

California Behavioral Health Planning Council

Patients' Rights Committee Agenda

Wednesday, June 15, 2022

Mission Inn Riverside

3649 Mission Inn Avenue, Riverside, CA 92501

Mediterranean Terrace Room

10:30am to 12:30pm

TIME	TOPIC	TAB
10:30am	Welcome and Introductions <i>Catherine Moore and All</i>	
10:35am	Approval of June 2022 Meeting Minutes <i>Catherine Moore and All</i>	TAB A
10:40am	AB 2316 Verification Form Updates <i>Justin Boese and All</i>	TAB B
11:45am	Public Comment	
10:50am	Discussion: CARE Court Framework <i>Catherine Moore and All</i>	TAB C
11:20am	Public Comment	
11:25am	LPS Involuntary Detention and Conservatorship Data <i>Catherine Moore and All</i>	TAB D
12:00pm	Public Comment	
12:05pm	Planning for Future Meetings/Activities	
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, June 15, 2022

Agenda Item: Review and approve meeting minutes from April 20, 2022.

Enclosures: Draft of PRC meeting minutes from April 20, 2022

Background/Description:

Enclosed is a draft of the meeting minutes from April 20, 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 – April 20, 2022
10:30am – 12:00pm

Committee Members Present:

Catherine Moore (chairperson)
Walter Shwe
Richard Krzyzanowski

Daphne Shaw (chair-elect)
Susan Wilson
Mike Phillips

Other Council Members Present:

Steve Leoni

Council Staff Present:

Justin Boese, Jane Adcock

Welcome & Introductions

Catherine Moore welcomed all Patients' Rights Committee (PRC) members and guests. Committee members, staff, and guests introduced themselves. A quorum was reached. Catherine asked if the committee was okay with moving the LPS Data agenda item to the June 2022 meeting so there would be more time to discuss the Community Assistance, Recovery, and Empowerment (CARE) Court framework. The committee members agreed to defer the item to the next meeting.

Approval of the January 2022 meeting minutes

Susan Wilson made a motion to approve the January 2022 meeting minutes as written. Richard Krzyzanowski seconded the motion. The motion passed.

PRC 2021 Survey Analysis – Final Updates

Justin Boese provided an update on the analysis of the 2021 PRC survey of Patients' Rights Advocate (PRA) units on advocacy work in county jail facilities. The final draft of the analysis report has been submitted for publication on the Planning Council website. Once it is posted, it will be distributed to organizations such as the California Office of Patients' Rights (COPR), the California Association of Mental Health Patients' Rights Advocates (CAMHPRA), and the California Association of Local Behavioral Health Boards and Commissions (CALBHBC).

Discussion: CARE Court Framework

The committee began a discussion on Governor Newsom's CARE Court framework. Catherine Moore suggested that the members discuss the committee's stance on the framework so that comments could be provided to Stephanie Welch on Friday following her presentation during the general session.

Walter informed the committee that the California Health and Human Services Agency (HHS) requested public comment on the framework back in March during a stakeholder meeting. Jane Adcock provided feedback to Secretary Ghaly and Deputy Secretary Welch during the meeting, and a letter was also written on behalf of the council detailing the major concerns about CARE Court.

Daphne Shaw noted that the two CARE Court bills (SB 1338 and AB 2830) were introduced very suddenly with a short window for the submission of position letters. She also noted that Sally Zinman from the California Association of Mental Health Peer-Run Organizations (CAMHPRO) came out strongly against the CARE Court framework during the meeting, and said that if the court aspect was not dropped, then as clients they would feel no need to attempt to interact with HHS on this issue.

Richard Krzyzanowski affirmed that CAMHPRO is opposed to CARE Court. He also commented that if the CARE Court was inadvertently bringing various organizations together who have shared concerns about the framework. There are many organizations across the state that oppose the framework, including Disability Rights California.

Catherine Moore shared her thoughts on the framework, saying that she felt it had few advantages and many disadvantages. She said it does not appear to have as much power as involuntary treatment options, but also doesn't have the appeal of community treatment. Catherine also questioned the use of funds to run this expensive system rather than funding more direct treatment services.

