this by another year before nominating a new chair-elect. Catherine said that she was happy to either serve another year or allow Daphne to transition to the role of chairperson. Daphne responded that she would rather that Catherine continue in the role of chairperson for a second year. A motion for Catherine Moore to continue as the committee chairperson for another year was made by Darlene Prettyman.

Motion: For Catherine Moore to continue as the chairperson of the Patient's Rights Committee for another year.

Motion made by: Darlene Prettyman

Seconded by: Walter Shwe

Aye votes: Daphne Shaw, Richard Krzyzanowski, Susan Wilson, Darlene Prettyman, Mike Phillips, Walter Shwe

Abstentions: Catherine Moore

Outcomes: The motion passed.

Approval of the October meeting minutes

Daphne Shaw made a motion to approve the October 2021 meeting minutes as written. Mike Phillips seconded the motion. The motion passed.

Discussion: DRC Lawsuit against Alameda County

The committee members were joined by Jennifer Stark, Sarah Gregory, and Oscar Lopez from the Disability Rights California (DRC) Mental Health Practice Group, to discuss a DRC lawsuit against Alameda County. Jennifer Stark introduced herself as the managing attorney for the group, and Sarah and Oscar as senior attorneys. All three are working on the case against Alameda County.

Sarah Gregory provided some background on the DRC Mental Health Practice Group. Disability Rights California is designated in state and federal law to advocate for people with disabilities in California and to monitor their treatment and care. The Mental Health Practice Group focuses on people with mental health disabilities. They regularly conduct monitoring and investigation of programs and services in California at various levels to ensure people are being treated with human care, respect, and dignity. Their mission is to strive for barrier-free, inclusive, and diverse services for people with mental health disabilities. They advocate for increased access to community-based services over involuntary treatment or incarceration.

Sarah then passed it to Oscar Lopez to talk about how their work in this role played out in Alameda County. Oscar explained that they launched an investigation in Alameda County in 2018 to look at the number of people institutionalized in psychiatric facilities, as well as people who were cycling in and out of those facilities, jails, and homelessness. Through this investigation, they found that there were a large amount of people cycling through these facilities due to a lack of community-based mental health services. This issue was particularly pronounced for black residents of Alameda County. At the time, Alameda County had the highest rate of psychiatric holds in the state, as well as a much higher incarceration rate than the statewide average for people with mental illnesses. They expressed these concerns with the county, but were unable to reach a settlement agreement at that time. They decided to move forward with a lawsuit in 2020.

The group used the lawsuit to highlight the lack of community mental health services for black Alameda County residents, and the impact that this has on them. For example, based on data from January 2018 to June 2020, there were 350 people who were sent to psychiatric emergencies services at least 10 times during that period. Of those 350 people, 50% of them were black, despite black people making up only 11% of the population in the county. The over-institutionalization of black people in this group was even more pronounced when looking at people who were sent to psychiatric emergency services more than 10 times in that period.

The DRC lawsuit is seeking more community services, better outreach and engagement efforts, better linkages for people leaving the psychiatric hospital and county jail, and wrap-around services for those at risk of institutionalization. Oscar said that lawsuits like this can be great at putting pressure on specific issues, but they are not a systemic fix and don't always lead to transformative change. Even if they are able to reach a settlement negotiation with Alameda County, they will continue to work in the county to monitor these issues. Oscar said that they also think it is important for community members and stakeholders to stay engaged with these efforts to continue to improve the mental health system.

Catherine Moore asked what the difference was between the initial attempts to reach a settlement with the county and the current lawsuit. Jennifer Stark said that a lawsuit adds a lot more pressure and political motivation to improve. She also said that during this time, the US Department of Justice (DOJ) released a findings report that mirrored a lot of DRC's concerns, and added the pressure of a potential lawsuit from the federal government.

Richard Krzyzanowski commented that he feels one contributing factor to the increased trend of putting people with mental illness in jails rather than in mental health services is the political and public pressure to frame homelessness issues as mental health issues. He said there is some haste being applied to proposed solutions due to the pressure to get people off of the streets. Richard said that the ways in which outreach and engagement are performed by counties can either make the problem better or worse, depending on the nature of their approach and how they treat people. He asked if any of these issues were included in their call for increased outreach.

