

# California Behavioral Health Planning Council

## Patients' Rights Committee Agenda

Wednesday, January 16, 2019

Holiday Inn San Diego Bayside

4875 North Harbor, San Diego, CA 92106

La Playa Room

10:30am to 12:30pm

TIME	TOPIC	TAB
10:30am	<b>Welcome and Introductions</b> <i>Daphne Shaw</i>	
10:35am	<b>Changing of Officers and Selection of Chair-Elect</b> <i>Daphne Shaw, Walter Shwe and All</i>	
10:40am	<b>Approve June Meeting Minutes</b> <i>Walter Shwe and All</i>	Tab A
10:45am	<b>Implementation of AB 2316</b> <i>Daphne Shaw and Samuel Jain</i>	Tab B
11:00am	<b>Presentation: DRC Report on Suicide in SD County Jail</b> <i>Aaron Fischer, DRC</i>	Tab C
11:45am	<b>Discussion: Patients' Rights in County Jails</b> <i>Walter Shwe and All</i>	Tab D
12:15 pm	<b>Plan for Next Meeting</b> <i>Walter Shwe and All</i>	
12:25pm	<b>Public Comment</b>	
12:30pm	<b>Adjourn</b>	

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

### Patients' Rights Committee Members

**Chairperson:** Walter Shwe

**Members:** Daphne Shaw, Darlene Prettyman, Catherine Moore, Richard Krzyzanowski, Samuel Jain

**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.**

**California Behavioral Health Planning Council**  
**Patients' Rights Committee**  
Wednesday, January 16, 2019

**Agenda Item:** Review and approve meeting minutes from October 17, 2018

**Enclosures:** Draft of PRC meeting minutes from October 17, 2018

**Background/Description:**

Enclosed is a draft of the meeting minutes from October 17, 2018, prepared by Justin Boese. Committee members will have the opportunity to ask questions, request edits, and provide other feedback

# **Patients' Rights Committee**

## **Meeting Notes**

Quarterly Meeting – October 17, 2018

10:30 am – 12:30 pm

### **Committee Members Present:**

Daphne Shaw, Chair

Walter Shwe, Darlene Prettyman, Catherine Moore, Richard Krzyzanowski, Samuel Jain

### **Staff Present:**

Justin Boese

### **Others Present:**

Michelle Mudgett, Ann Coller, Robert Blackford, Merida Saracho

### **Welcome & Introduction:**

Daphne Shaw welcomed all committee members. A quorum was reached.

### **Review and Approve Minutes:**

The meeting minutes from June 20<sup>th</sup>, 2018 were approved. Motion by Catherine Moore, seconded by Richard Krzyzanowski.

### **Patients' Rights Advocate (PRA) Legislation Update:**

Daphne Shaw and Samuel Jain provided an update on the bills sponsored by the Patients' Rights Committee. In August, AB 2316 was signed into law by Governor Brown. Unfortunately, Governor Brown vetoed AB 2317, primarily because the Department of Industrial Relations (DIR) was opposed to it. The DIR states that their Retaliation Investigation Unit is only responsible for Employee-Employer relations, and were opposed to the fact that AB 2317 would broaden their scope to include contracted work. The Governor's veto message was included in the meeting packet, in which he said he supported the overall goal but didn't believe this was the proper avenue to address the issue.

Daphne and Samuel will be in touch with Assemblymember Eggman's office for further conversations about other possibilities. One option is to extend whistleblower protections to contracted employees, but limit their retaliation claims to suits in court with private attorneys so that the DIR isn't involved. This would hopefully address DIR's opposition.

## **Discussion of the Implementation of AB 2316:**

Michelle Mudgett and Ann Collier from the California Office of Patients' Rights (COPR) came to discuss the implementation of AB 2316 with the Patients' Rights Committee. Michelle provided an overview of their perspective of the contract with the Department of State Hospitals (DSH). Though DSH holds their contract, DHS has a memorandum of understanding (MOU) with the Department of Health Care Services (DHCS) to support the contract. However, DHCS doesn't actually provide any funding toward the contract, which limits staffing at COPR.

Michelle and Anne described their process for implementation. The first step is to finish the manual text itself and post the material online. Their plan is to have the material be accessible via a password that will be provided to newly hired applicants. This prevents outside agencies from taking and publishing the manual text, and also helps ensure that COPR connects with newly hired advocates.

Michelle said that she is open to input and feedback regarding the self-tests that will be included in the training materials. She reiterated that none of the new training materials are meant to replace the Patients' Rights Advocacy Training conference (PRAT). Ann explained that there will be individual chapters of training materials. The core material will be up by the New Year, and supplemental material will be added later. She would like to eventually add video content if possible, though production would be costly for such content.