Daphne said that while the framework was being described as "voluntary," the legislation was clear that if the patient does not comply with the care plan, the court may then utilize existing involuntary LPS processes. Secondly, Daphne said that it doesn't make any sense to require a housing plan for CARE Court patients when there is a huge lack of housing. Nothing in the bill requires or guarantees that patients will be housed during the CARE Court process, despite the fact it is primarily targeting homeless individuals.

Mike Phillips said he felt that people are not being honest about the homelessness crisis, and instead of actually addressing those problems, they are trying to make it a mental health issues instead. He said that the CARE Court framework imposes on individual civil rights in ways that haven't been done before, and that there seems to be no value gained by doing so. It seems more like a fast track to conservatorship, which is an already underfunded and understaffed system.

Susan Wilson commented that what worries her is the stigma surrounding homelessness, and that it perpetuates the idea that homeless people all have substance use and mental health issues, which is not true. She said that a lot of people, especially elderly people, are at risk of becoming homeless. Susan also said that she felt there should be more funding for case managers and others who can engage with homeless individuals on a voluntary basis.

After some further discussion, Catherine asked the members what they felt the committee's stance and comments on the framework should be. Daphne proposed that the Patients' Rights Committee come out in opposition to the two CARE Court bills. She said that it was clear the committee members were in agreement that they do not support the legislation. Daphne suggested that it be stated the committee doesn't see that this framework will provide any positive outcomes with this, while there are serious concerns regarding civil rights, funding, housing, lack of stakeholder input, and other issues.

Mike said that he agreed with that stance, but he thought the committee should also acknowledge there is a real problem that needs to be addressed; CARE Court just isn't the right solution.

Catherine thanked everyone for their input and requested that Justin Boese summarize the main concerns raised in the discussion into some talking points for Friday.

Public Comment

Steve Leoni commented that housing issues have been ignored for years, and not just for homeless individuals. He said there is a widespread shortage of affordable housing that has not been addressed. He also expressed concern over the potential use of long-acting injectable psychiatric medications in the CARE Court treatment plans.

Discussion with Local PRAs

Melanie Roland and Clare Cortright from the Silicon Valley Law Foundation presented to the committee on advocacy in Santa Clara County, the county jail facilities, and CARE Court.

Clare Cortright began by discussing their stance on the development of a new jail facility in Santa Clara County, which has been approved by the county Board of Supervisors. Clare said that the Law Foundation is opposed to the building of a new jail facility, and that they are a part of the Care First, Jail Last Coalition, which is a group of organizations in the county that are looking to address the root causes of incarceration. Clare said there are many good reasons to oppose the new jail, but that they were speaking primarily as advocates working in the psychiatric unit in the main jail, which was an LPS designated facility until recently.

Clare went on to provide some information on how criminalized the mentally ill population in the county is. Based on information gathered by a public record act request in July 2021, 80% of the inmates in Santa Clara County are designated by the jail as having a mental illness. There are three times more people with serious mental illness in the county jails than there are acute psychiatric beds in the community. She said that as advocates, the most acutely ill people they see are in the jails. From their perspective, incarcerating these individuals is irrational and cruel.

The county plans to build a new 500 bed maximum security jail that would provide full behavioral health and medical care. Clare said it was clear that the county's plan was not to prevent the incarceration of mentally ill people, but to essentially put them in a mental health jail facility. She also said there is absolutely no oversight of the jail or the sheriff. The sheriff has full authority to run the jail however they want. The use of violence against inmates is common, and mentally ill inmates are not granted any patients' rights.

Clare said that the Law Foundation is in favor of diversion programs, community based competency restoration, and alternatives to incarceration that serve clients in the community. Melanie Roland added that they particularly support housing programs. They have found through research studies that housing is one of the best supports for their clients, and that when given housing, people are less likely to become incarcerated or hospitalized. There is not currently sufficient or appropriate housing for severely mentally ill people in the county. There is also a lack of supportive housing for justice involved clients.

