

# C · A · M · H · P · R · A

California Association of Mental Health Patients' Rights Advocates

## MINUTES

Quarterly Board Meeting

Date: July 30, 2009

Time: 10:00 am - 4:00 pm

Locations: VC rooms at DRC offices

1300 Broadway, Suite 500  
Oakland (510-267-1200)

2580 Wilshire Blvd., Suite 902  
Los Angeles (213-427-8747)

100 Howe Ave., Suite 235N  
Sacramento (916-488-9950)

1111 6<sup>th</sup> Ave., Suite 200  
San Diego (619-239-7861)

567 West Shaw Ave., Suite C3  
Fresno (559-476-2000)

Teleconference Call-in:  
Phone: 1-866-871-9131  
Passcode: 1302459

### I. Call to order by President Jim Raphael at 10:07

**Present:** Jim Raphael, Sarah Barnes, Hank Hallowell, Dennis Wall, Gloria Hernandez, Jim Marquez, Dave Vandenberg, Janet Marshall Wilson; Kathleen Piche, Jim Preis, Ann Coller Jill Ward, Ann Menasche Teresa Alvarez. A quorum was attained.

**Absent:** Barbara Roche, Francesca Tenenbaum.

**Also present:** Kim Swain, Pam Cohen, Dan Brzovic

- a. Introductions
- b. Review/approve minutes from 4/22/09 meeting: [taken by Sarah Barnes]:  
**M/S/Carried [Hallowell/Hernandez] to approve as written with 1 abstention.**
- c. Announcements: none
- d. Agenda:
  - i. Additional items: Jim has added in afternoon: Pam Cohen and Kim Swain to discuss PASRR case; Dan Brzovic will come in at 1 for DRC issues/budget issues. Mort Cohen will not be here.
  - ii. Time accommodations

### II. Organizational Business [30 min]

- a. Treasurer's report (Kathleen Piche)

- 2 new members [\$60 paid; \$100 spent for website; sending out \$250 for California Coalition. \$4931.60 CURRENT BALANCE. Kathleen is no longer with the Patients' Rights office so can no longer be Treasurer.
- b. Interim replacement of treasurer pending 9/09 elections. Teresa Alvarez, Stanislaus County, nominated. And accepts. The Board has this authority per bylaws.
  - c. 9/09 election of CAMHPRA Board officers:
    - i. Selecting a slate of candidates: President, Barbara Roche; Vice President Jill Ward, Treasurer: Teresa Alvarez, Secretary: Janet needs to think about continuing as secretary.
  - d. CAMHPRA 25<sup>th</sup> anniversary luncheon:
    - i. Guest speaker Clayton Chau MD (**Barbara**): CONSUMER PSYCHIATRIST. AGREED, Available.
    - ii.
    - iii. Menu: Selections: banquet sit-down lunch for a minimum of \$35/person. Brunch: \$38/person for minimum of 100 people. Option: Jim Raphael negotiate down to a minimum of 70 people for brunch. Luncheon and salad entres considered.

Hank: Reimbursement is tough by the counties. Keep to as little expense as possible or have CAMHPRA subsidize a portion Eg subsidize \$10/person considering this is our 25<sup>th</sup> anniversary.

M/S/Carried [Hallowell/Hernandez] to empower President to negotiate for meal. Board approves using our savings up to \$1000 to subsidize meals over \$35. Brunch option is first choice. Need to give 24 hours notice as to how many people we will have. Past years: 65-80 people. Usually give slightly larger number to account for last minute attendees [5-10].

Lunch option agreed upon as opposed to brunch.

Menu selections: vegetarian lasagne, herb roasted breast of chicken, grilled salmon. Jim will coordinate with hotel. Plan will be from somewhere between 65-80.

- iv. Theme: have a banner for 25<sup>th</sup> anniversary: 25 YEARS OF "THE RIGHTS STUFF"
- v. Printing program: Kathleen to bring.
- vi. Awards
  1. Lifetime Achievement (Teresa Galvez & Adele Lynch)
  2. CAMHPRA v. DSS litigation team: PILF & STB Extra 4-5 people. CAMHPRA will fund their lunch.
  3. PRA of the Year: (no nominations received):
  4. Steve Musick Award: (no nominations received): Mark Kimmel, Kern County?
  5. Provider of the year: Cassandra Kolto vs. Clayton Chau

Jim will post a reminder on the listserve for people to get their written nominations in by 8/14 [an accelerated deadline].

