

California Behavioral Health Planning Council

Patients' Rights Committee Agenda

Wednesday, January 20, 2021

<https://us02web.zoom.us/j/82148607741?pwd=ZVF4K3FrSGpNTytVRDRSZXFtSkUzQT09>

Meeting ID: 821 4860 7741 **Passcode:** 957711

Phone-in # +1 669 900 9128

10:30am to 12:00pm

TIME	TOPIC	TAB
10:30am	Welcome and Introductions <i>Catherine Moore and All</i>	
10:35am	Approval of October 2020 Meeting Minutes <i>Catherine Moore and All</i>	TAB A
10:40am	PRC Survey Analysis Updates/Discussion <i>Justin Boese and All</i>	TAB B
11:05am	Public Comment	
11:10am	Legislation and Advocacy Discussion <i>Catherine Moore and All</i>	TAB C
11:45am	Plan for Next Meeting	
11:55am	Public Comment	
12:00pm	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 CMHPC 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 20, 2021

Agenda Item: Review and approve meeting minutes from October 21, 2020.

Enclosures: Draft of PRC meeting minutes from October 21, 2020

Background/Description:

Enclosed is a draft of the meeting minutes from October 21, 2020, 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 21, 2020

10:30am – 12:10pm

Committee Members Present:

Walter Shwe (Chairperson), Catherine Moore, Daphne Shaw, Susan Wilson, Darlene Prettyman, Richard Krzyzanowski, Mike Phillips

Other Council Members:

Steve Leoni, Uma Zykofsky, Christine Frey

Council Staff Present:

Justin Boese, Jane Adcock

Others Present:

Theresa Comstock, Mandy Taylor, Dre Aersolon, Jude Stern, Michele Mudgett, Michael Kelley, Anne Hadreas, Whitney Wilson

Welcome & Introduction

Walter Shwe welcomed all committee members. Committee members, staff, and guests introduced themselves. A quorum was reached.

Approval of the June 2020 and August 2020 meeting minutes

Motions to approve the June and August meeting minutes was made by Daphne Shaw and seconded by Susan Wilson. Motions passed.

PRC Survey Analysis Updates and Discussion

Justin Boese provided the committee with an update on the PRC survey and reported that responses were received from 41 different counties. Justin described how he is using the tools available on Survey Monkey to categorize the survey responses by county size, using the categories of small rural, small, medium, large, and very large. He proceeded to summarize some of the preliminary findings of the survey. Justin will continue with analysis of the survey results and prepare a report for the committee members to review at the January meeting.

Steve Leoni commented that while the survey data was valuable, there is still a lot left unsaid, such as what kinds of services are being provided in jails, and who is providing those services. He also questioned the quality of those services, and the lack of standards for mental health services in county jails. Without that background data and context, the survey data can only tell us so much.

Updates on Patients' Rights Advocacy during COVID-19

Michele Mudgett and Jude Stern from the California Office of Patients' Rights (COPR) and Anne Hadreas from Disability Rights California (DRC) provided the PRC with an update on the status of patients' rights advocacy services in California during the COVID-19 public health emergency. Michele Mudgett is the Director of Patients' Rights, and explained that while COPR are part of DRC, but are contracted with the Department of State Hospitals, so there is some information that cannot be shared between their different units. Jude Stern is the Supervising Advocate Specialist for COPR and provides technical assistance and training to the county patients' rights advocates (PRAs); COPR does not provide direct advocacy services. They host the PRA listserv, provide annual trainings, and training materials.

Michele turned things over to Jude Stern, who continued with the update. Jude described how they joined COPR in the current role in January, and then in March the pandemic began. Jude said that the patients' rights advocates in California really pulled together to face the challenges of the pandemic. As multiple counties began to declare a state of emergency in March, there was a big concern about how to ensure that the due process of patients was not compromised. Some of the larger counties already had video conferencing capabilities, and most patients' rights advocacy offices moved to operate as remotely as possible. This was a particular challenge for contracted offices who did not have funding to make these changes. There was also a lack of procedure for these circumstances, as well as supply shortages.

Jude said that it was good to see everyone working together to make sure that due process was met. However, there were reports that in some counties writs were no longer happening. When courts closed, LPS hearings were overlooked. Jude said that COPR was able to work with the mental health practice group over at DRC to bring this to attention and get this issue rectified. During that time, COPR had a few statewide calls to facilitate idea sharing, as well as trainings on telehealth technology. Jude said that PRAs would not agree that it was a perfect solution or was better than providing services in person, but lauded the creativity of the solutions that everyone came up with.

Jude partnered with the California Association of Mental Health Patients' Rights Advocates (CAMHPRA) to do a few surveys to see how the pandemic was affecting the work of PRAs. They found that calls have been up, but that there were still some patients' who did not feel as comfortable with remote technology. They also expressed concern that winter would bring another surge of COVID-19.

Daphne Shaw expressed concern that using remote technology would become the norm, rather than the exception. She said that an advocate in her county expressed that some of the hearing officers in their county are more comfortable working with video conferencing rather than working with the patients in person, and expressed hope that we don't let that become commonplace. Jude responded that COPR and many PRAs share that concern, and that they are ready to address that issue.

Mike Phillips commented that San Diego county the patients' rights advocates are an imposition on the facilities and nurses who have a lot of other work to do, and thought they'd be relieved when PRAs could come back in person. Mike said that their hearing officers expressed their own concerns that they were missing information by not being able to see patients in person.