Oscar Lopez said that those were all really good points, and that that is why DRC has been holding community listening sessions to hear from patients, providers, community groups, and other stakeholders so they can collect feedback and input on these issues. Oscar also said that there needs to be a cultural competency component to outreach and engagement efforts. They are keeping these things in mind as they move forward in the lawsuit.

Sarah Gregory added that in some other work they had done around homelessness issues in other counties, they had really focused on trauma-informed approaches. She said that while this case was focused on a particular group of people cycling through

these facilities, their goals for the resolution of this case do include community outreach and engagement. This includes requirements that it be trauma-informed, culturally appropriate, and focus on connecting people to community services.

Daphne Shaw said that she was dismayed that it takes lawsuits like this to bring about these changes, but that she is thankful that DRC is doing work like this to improve the system. Jennifer Stark said that one of the great things about DRC is that there are a lot of people working to improve the system in many different ways. While the litigation may catch the headlines, it doesn't necessarily highlight all the other amazing work they are doing.

Public Comment

The guests from DRC stayed to answer some questions from the public. Johanna Lozano asked the presenters what community members and advocates can do to mobilize for changes in the system. Oscar Lopez answered that litigation is always their last resort, and that one of the things that is very important is outreach and engagement from the county to community members. There are lots of people in the community that are invested in these issues and are working on various efforts and proposals. Much of this work is happening at the board of supervisors meetings, so engaging in those is one avenue to get involved.

Poshi Walker asked how many of these incidences mentioned in the lawsuit are 5150s. Jennifer responded that all the data Oscar was referring to were 5150s. Poshi asked whether any of the findings were available for the public to access, and Jennifer said that it was included in the legal complaint and findings letter, which are publically available. Sarah Gregory also said that there is a lot of information in the DOJ report.

Steve Leoni mentioned the upcoming committee discussion on the joint Assembly hearing on the Lanterman-Petris-Short (LPS) Act later in the agenda, as well as plans and efforts from the Department of Health Care Services (DHCS) to build capacity for services. He asked how these other topics might be related to the issues brought up in the DRC lawsuit. Jennifer said that there was certainly some overlap since DRC advocates for increased voluntary, community-based services over involuntary detentions or conservatorships. However, she wasn't sure how these developments would affect this case specifically at this time.

Catherine Moore thanked Jennifer, Sarah, and Oscar for joining the committee to talk about their work, and that the committee looks forward to hearing more from them in the future.

PRC 2021 Survey Updates

Justin Boese provided an update on the analysis of the 2021 PRC survey of Patients' Rights Advocate (PRA) teams regarding advocacy work in county jail facilities. A draft of the analysis report was provided to the committee members, and he asked for feedback and edits from them.

Richard Krzyzanowski said that he felt the report was written very well, and that he felt that it was a good product. Catherine Moore asked the committee what are the next steps for this survey report. Daphne Shaw suggested asking Theresa Comstock to include it in the California Association of Local Behavioral Health Boards and Commissions (CALBHBC) newsletter. Catherine agreed that would be a wonderful idea.

Jane Adcock commented that when she read the report, she noticed that a lot of PRAs were unsure what their exact duties or authority were in terms of serving patients in county jail facilities. Some ideas she had for follow up included working with the California Office of Patients' Rights (COPR) to ensure they cover this topic in their annual patients' rights training conference (PRAT), and sending the report with a cover letter to every county mental health director. She asked Richard and Mike whether this is something the county directors should know.

Richard responded that was unsure whether the county mental health director would be very responsive to these issues, given that the position is very political in nature. He added that he feels that genuine peer engagement has decreased in LA County, and that there is some tokenism in how peers and community members are included in mental health spaces. In regards to the report, he said that he felt that the conclusions could be developed into recommendations moving forward.

Mike Phillips said that it wouldn't hurt to send the report out, and that hopefully it could get some conversation going. He said he likes the idea of potentially presenting at PRAT, but that it's a very broad topic and there would need to be some solid structure to it. Daphne replied that she wasn't sure the PRC necessarily needs to be directly involved in such a presentation, and that there's a possibility they could ask DRC to do it.