- vii. Founding members honors/recognition: Jim Raphael, Day Altair [may make it; if so CAMHPRA will pay for his lunch], Barbara Demming Lurie can't make it. We will just name the founders at the annual meeting and luncheon. Travis Wall is in Idaho. Teresa Nelson, Melissa Daar, Richard Danford, Hank, Kim Lewis, Kyra Kazantzis, Jim Preis, Bill Frye, Carolyn Shively, Dan Jordan, Colette Hughes.
- viii. Major CAMHPRA successes over past 25 yrs. [highlight]: CAMHPRA v.DSS case, major contribution re Community Treatment Facility regulations, role in OPR getting contract, work around seclusion and restraint, Chesbro's bill, opposition of expansion to grave disability, role in opposition to outpatient commitment, rose in codification of Riese decision. Input into OPR Patients' Rights manual. Jim Raphael to look through old CAMHPRA box for annual accomplishments.
- e. CAMHPRA all county letter to Local Mental Health Directors requesting support for PRAT: sent out.

### III. Regional Coalition Reports [50 min]:

- a. Far North (Jill): no coalition meeting. Grim. Shasta: layoffs and potential layoffs in social service. Modoc county: Linda Martinez still there [contract work for \$100/month]. Siskiyou advertising. [Richard to be replaced]. Hasn't heard from Trinity; Joyce involved w/CNMHC. Shasta: Jill still at full time position. None of these counties have acute facilities. Most send to North Valley Behavioral Health in Yuba City. Ann Coller to talk to DRC legal department to see if they will take on counties w/no PRA. Sonoma: "Aurora" to open up free-standing facility [with 76 beds] with adult -no Medi-Cal- adolescent and gero-psych.]
- b. BAYPAC (Francesca is absent) BAYPAC has not met since last CAMHPRA Board meeting. Status of Santa Clara patients' rights contract: notice was received last winter that contract would be axed from budget; got county to rescind that notice. Contract is now fully funded through 09-10. Perhaps request for proposal will be put out for 1/10. Final draft of amended capacity hearing manual issued 5/2009. Does provide definition of clear and convincing evidence. Does not directly prohibit decanoates but all understand that this is inappropriate. Offices relocating in October. Contra Costa County: issues over Proposed Psychiatric Health Facility which family group [NAMI] opposes.
- c. Central Valley (Gloria): met 7/8 in Fresno. A very extensive report was presented which is summarized here: Tulare: r&b operator used as deaf hearing interpreter, even with her own residents. Conflict of interest issue. Kings County: children's funds cut very badly. 5150 task force: going on 5 months now at Director's direction. Many problems since Kings County

does not have any 5150 facility, just the ER, and Kings View staff have to evaluate the client. Gloria to provide information on police having to move on unless they check off the bottom box that they want the consumer on a law enforcement hold. Kern County: severe cuts: PRA's cut from 4 to 2. Many SMI level 3 clients are being referred to outside clinics. No Notices of Action are being given to clients. Tuolumne County laid off ½ of staff. Madeira PRA cut from 20 to 12 hours. Stanislaus: pra not cut for now, as county found \$9 million. Employment and Housing under County control Fresno pra contract renewed for 5 years. All clients go to ER since the "PACt" [23 hour facility has been closed; probable problems resulting from this. Kern County provided Fresno their monitoring tool for the ER overstay.

- d. South (Jim Marquez) met 6/30 in San Bernardino. Biggest issue: ICE needs in San Diego. Also referrals from Regional Center wanting to get services paid for by m.h., hoping to get mh services paid for by counties. Increase in grievance calls to Pts Rights. State Fair Hearings. Riverside county looking to replace Sr. Advocate after Teresa retired; recruiting. San Diego attended and has paid CAMHPRA dues. Issue: when are we going to increase advocates with extra duties, i.e. monitoring MHSA. Also include in consideration the size of county. Database program. Are we allowed as coalitions to contact DRC with legal issues directly? In Sacramento PRA's don't have to go through intake but are spoken with same day.

#### **IV. Reports from other advocacy organizations [30 min]**

##### **a. OPR (Ann C.)**

- i. PRAT update: PRAT: a number of workshops confirmed eg mental health courts, minors' issues, ICE detainees suggested by Ann Menasche, 5270.15 roundtable discussion.
- ii. Other OPR news/updates: some OPR staff out long-term, trying to keep heads above water, working on PR manual. Did a county review in San Luis Obispo. .