Melanie went on to discuss their stance on the CARE Court framework. She said that patients' rights advocates are aware that both society and the court system have a bias against mentally ill people. Many advocates have experienced that hearing officers often don't uphold the law and that their clients are routinely denied the law's protections. Melanie said that CARE Court will not be any different, and will just be on a grander scale.

From an attorney perspective, they do not believe that CARE Court is constitutional, or that clients will be provided due process. Melanie said that the legislation does not require that voluntary services be offered first, and doesn't offer housing to patients. It violates existing California law regarding when and how a person is found to lack medical decision making power. There are also concerns about who can petition for someone to be subjected to the CARE Court process, including abusive partners or family members. Clients can also be referred to this process if they experienced a hold in the past 90 days, even if the hold was found to be unnecessary and was dismissed by the court.

Clare said that they have big concerns over enforceability, because either the law will be completely impractical to enforce, or it is more coercive than portrayed. She said that she is also concerned that people engaging in voluntary services can potentially be

swept up into the CARE Court process. Clare suggested that the committee leave questions of the framework's legality to DRC, but encouraged the committee question the enforceability of the legislation. Melanie added that there is a lot of data that shows that providing housing is a very viable alternative to this approach, and that once you offer people housing, people are much more likely to voluntarily accept treatment and medication. She said that the only rationale for not providing housing seems to be the public and political aversion to "giving away things for free."

Catherine Moore thanked Clare and Melanie for their presentation, and invited committee members to ask any questions they may have for them.

Walter Shwe asked Clare to explain the change in the LPS designation of the psychiatric jail unit that she mentioned before. Clare explained that current penal code allows jails to forcibly medicate inmates without the need for an acute psychiatric unit for up to six months. As an LPS unit, they needed a Reese hearing or LPS hold to medicate inmates and could only do it for two weeks at a time. The jail decided they no longer needed to be an LPS unit so they got rid of the designation, and now they can medicate clients without LPS and without the presence of patients' rights advocates.

Daphne asked Clare whether to clarify whether advocates are able to go into the jail to serve clients at this time. Clare answered that no, they do not have access to the jail anymore as patients' rights advocates. However, they have a jail intake line, so they still have jail clients. They use their access as attorneys to be able to visit their clients. She said it is frustrating because before, they could walk the psychiatric unit and were able to offer their services. Now their access is very limited, but they are still trying. Daphne commented that based on that description, the ability of any PRA to access jail inmates is controlled by the sheriff, even though their duties include mental health patients in jail.

Richard said that PRA access in jails is built on such a shaky foundation. He said that he felt the committee needs to advocate for increased access for jail inmates to access patients' rights services, as well as civilian oversight and legal accountability for sheriff's departments. Mike agreed and said that if the jails have become the largest mental health providers, then they clearly need oversight, and if that oversight is not done by PRAs then they need to identify who they are accountable to.

Catherine thanked Clare and Melanie again for their presentation and the discussion and brought the meeting to a close.

The meeting adjourned at 12:30 pm.

**California Behavioral Health Planning Council
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Wednesday, June 15, 2022

Agenda Item: AB 2316 Verification Forms Master List

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 mental health patients' rights advocates (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 review the verification forms that the PRC has received to date.

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

Wednesday, June 15, 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.

The Patients' Rights Committee will continue a discussion on CARE Court that began during the April 2022 quarterly meeting.

Enclosures:

- CARE Court Supplemental FAQ (Updated 4/25/22): <https://www.chhs.ca.gov/wp-content/uploads/2022/04/CARE-Court-Supplemental-FAQ-updated-042522.pdf>
- Behavioral Health Funding Overview (Updated 4/25/22): <https://www.chhs.ca.gov/wp-content/uploads/2022/04/Public-Community-Behavioral-Health-Funding-4.20.22.pdf>

**California Behavioral Health Planning Council
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Wednesday, June 15, 2022

Agenda Item: LPS Involuntary Detention and Conservatorship Data

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>