Darlene Prettyman asked about whether they would include a component on/for family members of patients. Ann said that they could talk about family advocates and their role. Samuel brought up the fact that the PRA white paper written by the PRC recommended the expansion of COPR's contract, and questioned why the DSH/DHCS won't give any additional funds to hire more staff. Michelle answered that DHCS only audits and doesn't provide any funding, and thought COPR believes that AB 2316 changes their contract enough to warrant more funding, DSH does not agree.

Daphne asked what the council can do to help COPR secure more funding, and Michelle suggested increasing the suggested county PRA ratio through legislation, and attaching funding for COPR in the bill.

Robert Blackford comments that patients' rights advocacy is an administrative service reimbursable through MediCal. He clarified that there is not a direct service code, but that counties are getting admin funds, and they should use it for PRAs like other states are already doing.

Ann suggested getting DHCS to write a letter suggesting a better ratio for county PRAs. Samuel proposed that perhaps legislation could require DHCS to come up with a new, updated recommendation for a more adequate ratio.

Returning to the topic of AB 2316, Daphne stated that the county behavioral health departments all need to be notified of the bill and the new requirements that it entails.

She proposed that the PRC send out a letter to counties concerning the verification of PRA training and the requirement for counties to send the PRC a record of that verification. Samuel specified that this will include creating a form for counties, drafting a letter, and gathering addresses and emails to send it out, and suggested using a general CBHPC or PRC email address rather than one individual's email address.

**Planning for next meeting:**

In preparation for the January 2019, the committee will review reports on patients' rights in county jails again. Out for MH is releasing an LGBTQ report sometime soon which will include a section on criminal justice.

Samuel Jain will reach out to see if he can find any possible speakers to come talk to the committee in San Diego in January. He will also work with Justin Boese on the letter informing counties about AB 2316. Justin will see about using or creating an email address to collect records of verification.

**The meeting adjourned at 12:30 pm.**

**California Behavioral Health Planning Council  
Patients' Rights Committee  
Wednesday, January 16, 2019**

**Agenda Item:** Implementation of AB 2316

**Enclosures:** Letter to County BH Directors, PRA Training Verification Form

**Background/Description:**

In 2018, the Patients' Rights Committee co-sponsored AB 2316, authored by Assemblymember Susan Eggman, to address some of the recommendations included in the committee's white paper on county PRA's in California. The bill was signed by Governor Brown and chaptered on August 28<sup>th</sup>, 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 PRC. A letter was sent out to the behavioral health directors in each county to alert them to the new requirement, as was a training verification form for them to use. Completed forms will be submitted to the Patients' Rights Committee and kept on file.



## MEMORANDUM

To:  
From:  
Date:

**Subject:** Changes in Law Requiring Verification of Training for County Mental health Patients' Rights Advocates

The Patients' Rights Committee of the California Behavioral Health Planning Council is writing to inform you about changes in the law concerning County Patients' Rights Advocates due to Assembly Bill 2316 (Eggman), which was signed into law in August of 2018. AB 2316 aims to address inconsistencies in the training and preparedness of county patient's rights advocates in California. AB 2316 modified Section 5370.2, and added Section 5524, to the Welfare and Institutions Code to achieve the following changes:

- Advocacy
- Evaluation
- Inclusion

- Section 5370.2: The entity contracted to provide technical assistance and training to Patients' rights advocates, the California Office of Patients' Rights (COPR), is required to make their PRA training materials readily accessible to all county patients' rights advocates by making them available online. COPR is currently working on updating and adapting their training materials.
- Section 5524: **Counties are required to verify that a county patients' rights advocates review the training materials provided online within 90 days of employment.** This requirement applies to patients' rights advocates hired by the county, as well as intendent contractors or employees of contracted organizations who are working as county patients' rights advocates. **The county is required to keep a record of this verification and send a copy electronically to the Patients' Rights Committee of the California Behavioral Health Planning Council. This requirement goes into effect on January 1, 2019,** and does not apply to PRAs who have been employed for at least one year on or after that date.
- Additionally, Section 5524 specifies that **the requirements of this section do not replace the ongoing training required to be provided by the contractor to county patients' rights advocates as described in Section 5512.** This includes participation in the Patients' Rights Advocacy Training conference (PRAT) hosted by COPR, which remains an important component of PRA training.

Enclosed is a copy of the training verification form. To acquire another copy of the form, or to submit a verification form, please email the CBHPC at: (email address). If you have any questions, or would like to discuss these new requirements in more detail, please reach out to (Name, email address, phone number).