##### **b. MHAS (Jim P.)**

- i. Proposed revisions of deportation removal proceedings involving non-citizens w/ mental health disabilities. Thanks CAMHPRA for signing on to letter[ along with agencies throughout the country] to Attorney General Holder re: ICE detention of people with psychiatric and developmental disorders [due process hearings as part of removal process]. Currently no right to counsel, no way to show incompetence, no right to get guardian ad litem. Obama did appointment someone within Dept of Homeland Security to look at detention/deportation issues.

##### **c. DRC (Ann M.)**

- i. Treatment of ICE detainees in psychiatric facilities. Began investigation of detainees shackled 24/7 at licensed psychiatric facility in San Diego. Wrote a lot of letters including to the press. PRA kept DRC informed, did great report, County found them in violation of state law, which resulted in plan of correction. Now improvement. ICE agreed that state law would apply. No more shackling of ICE detainees; and all rights must be honored such as rights to visitors, phones [only deniable for good cause]. A moving target [moving within CA and to other states]. Largest facility in country is in South Carolina: [Columbia Care].

## LUNCH

### V. Public Policy [3 hours]

#### a. Litigation:

- i. PASRR case (Pam Cohen/Kim Swain): History: settled a case a few years ago, updating pre admission screening & resident review. Required prior to admission to skilled nursing facility. Got to agree to new tool and process,. Olmstead issue; community alternatives.

Monitoring found: screening not happening timely; 3000 evaluations behind.  
State DMH not following up.

Want to talk with clients: clients included in process; find out if implemented, skilled nursing facilities, IMD [psychiatric skilled nursing facilities]. Would like to work out a plan to do flyer re PASRR and community options, and talk with clients. PASRR applies even to conservatees. Nursing Home Reform Act creates some of the alternatives for folks who could live in the community with supports. Could come up with checklist [monitoring tool]. State takes report [filed by contract psychiatrist w/input from facility/client/significant others] and sends determination letter. Would like advocates to flesh out; DRC could meet with consumers. Advocates with IMDs in their counties could work on. PASRR regulations and statute: Nursing Home Reform Act of 1987. Work with ombudsman for nursing homes. PASRR covers people with mental health or developmental disability issues.. Wants more clear directions with checklist; and possible session at PRAT; put on listserve.

- ii. Other ongoing DRC litigation (Dan Brzovic/Pam Cohen) Francesca and Pam annoyed for years at no access to straight skilled nursing facilities in Alameda County. ["not mental health facilities;" Pam convinced county MH that Patients' Rights Advocates can go into SNF's for psychiatric patients. Villa Fairmont, Garfield, Medical Hill. PRAs have access wherever mental health clients are receiving treatment.
- iii. DSS revised ARF admission/retention regs published 8/09 (Jim R.) will be finally approved and distributed by Jim R next month.

- iv. Conservatorship & imposition of legal disabilities (Mort?) Mort arguing Jackie B case on Wednesday 8/5. Marin filed a motion for dismissal on grounds of mootness; DRC requested time to prepare for motion.
- v. Other litigation
  - 1. Counties v. Schwarzenegger re: money taken away from counties; MHSA \$ used to supplant 2034 services, lost at Superior Court level. On Appeal. DRC position: cuts violate maintenance of effort requirements.

**VI. Case Law:**

- a. *Conservatorship of Amanda B.* (4<sup>th</sup> App, 5/15/09.cite as 2009 DJDAR 7040): conservatee entitled to rehearing any time after initial appointment/reappointment (WIC 5364). 6 month requirement is after 1<sup>st</sup> rehearing.
- b. *ILC So. Cal et al.v. Jolly*: 9th Circuit 7/9/09 cite as 2009 DJDAR 10190) Upholds injunction against MediCal reimbursement cuts. 10% cut to providers stricken.
- c. US District Court orders state to help counties restore in-home care wages (**Jim R.**)
- d.. Cal App Court ruled on 7/1 that legislature is prohibited from reducing mass transit funding approved by the people. Intent of the voters must be followed. Possible application of ruling to use of MHSA dollars to supplant eliminated AB2034 programs (**Dan B.**)

VII. **State Budget:** new disaster. 2/2009 budget passed; revenues deteriorated; more cuts. Still is not in balance. See handout. Jim Raphael will request Dan Brzovic do workshop on budget options for advocates [notices of action, appeal, state fair hearings]. Wants information on how cutbacks are affecting people.

