

MINUTES
California Association of Mental Health Patients' Rights
Advocates
Quarterly Board Meeting
1/29/2008
10:00 – 4:00
LOCATIONS: PAI LA, OAKLAND, AND
TELECONFERENCE

Present: jim Raphael, Kathleen Piche, Ann Menasche, Merle Charles, Gloria Hernandez, Sarah Barnes, Francesca Tenenbaum, Janet Marshall Wilson, Jim Preis, Barbara Rocha, Jill Ward

Absent: Adele Lynch

Guests: Ginger Fong and Royceanne Foster, RN [LA Patients' Rights], Matt Fischler, LA PAI; Pam Cohen [Oakland PAI] Mort Cohen [Golden Gate University School of Law], Brenna Silberstein [Law Foundation of Silicon Valley], Agnes Lintz [OPR]

Meeting was called to order at 10:10 a.m.

IC. Approval of Minutes: m/s Raphael/Tenenbaum to approve minutes with abstention by Merle Charles who did not receive copy.

II. Organizational Business.

a. Treasurer's Report [Kathleen Piche]: balance: \$4474 because state office paid for PRAT and lunch. Paid a couple of bills [website and website name (to Network Solutions)]

b. Website: Raphael had sent out e-mail to all to check contact information. merlecharles@sbcglobal.net fax # corrected

Ann Menasche direct line: 610-239-7861 x3424

Jim Raphael to e-mail updates to webmaster.

Issue of dealing with questions coming to CAMHPRA bulletin board on website. Somebody is sending the questions on. Laura was doing? Laura took over Steve's work e-mail? f/u with Laura and John Proctor, website person.

c. Current Board Composition.

- Laura Flores retired as secretary and from board. m/s Raphael/Hernandez/passed unanimously for Janet Wilson to resume secretarial duties.
- Southern coalition rep open with resignation of Richard k. mona parks?
Coalition has fallen apart. Effort to reform group? Ann can assist with putting together a meeting, so can Kathleen. Richard went to Orange County, MHSA Peer Representative.
- d. Issues with PRAS listserv. Unsubscriptions. Griselda Alvarez is in charge of listserv and directory. Listserv is for Title IX advocates only. Some mental health directors have wanted to be added to list. Update roster twice annually. Confidentiality a concern. Have everybody resubscribe? Print out a list of who is on it. Agnes to look into. If feasible, Griselda could cross-check e-mail list to roster. An issue for people with private e-mail addresses. Also an issue for internal advocates who move on to other positions within mental health. Sarah: ask Griselda: "Are you on top of this problem, what have you been doing? Mandatory subscription to listserv?" Agnes crosscheck with Griselda.

III Coalition updates

- a. Northern [Jill Ward] Coalition has not met due to weather. Out of county issues [initial hospitalization and IMDs]. Issues at Crestwood Redding: patients with violence issues stay longer than needed. Contracts for advocates for few hours per month. Interested in Olmstead, implementation in northern counties. Contracting out in Yolo.
- b. BAYPAC: Janet Wilson is going back to Patients' Rights full time at Mental Health Consumer Concerns [has also been Interim Executive Director]. CSU licensure: title XXII acute? Barbara Rocha to find. Santa Clara County updated hearing manual. Things got worse, don't advertise. Procedural d/c up to discretion of hearing officer. 5150 starts at time of admission. No tape recording of hearings. Alameda: county hospital conversion to wellness and recovery model. Deputies at county hospital. Originally contracted for security at Fairmont campus, have stationed themselves, hands-on contact with clients. New adolescent unit, Willow Rock, on Fairmont campus, collaboration of PHF 16 beds [Telecare and county]. A lot of money put into crisis stabilization; lots of space; going very well. Try to triage to CSU rather than PHF. Mostly voluntary except for wards and dependents. RFP for LPS unit at jail. Licensed correctional treatment facility? Need to check. Difficulties with hearing officers. Title 22, CTF, plant requirement.
- c. Central Coalition. 12/19 gift exchange and potluck. Stanislaus: Modesto b&c working closely with CCL; fined; CCL wants to close it. Merced: new director, not working well with advocate,

implementing 5270 with no P&P; CPT [CA Psychiatric Transitions]. Extra wing for IST. 60 beds, opening August or September. Under what license? SNF with special treatment program? MH director is overseeing the license. Merced and San Diego pilot program for ICST [1370s]. Being built now. Per Agnes, county advocate will cover because OPR only covers state hospitals. Possibility of contract amendment for OPR. Tulare: advocate accused of practicing law, advocate being challenged a lot. Madeira: potluck for homeless vandalized. Kern: 5150 issues; one patient left and died; Mariposa, new volunteer PRA, working on homelessness; Tuolumne, issues re informed consent. Fresno: switched from 23 hour to 8 hour facility. Overstaying to 8 days. Two deaths, one at PAC [8 hour facility] and one at PHF. Do Not Admit list at one of the private facilities.

- d. Southern: a lot of IM injections being given without order. Justification: agitated, depressed, won't shut up. Southern meeting. A lot of ECT in San Diego. IMD with draconian rules re food, visiting.