Michele confirmed that advocates are not satisfied doing this work remotely, and that it is exceedingly difficult to support patients over video conferencing. She is confident that when the opportunity arises, staff will want to go back in. She said that COPR is ready to support that transition back to in person services.

Catherine Moore expressed appreciation to Daphne for bringing up this issue. She said that in psychiatric practice, providers have been surprised at how well it works. Catherine asked if there are certain benefits or efficiencies that they have seen regarding the use of remote technology. She also asked if the outcomes of hearings had changed at all during this time, or if they had remained about the same.

Mike said that they ran the numbers in San Diego said that the release rate six months prior to the pandemic was about 16%, and that after the beginning of the pandemic it was 15%, so the change in their case appears to be minimal.

Anne Hadreas then addressed the committee on her perspective from DRC's Mental Health Practice Unit. She explained that they are legal advocates who work on some of the same issues as COPR, but from a different angle. They work with the judicial council, connect with counties, and conduct work in jails, including LPS units. She echoed what Jude said about advocates doing the best they can, but also said that there were challenges to doing this work remotely and it was not ideal.

Anne reported that DRC has multiple jail lawsuits right now, including in Sacramento County and Santa Barbara County which cover mental and physical healthcare, suicide prevention, and the use of solitary confinement particularly on people with mental health conditions. She described the case against Sacramento County, which is one of the five counties with designated LPS units. The lawsuit was settled, and they had a monitoring system set up with federally appointed experts who were going to come in to track if the county was improving. Then the pandemic happened, and no one could go into the jail to do this monitoring. However, they also wanted to look at the state of conditions during the pandemic. They had to go to court in June because the Sacramento County Sheriff refused to enforce the use of masks by their staff. The Sheriff's department also

decided that it was too much of a risk for people to shower after coming into the jail. After the legal action, they finally agreed to enforce the use of face masks, and to let inmates shower before going into quarantine. Their unit requested that the federal monitors do some specific COVID-19 related monitoring and give an interim report on how the jail was responding to the pandemic. The final report is upcoming, but she described some of the findings. There is less group therapy being provided, and the quarantine adds additional isolation and confinement. There is also a lack of structured activities, and it is hard to provide confidential services to inmates. Many of these problems are not new to the pandemic.

Catherine asked Anne where she felt the PRC could advocate for beneficial change. Anne replied that there was a need for more diversion and reentry, as there are many people with mental health diagnoses in jail who do not really need to be there. Getting the input of advocates on the ground is especially important. The Council could also look at what mental health programs are being provided, and whether they at least meet the minimum constitutional requirements.

Michele added that there are just not enough county PRAs, and that they are not adequately funded for all their duties. She noted that the state hospitals are now required to contract out for advocacy services in their facilities and would like to see if that could be applied to jails as well. If the jails were required to hire their own advocates under Title XV, it could complement the county PRA services. Catherine said that was a great idea and wondered if this is an area the PRC could seek legislation. Anne agreed that it would be a great issue for the Planning Council to advocate for.

Steve Leoni said that he had heard that Santa Clara County had saved \$75 million by reducing their jail population and asked if anyone knew if there were similar changes in other parts of the state. Anne said that some counties have reduced their jail populations, including Sacramento and Orange County. However, this does not always correlate to a reduction in the mental health population in jails.

Planning for the January 2021 Meeting

Committee members discussed possible topics for the January 2021 Meeting. The two topics identified were:

- Updates on the survey analysis and findings
- A discussion of possible legislation / advocacy regarding patients' rights advocacy in jails

Selection of 2021 Chair-Elect

Catherine Moore will be the chairperson of the PRC starting in January 2021. The committee discussed the nomination of a new chair-elect for the committee. Susan

nominated Daphne Shaw for chair elect. Catherine asked if the ad-hoc members of the PRC were eligible to serve as chairperson of the committee. Jane Adcock said that she was unsure, given that the committee chairs serve on the Executive Committee of the county. Daphne accepted the chair-elect nomination but said the committee could discuss it more in January. The committee members thanked Walter for his work as chairperson.

The meeting adjourned at 12:10 am.

California Behavioral Health Planning Council
Patients' Rights Committee
Wednesday, January 20, 2020

Agenda Item: PRC Survey Analysis 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 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 are the local behavioral health boards and commission. The survey invitation was sent out on May 26, 2020. Responses were received from 41 counties. Justin Boese will be providing updates on the analysis of the survey responses.

Enclosures: Draft of the data analysis and summary report. For 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, January 20, 2021

Agenda Item: Legislation and Advocacy Discussion

Background/Description:

During the October 2020 meeting, the Patients' Rights Committee decided to discuss possible legislation or other advocacy to further patients' rights and patients' rights advocacy in county jails. Input was received from speakers from COPR and DRC about possible issues the Planning Council could advocate for.

Some of the issues discussed in previous meetings include:

- Increasing diversion / reducing recidivism using:
 - Mental health courts
 - Mobile crisis response teams
 - Models like the Defense Transition Unit created by the San Diego Public Defender's Office
 - Pre and post release services
- Assessing whether the mental health services or programs being provided in county jails meets minimum constitutional requirements
- Ensuring mental health screening during intake
- Increasing the number of PRAs working in county jails, possibly by requiring county jails to contract for PRA services like state hospitals are required to do under Title XV.
- Reducing the use of solitary confinement for inmates with mental health needs.