

California Behavioral Health Planning Council

Patients' Rights Committee Agenda

Wednesday, January 19, 2022

Zoom Meeting Link:

<https://us02web.zoom.us/j/84820298410?pwd=SXRiOTRGMmRMOG9memliejY2R2xndz09>

Meeting ID: 848 2029 8410

Meeting Passcode: 467334

Phone-in: +1 669 900 6833

TIME	TOPIC	TAB
10:30am	Welcome and Introductions <i>Catherine Moore and All</i>	
10:35am	Nomination of Committee Chair/Chair-Elect <i>Catherine Moore and All</i>	TAB A
10:40am	Approval of October 2021 Meeting Minutes <i>Justin Boese and All</i>	TAB B
10:45am	PRC 2021 Survey Updates <i>Justin Boese and All</i>	TAB C
11:05am	Public Comment	
11:10am	Discussion: LPS Conservatorships <i>Chairperson and All</i>	TAB D
11:40am	Public Comment	
11:45am	Discussion: DRC Lawsuit against Alameda County <i>Chairperson and All</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.

**California Behavioral Health Planning Council
Patients' Rights Committee**
Wednesday, January 19, 2022

Agenda Item: Nomination of Committee Chair/Chair-Elect

Background/Description:

Each standing committee shall have a Chairperson and Chair-Elect. The Chairperson serves a term of 1 year with the option for re-nomination for one additional year.

Catherine Moore served as Chairperson of the Patients' Rights Committee in 2021, and Daphne Shaw served as Chair-Elect. The committee has the option to re-nominate Catherine Moore for one additional year. Otherwise, Daphne Shaw will take on the role of Chairperson for 2022 and the committee members shall nominate a Chair-Elect to be submitted to the Council's Officer Team for appointment.

The role of the Chair-Elect is outlined below:

- Facilitate the committee meetings as needed, in the absence of the Chairperson
- Assist the Chairperson and staff with setting the committee meeting agendas and other committee planning
- Participate in the Executive Committee Meetings on Wednesday mornings during the week of quarterly meetings
- Participate in the Mentorship Forums

Motion: Nomination of Catherine Moore for a second 1-year term, or nomination of a committee member as the PRC Chair-Elect.

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

Wednesday, January 19, 2022

Agenda Item: Review and approve meeting minutes from October 20, 2021.

Enclosures: Draft of PRC meeting minutes from October 20, 2021

Background/Description:

Enclosed is a draft of the meeting minutes from October 20, 2021, 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 – October 20, 2021
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, Hector Ramirez

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.

Approval of the June meeting minutes

Daphne Shaw made a motion to approve the June 2021 meeting minutes. Richard Krzyzanowski seconded the motion. The motion passed.

AB 2316 Verification Forms

Justin Boese provided a quick update on the AB 2316 patients' rights advocate (PRA) training verification forms. Under AB 2316, newly hired PRAs are required to complete an online training program provided by the California Office of Patients' Rights (COPR). The Patients' Rights Committee is responsible for tracking and recording the forms received. Justin provided the committee with an updated master list of all forms received to date. This list will continue to be updated.

PRC Survey Updates

Justin Boese also updated the committee on the most recent survey conducted by the committee. The survey was aimed at county mental health Patients' Rights Advocate

programs and asked about their work in local county jails. The survey was opened for responses at the beginning of summer, and Mike Phillips and Richard Krzyzanowski have been conducting outreach to encourage participation. So far the committee had received responses from 29 PRA offices, working in 40 counties in California.

The committee decided to close the survey at the end of October. After that point Justin will begin working on analyzing the survey responses for a written report, similar to the report for the 2020 survey of local behavioral health boards and commissions. The committee will also discuss any other follow up that they want to do based on the results of the survey.

PRAT Presentation Report Back

Justin Boese reported back on the presentation that Daphne Shaw, Richard Krzyzanowski and Mike Phillips gave at the annual patient rights advocate training conference (PRAT) held by COPR earlier in October. The presentation was very well attended and received, with a lot of engagement during the discussion and questions segment. Daphne Shaw commented that a lot of the questions they got from PRAs seemed to be about their duties and responsibilities, and she was a little surprised they didn't already have answers to them. She said to her it spoke to the fact that there are so many duties the PRAs have to handle, and so few resources for many of them in smaller counties, that they sometimes struggle to do it all. Daphne asked what Richard and Mike thought about it.