VIII. **Other specific PR related issues:**

- a. Duty of PRA to warn/advise facility staff of clt's expressed DTO/DTS? (Janet) confidential services. 3 levels: PRA; organizational eg county or contract organization; also ethical "I can sleep at night" level. "You need to tell this to the staff." Use as educational tool. No cut and dry answer. Threshold should not be so low. Hallmark example: is threat credible given mental condition? Are advocates trained in assessing? Gloria: tells people "all calls to PR office are logged." All situations are different. Orange co: PRAs are licensed, are required to say something. Won't put license in jeopardy. Panel on ethics at PRAT [Jim Raphael and Hank Hallowell]
- b. CAMHPRA 500,000 : 1 ratio project (Gloria): foundation: create a task force to work on grant-writing. Do underlying research now with expectation for when economy improves. Gloria would like to draft a letter of inquiry for Alliant University to do study.

- c. Effectiveness of counsel: DRC/CAMHPRA survey instrument done. Surveying individual conservatees on effectiveness of legal representation. Wants help of PRA's to survey current conservatees while their memories are fresh. Jim R to e-mail anne Menasche if he needs her survey.
- d. Fresno: psych med Rx policy for inmates (Gloria) jail psychiatric team run by PhD who does not give medications and changes diagnosis to multiple personality disorder. Does not address the clients who do want medication. Inmates' families can now contact Prison Law Center at San Quentin.
- e. California Medical Board approves signage mandate (Jim R.): MDs must post sign of whom to complain to re: services. For private care; Medi-Cal postings are already required.
- f. Santa Clara: \$1 million settlement against Department of Corrections for wrongful death of "naked man" (Jim R) hung himself w/sheet and committed suicide. Similar to Reno case and reversal of summary jm.
- g. San Diego: contract w/ hospital to assist clients apply for SSI (**Mary Jo no report**).
- h. Failure of RN Board to promptly investigate complaints leads to shakeup by Governon (**Jim R.**). Some complaints were languishing for years. Remedies: more prompt investigation of nursing complaints.

#### IX. **Legislation:**

- a. **AB244** (Beall) status: do pass & re-refer to Senate Appropriations (8/17/09) mental health parity.
- b. **SB303** (Alquist) status: amend & re-refer to Assembly Appropriations.(no hearing scheduled) [informed consent in nursing homes]
- c. **AB324** (Beall) status: Sen unfinished business/Assembly Public Safety (no hearing scheduled)
- d. **AB722** (Lowenthal) status: Assembly Health (no hearing scheduled)
- e. **SB296** (Lowenthal) status: amended & re-referred to Asm Appr. (no hrng scheduled).
- f. **SB564** (Hollingsworth) status: under submission in Sen Appr. To set for hrng
- g. **AB1261** (Strickland) status: Assembly Judiciary, to be set for 1<sup>st</sup> hrng.
- h. **AB543 [wrong #]** (Ma/Block) status: amended & re-ferred to Senatte Appropriations. (8/17/09).
- i. **AB235** (Hayashi) status: Senate Appropriations. To set for 3<sup>rd</sup> reading [expands definition of emergency services to include psychiatric services which are necessary and urgent.]
- j. **AB82** (Evans) status: do pass & refer to Senate. Appropriations. (8/17/09)
- k. **SB743** (Alquist) status: Assembly Judiciary (no hearing scheduled) removes liability for discharge of patient early on H&S1799.111. Hold harmless clause.
- l. **SB105** (Harman) status: Assembly Judiciary (no hearing scheduled)

- m. **SB296** (Lowentahl) status: amended & re-referred to Senate Health (no hearing scheduled)
- n. **AB935** (Feuer/Jones) status: Assembly Appropriations to be set for 2<sup>nd</sup> hearing.
- o. **AB1503** (Lieu) status: Senate Health to set for 1<sup>st</sup> hearing.
- p. **AB1142** (Price) status: Re-referred to Senate Appropriations (8/17/09) hospital has to provide proof of Medi-Cal eligibility to ambulance companies so credit not affected. CAMHPRA SUPPORT.
- q. **AB1503: CAMHPRA support.**
- r. **HR2502**: provides for conduct of comparative effectiveness research for 100 prioritized conditions, 8 of which are MH related. Part of looking at health care reform, looking at best practices. Uniform care recommendations for specific diagnoses.

**X. Adjourn/next meeting at PRAT 9/24 @ 6:00. Elections. Ballot prepared.**