Public Comment

Poshi Walker agreed with Richard that there was a reduction of true public engagement, and that COVID-19 had only made things worse in that regard. Poshi said that the Planning Council was the last government meeting where public comment was still welcomed and valued, and questioned how to change stakeholder engagement to something that is valued rather than avoided at public meetings.

Discussion: LPS Conservatorships

Catherine Moore directed the committee to the next agenda item, which was a discussion on LPS conservatorships. Justin Boese provided an overview of the included documents for this item, which included materials from the joint Assembly hearing on the LPS Act, as well as some data on involuntary detentions from DHCS.

Daphne Shaw provided her perspective on the Assembly hearing. She called attention to the words of Andy Imparato, the Director of DRC, who said as part of his testimony at the hearing that the LPS Act was put into place “to protect rights, not take them away.” She felt this was really important to remember. Daphne said she has somewhat positive impressions from the hearing, as there were a lot of people calling for more community services and resources over expansion of involuntary treatment. However, she was concerned to hear that the Governor has mentioned expanding conservatorships as part of efforts to address homelessness.

Mike Phillips said that he was impressed by the sheer number of voices and breadth of testimony, though he said he felt there was a sense of exhaustion hanging over the issue due to how big of a task lies ahead.

Jane Adcock said that the morning session of the hearing was much different than the afternoon session. In the morning, she heard two clear messages: that we need to put resources into an expanded continuum of care in the community, and that there needs to be more data collected and analyzed in regards to LPS outcomes. However, the afternoon session focused almost entirely on the issue of homelessness. She went on to say that the Legislation Committee is planning to discuss this, and the two committees may be able to work in tandem together on this issue.

Daphne encouraged the committee members to read through the background paper for the hearing, as it gives a lot of great history and information on the LPS Act.

Richard said he agreed with Jane in regard to the need for more data, particularly on the effectiveness of alternatives to involuntary treatment. He said that many times the solutions proposed by peers are dismissed simply because of who is suggesting it, which contributes to the marginalization of the mental health community and peer community.

Public Comment

Steve Leoni echoed the recommendation for committee members to read through the LPS hearing background report. He said that towards the end there are ten bullet points listing possible changes or alternatives to LPS, and all ten items address increasing the capacity of the system. Steve also commented that Assemblyman Woods, the head of the health committee, was interested in potentially holding another hearing later in the year focused on expanding capacity.

Johana Lozano encouraged the committee to collaborate with other agencies and organizations regarding this issue.

Steve McNally commented that he had a somewhat different perspective on the issue, as his son had been in conservatorships in the past. He said that some people do need it as an option when nothing else works, but that he was frustrated with the lack of data in the system and the oversight and implementation of it is very wishy washy. Not being able to show outcomes for mental health services is unacceptable. Steve said we need to educate communities on what's really going on, and stop looking at it as a black and white issue of conservatorship vs. no conservatorship.

Steve Leoni agreed with the need for better data so that we can prove what the best practices are. He also said that treating people through involuntary or inpatient services unnecessarily also diverts funding away from community services. Some of the money for increased community services can be found by changing the ways these services are prioritized and utilized.

Planning for the April 2022 Meeting

Catherine Moore opened up discussion on plans for the next committee meeting (April 2022). Daphne Shaw said that she had requested the data on the involuntary detentions that was in the current meeting packet, but the committee had not had an opportunity to discuss it, so she'd like that topic to be carried over to the April agenda. Catherine said that the committee could discuss what to do next with the PRA survey analysis regarding advocacy in county jails.

Susan Wilson suggested a brief presentation on the implementation of AB 1185, which empowers counties to establish a Sheriff oversight committee. She said if every county had such a committee, then we would have another place to go to address jail issues. Richard Krzyzanowski said that another avenue to influence the sheriffs is through the board of supervisors in each county. He encouraged the committee to continue working with Theresa Comstock and CALBHBC because the local behavioral health boards directly advise the boards of supervisors in their counties.

The meeting adjourned at 12:30 pm.

**California Behavioral Health Planning Council
Patients' Rights Committee**

Wednesday, April 20, 2022

Agenda Item: PRC 2021 Survey Analysis - Final Updates

How This Agenda Item Relates to Council Mission

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 advocacy in county jails.