Richard Krzyznowski prefaced his response by saying that he felt the presentation went very well, and that there was even a comment in the chat during the event that said it was the best and most empowering presentation of the whole conference. He went on to say that Daphne's observations point to the need for the committee to gather as much information on patients' rights advocacy work as they can and continue collaborating with COPR in supporting PRAs. Many PRAs still don't receive a lot of training when they are hired, and are understaffed and overworked. Mike Phillips agreed, and added that counties had differences in how they prioritized PRAs and the services they provide. There are also differing interpretations of the LPS Act at the local level, so sometimes PRAs hear conflicting answers from different sources.

Catherine Moore thanked the group for presenting at PRAT, and asked if there were any other comments or questions before moving on. Daphne Shaw asked Daniel Wagoner, who is taking over for Jude Stern at COPR and will be providing technical assistance to county PRAs, if there was still just one position at COPR for that job. Daniel affirmed that he is the only one in that position. Daphne shared that the committee had ongoing concerns that there aren't more staff to support those activities.

Catherine Moore asked Daniel Wagoner how much of his job is taken up by explaining PRA duties and responsibilities and answering questions about the laws and regulations. Daniel responded that they do get a lot of questions like that, and that they

first give a straightforward response on what the codes or regulations say. However, because there are a lot of different interpretations or practices county to county, they also like to provide examples of what different county offices/PRA's do in practice. Daniel also said he observed that about 50% of the work they do is to support small counties who only have one PRA because those PRA's need more support.

Public Comment

Lynda Kaufmann said she had observed that of the 3 counties her company provides services in, Sacramento County consistently comes out to tour the facilities every year and talk to the clients, whereas Santa Clara and Monterey do not. However she had also noticed that in some counties the mental health board does site visits, and suggested that perhaps county PRA's could connect with their local boards to get copies of those site visit reports.

Hector Ramirez commented that he'd heard a lot about the need for more PRA's as well as more support and resources for them. Hector said that he feels it is a good time to ask for increased staffing capacity at COPR to meet the need for more assistance, as well as addressing the need for more staffing and funding for patients' rights advocacy at the county level.

Discussion: LPS Conservatorships

Catherine Moore moved on to the agenda item LPS conservatorships. She briefly reviewed the previous discussion from the June 2021 meeting before opening it up to committee members.

Daphne Shaw shared that the California Coalition for Mental Health had State Senator Susan Eggman present to them. She said that Senator Eggman has carried several bills to expand involuntary treatment, including promoting using medical reasons to justify conservatorship. Senator Eggman did acknowledge that expanding conservatorship wouldn't accomplish much until we address the lack of housing and treatment services available to those who are conserved.

Mike Phillips said that he felt that the pendulum is swinging back towards increased conservatorship and institutionalization after society has failed individuals with mental health needs. He said that while some people may feel a need to now further restrict those patients' rights in order to treat them, ultimately we have a responsibility to do better by our citizens who are struggling.

Steve Leoni provided some background from when he participated in the development of the California Master Plan. Steve said he pushed to make sure the plan said that people who are put under 5150 holds or are conserved still need to be given as much individual freedom and respect as possible within the terms of the restrictions put on them. Secondly, at a recent MHSA Partners Meeting, a woman talked about a loved one of hers who felt a need to stay in a conservatorship to continue receiving a rich

array of services. Those services allowed them to be healthy and well, but the fear was that if they were no longer conserved, they would be put in the mild to moderate population and no longer receive adequate services. Steve said the way that individuals toggle back and forth between the “severe” and “mild to moderate” populations can cause major disruptions to their services, which is counterproductive to treatment and recovery.

Richard Krzyzanowski said he appreciated Mike and Steve’s comments, and wanted to add that there is a high amount of political pressure being brought to bear on these issues. He said polling has shown that homelessness and housing are the biggest issues among California voters, and there are a lot of politically motivated efforts to institutionalize the homeless. Unfortunately conservatorship and institutionalization are being used inappropriately to get people off the streets quickly, often without any thought or effort put towards services those people really need. Richard suggested that the committee carry over the discussion to the next meeting to continue assessing what actionable items may arise for the committee. He said he felt he needs to learn more before determining what the committee can do to address these issues.