Sincerely,

Daphne Shaw, Chair  
Patients' Rights Committee

**California Behavioral Health Planning Council**  
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Wednesday, January 16, 2019

**Agenda Item:** Presentation by Aaron Fischer on DRC report on Suicide in SD County Jail

**Enclosures:**

“Suicides in San Diego County Jail: A System Failing People with Mental Illness.”  
An investigation report by Disability Rights California (DRC) published April 2018 on the alarming numbers of suicide deaths among inmates in the San Diego County jail system.

Electronic copies available at the following link:

<https://www.disabilityrightsca.org/public-reports/san-diego-jail-suicides-report>

**Background/Description:**

Aaron Fischer is Litigation Counsel for Disability Rights California, and one of the authors of the DRC report on suicides in San Diego County Jail. He will be presenting on the report and discussion patients' rights issues with the committee.



review process, and that it fails to identify how findings and corrective action plans will be acted upon.

It is problematic that the Sheriff's Department Critical Incident Review Board does not conduct a formal review of all serious suicide attempts. This is a missed opportunity to learn from experience and to strengthen policy, procedure, and training moving forward.

The DRC Experts also expressed concerns about the San Diego County Citizens' Law Enforcement Review Board (CLERB), finding that it does not serve a meaningful or sufficient role in the provision of external, independent oversight with respect to suicide prevention. (We strongly agree with this finding, and recommend a new model of independent oversight. See Section IV.D.)

## 9. Quality Improvement Program

Jail systems with a robust continuous quality improvement (CQI) program will be in the best position to identify problems and implement effective solutions, including with respect to suicide prevention. The DRC Experts found that the County has begun to take positive steps in this area, but that important work remains.

### RECOMMENDATIONS

#### Improving Suicide Prevention in Jails

**Recommendation 6.** Develop a plan for timely implementation of the DRC Experts' forty-six (46) Recommendations to address deficiencies in San Diego County Jail's suicide prevention policies, practices, and training.

**Recommendation 7.** Strengthen the County's internal review process and quality improvement program to ensure implementation of necessary changes to enhance suicide prevention and inmate safety.

### C. San Diego County Should Provide Adequate Treatment and Services to Inmates with Mental Health Needs.

Our investigation found that there are a large number of San Diego County Jail inmates with significant mental health needs. With few exceptions, enhanced mental health treatment programming is provided only to those with critically acute needs. In many cases, inmates remain in harsh, non-therapeutic settings without adequate treatment until their condition deteriorates. Only when they reach the point of engaging in acts of self-harm or having an acute breakdown do they receive an enhanced level of care. Such a system is cruel and counterproductive, and does not meet constitutional and legal requirements.

#### **RECOMMENDATION 4**

***The Council on Criminal Justice and Behavioral Health should fortify its efforts to champion collaboration among state agencies to support local prevention and diversion of mental health consumers from the criminal justice system.***

California has not put in place a statewide, systemic approach for prevention and diversion to reduce criminal justice involvement for mental health consumers and improve outcomes. California's counties are well-positioned to develop more effective responses to the increased number of people with unmet mental health needs in jails. Yet the state should clear the path for more effective responses by providing clarity regarding state and federal law, facilitating information sharing, promoting best practices, and identifying and addressing barriers to innovation, among other tasks.

#### **RECOMMENDATION 5**

***The California Health and Human Services Agency should reduce or eliminate barriers so that data and information technology are used to drive decision-making, identify service gaps, and guide investments in programs to reduce the number of people with mental health needs in the criminal justice system.***

Data is a critical tool in decision-making and service delivery, but state and local agencies are not effectively harnessing its power to improve outcomes for those in need. When data is not collected or available, people within a system become invisible and problems are minimized, especially for people disproportionately affected by criminal justice involvement, such as members of African American, Latino, Native American, and LGBTQ communities. However, there are significant technological, cultural, and legal barriers to sharing data in ways that protect confidentiality. The state should develop solutions that allow agencies to legally integrate and leverage data to build responsive systems, provide better case management, and continuously improve services.

#### **RECOMMENDATION 6**

***The State, in partnership with the counties, should expand technical assistance resources to increase cultural competence, improve cross-professional training, increase the use of data and evaluation, and advance the dissemination of best practices, including community-driven and evidence-based practices.***

To build effective prevention and diversion systems, professionals in the criminal justice and mental health fields will need new knowledge, skills, and abilities to better serve mental health consumers and their communities. The state and counties should jointly improve training and