Background/Description:

At the January 2021 PRC Meeting, the committee decided to develop a survey to follow up on the 2020 survey of the local behavioral health boards and commissions. This survey was targeted at county mental health patients' rights advocates and aims to gather information on their advocacy work in county jails and is being distributed by the California Association of Mental Health Patients' Rights Advocates (CAMHPRA).

The survey was sent out over the summer of 2021, and responses were closed in the fall. Analysis of the survey responses were completed in the winter of 2022 and the resulting report has been finalized. Justin Boese will provide updates on the posting and distribution of the report.

Enclosures:

Analysis of responses to the 2021 survey of patients' rights advocates. To receive a copy of this document, please contact Justin Boese at Justin.boese@cbhpc.dhcs.ca.gov.

California Behavioral Health Planning Council Patients' Rights Committee

Wednesday, April 20, 2022

Agenda Item: Discussion: CARE Court Framework

How This Agenda Item Relates to Council Mission

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

This agenda item will help Council members in monitoring, reviewing, evaluating, and recommending improvements in the protection and upholding of patient's rights in the public mental health system of California.

Background/Description:

On March 03, 2022, Governor Gavin Newsom unveiled the CARE (Community Assistance, Recovery, and Empowerment) Court framework. This framework has been described as "a new framework to provide individuals with mental health and substance use disorders the care and services they need to get healthy", and "would require counties to provide comprehensive treatment to the most severely impaired and untreated Californians and hold patients accountable to their treatment plan." The proposed CARE Court framework would connect individuals deemed "in crisis" with a court-ordered care plan for up to 12 months, with a possibility of extending it for an additional 12 months.

As this framework has implication for civil and patients' rights of people living with mental illness, the Patients' Rights Committee will discuss the proposed framework.

Enclosures:

- CARE Court Press Release: <https://www.gov.ca.gov/2022/03/03/governor-newsom-launches-new-plan-to-help-californians-struggling-with-mental-health-challenges-homelessness/>
- CARE Court Fact Sheet: https://www.gov.ca.gov/wp-content/uploads/2022/03/Fact-Sheet_-CARE-Court-1.pdf
- CARE Court Webinar Slides from 3/14/2022: <https://www.chhs.ca.gov/wp-content/uploads/2022/03/CARE-Court-Stakeholder-Slides-20220314.pdf>
- Disability Rights California (DRC) Response to CARE Court: <https://www.disabilityrightsca.org/latest-news/disability-rights-californias-response-to-governor-newsoms-framework-for-care-courts>
- MHAC Response to CARE Court: <https://myemail.constantcontact.com/Weekly-Wrap-Up-March-11--2022.html?soid=1107062676018&aid=gc1IRjj5onY>

**California Behavioral Health Planning Council
Patients' Rights Committee**

Wednesday, April 20, 2022

Agenda Item: Discussion: LPS Conservatorships

How This Agenda Item Relates to Council Mission

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 regarding involuntary detentions and LPS conservatorships.

Background/Description:

The committee will review and discuss DHCS data on Involuntary Detentions in California. The data provided is from the DHCS website, and includes tables from fiscal years 18-19 and 19-20, which are the most recent documents available.

Enclosures:

DHCS Data: Involuntary Detentions in California, fiscal years 18-19 & 19-20. Data tables can be accessed at:

<https://www.dhcs.ca.gov/services/MH/Pages/InvoluntaryDetention-MH.aspx>

**California Behavioral Health Planning Council
Patients' Rights Committee**

Wednesday, April 20, 2022

Agenda Item: Discussion with Local PRAs

How This Agenda Item Relates to Council Mission

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, including patients' rights in county jails.

Background/Description:

As part of the Patients' Rights Committee's (PRC) duties to review and evaluating patients' rights in California, the PRC strives to connect to local patients' rights advocates (PRAs) to hear about their work and their experience serving clients in the public mental health system. The PRC will hear from Melanie Roland and Clare Cortright, advocates from the Silicon Valley Law Foundation who are working in Santa Clara County. Melanie and Clare will talk about the state of patients' rights advocacy work in the county, as well as their perspectives on the opening of a new jail facility.