Daphne Shaw said that as an example of the rise in incarceration and institutionalization, she’d heard that Santa Clara County is considering building a “mental health jail.”

Public Comment

Steve Leoni commented that he felt some of these issues could be addressed by the Systems and Medicaid committee.

Steve McNally commented that he hoped more people would collaborate and coordinate efforts between the county and state levels. He also said that there are a lot of people who are afraid of losing services for themselves or their loved ones if they are no longer conserved, but you shouldn’t and don’t need a conservatorship to get access to services like Full Service Partnerships (FSPs).

Planning for the October 2021 Meeting

Catherine Moore summarized agenda items for the January meeting, including following up on the PRA survey and continuing the discussion of LPS conservatorships. Daphne Shaw also brought up that there was recently a DRC lawsuit against Alameda County concerning their overuse of inpatient beds and issues occurring in the Santa Rita jail. Daphne requested that it be put on the agenda, and if possible, the committee should have someone from DRC to speak to the committee about it.

The meeting adjourned at 12:00 pm.

**California Behavioral Health Planning Council
Patients' Rights Committee**
Wednesday, January 19, 2022

Agenda Item: PRC 2021 Survey 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 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. Justin Boese will be providing an update on the current status of the survey analysis, and share preliminary results with the committee.

Enclosures:

Summary of responses and preliminary analysis of the 2021 survey of patients' rights advocates. To receive a copy of these documents, please contact Justin Boese at Justin.boese@cbhpc.dhcs.ca.gov.

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

Wednesday, January 19, 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 LPS conservatorships.

Background/Description:

The committee will continue the discussion that began in June 2021, on LPS conservatorships and the potential need for further evaluation of their effectiveness based on outcomes data.

Enclosures:

LPS Hearing & Background Paper: The California State Assembly Health and Judiciary Committees held a joint information hearing titled *The Lanterman-Petris-Short Act: How Can it be Improved?* The hearing took place on December 15, 2021. Enclosed is the background paper for the hearing, which can be accessed at:

<https://ajud.assembly.ca.gov/sites/ajud.assembly.ca.gov/files/LPS%20Background%20Paper.pdf>

The recording of the hearing can be watched or downloaded from the State Assembly Media Archives at: <https://www.assembly.ca.gov/media/joint-hearing-health-judiciary-20211215/video>

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>

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Agenda Item: Discussion: Disability Rights California Lawsuit against Alameda County

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 in county jails and the use of involuntary institutionalization.

Background/Description:

In 2018, a federal class-action lawsuit was filed against Alameda County over the treatment of inmates with mental health issues in their county jails, including inadequate mental health care and the use of solitary confinement. As part of the proposed settlement for that lawsuit in 2021, Alameda County agreed to a substantial reform program to change how mental health care is provided in the Santa Rita Jail.

In July of 2020, Disability Rights California (DRC) also filed a lawsuit against Alameda County over the segregation of people with mental health disabilities, particular black people with disabilities, in psychiatric institutions. The lawsuit calls for an increase in community-based mental health services, including supported housing.

In April of 2021, the Department of Justice (DOJ) released a report on a 5-year investigation of the conditions and practices at Santa Rita Jail and John George Psychiatric Hospital in Alameda County. The DOJ report concluded that Alameda County and the Alameda County Sheriff's Office violate the Americans with Disabilities Act (ADA) regarding conditions in the jail and the provision of public mental health services.

The Patients' Rights Committee will discuss the lawsuits and investigation in Alameda County in regards to patients' rights in California.

Enclosures:

DRC Press Release: Disability Rights California Files Lawsuit against Alameda County for Its Failed Mental Health System (July 2020). <https://www.disabilityrightsca.org/press-release/disability-rights-california-files-lawsuit-against-alameda-county-for-its-failed>

Oakland Side article: Alameda County jail's mental health care would be overhauled under proposed lawsuit settlement (August 2021).

<https://oaklandside.org/2021/08/30/alameda-county-santa-rita-jail-mental-health-care-lawsuit-settlement-reform-consent-decree/>

DOJ Report: Notice Regarding Investigation of Alameda County, John George Psychiatric Hospital, and Santa Rita Jail (April 2021).

https://www.disabilityrightsca.org/system/files/file-attachments/Alameda_Findings_Report_-_FINAL.pdf