IV. Reports for other advocacy organizations

- a. [a]California Coalition for MH [Jim Preis attended in So. Ca. in 11/07]. Prevention and Early Intervention. Primary prevention models and cultural competency. Advocacy day. Focusing a lot on budget issues this year, significant cuts in mental health this year. Ann: Broaden coalition, get broader unity against all cuts. Not pit one group against another. PAI is also a regular member of coalition. Regular representative? Don't know. Margaret Jackobsen? Jim Preis: presentation on pilot project integrating primary adult care with mental health. Cultural sensitivity stressed. Need to get CAMHPRA representative to Northern coalition meetings.

- b. OPR [Agnes Lintz]

Monitoring seclusion and restraint in 3 of state hospitals. Ongoing for three months. Napa, Atascadero, Patton [the three hospitals where there are supervising advocates]. Monitoring tool modified. Request that OPR share monitoring tool with CAMHPRA. Will check with Michelle. Contract negotiations again. Hiring for Atascadero advocate and Patton advocate. Job descriptions just went out. Number of appeals from counties has increased.

- C. PAI [Ann Menasche] Amicus on conservatorship [John L]. Matt Fischler with Kevin Bailey and Anna Levine; work in facilities [Metro and Patton: d/c

planning and patients' rights issues]. Contraband at Metro, taken away and not returned for 6 or 8 months when promised within 2 weeks; difficulty with phone system at Patton. Investigation, trying to get specific incidents from patients in order to go to administration. Monitoring access to general medical care in state hospitals. Community work: helping people get off conservatorship, technical assistance to people and their Public Defenders. Support self-advocacy efforts.

V. Public Policy

a. PRA population project: 11/14 meeting with Assemblyman Jim Beall, chair of Health and Human Svcs Committee. Jim, Sarah, Dave Vandenberg, and Adele by phone met with him. Information organized. He seemed sympathetic to issue but realistic given current budget picture. Advice: [1] find non-profit or university or think tank [rather than the legislature] to prove that we are not able to do our mandated duties; [2] write letter to him which he will pass on to DMH [which may not be effective]; [3] law re unfunded mandates happened after the law requiring counties to have patients' rights programs. Take stipend out of CAMHPRA budget to do study, independent evaluation: \$500 - \$1000? Ask what they want, then come back to the Board. Class project at Fresno? Gloria to talk to Dean. Adele ask USD; Sarah contact Boalt Hall. Cost-effectiveness of advocacy eg in terms of reducing institutionalization. Jim to e-mail to Gloria

b. Litigation Mort Cohen, Pam Cohen

- Case of conservatorship of John L; conserved by trial court, attorney said, in John's absence, I have spoken with John and he waives. Trial court imposes conservatorship. Appeal [Attorney Linda Fabian]. Lost. Decision: although no conservatorship report indicating that he had waived, and investigator said he wished to oppose, probate code says he can waive presence. Acceptable. Mort Cohen: should be petitioned before CA Supreme Court. Knowing and intelligent waiver?? No evidence based on single statement by attorney. Fundamental rights of liberty and autonomy. Ca Supreme Court took case. Mort Cohen: investigation: attorneys often contact the institutions by phone to get waiver. Often individual does not waive but attorney says so. Effective assistance of counsel [next case]. Briefing schedule and structure: different possibilities. Mort going to San Diego County next week. Ann Menasche: spoke with Linda Fabian, seeking minimum extension. Amicus should look at parties' briefs. Oral arguments likely in the fall. Court likely to come up with a structure for how these situations re waivers are handled in the future. Competent to waive but incompetent to contract [§5357]. Process unreliable. Postures:

person can't waive, must come to court as in ECT; court must go to person; sufficient evidence re competency to waive issues re competence. Aside: Health & Safety Code 1418.8? principle: people in private institutions, just as in public institutions, have the right to autonomy.

- t-con conservatorship case.: ATTORNEY CLIENT PRIVILEGE.
- Brenna Silberstein: CAMHPRA vs. Calif. DSS. Facilities can not admit but can retain [regulation revised 2006?] Case: regulation that effectively excludes people over 59 from adult residential facilities. State tried to force elderly woman from home. MHAP prevailed, but found to be state-wide policy, discriminatory on its face. Facility applied for age waiver; DSS refused. CAMHPRA a plaintiff. ATTORNEY CLIENT PRIVILEGE.
- Jim Preis, litigation to MHAssoc of CA vs. Schwarzenegger. 3 plaintiffs: MHAssoc, NAMI, CNMHC; papers served in Alameda County; status conference in about 1 month.
- Western Center for Law and Poverty [WCLP], failure of Medi-Cal to make timely determination. No information
- Supplanting 2034 with MHSA dollars. PAI, MHAS; WCLP. Looking to directors for impact of elimination of 2034 in various counties.

c. Case Law

- USA vs. Hernandez, IST, referred to facility for treatment, Sell, medications necessary and not likely to interfere with counsel. Medications allowed. On appeal, 9th circuit decided that federal courts prefer that IST who need medication, a petition should be filed that patient dangerous [Harper procedure]. Cleaner. Remanded back for those procedures. Also found original decision gave physician too much authority; sent back for more precision.
- Greg Pleasant at MHAS, two year fellowship, immigration, mental health issues in deportation. Looking for immigration holds in private psychiatric hospitals. INS holds rather than LPS holds.

d. Legislation:

- i. Federal:
 - a. STATE CHILDRENS HEALTH INSURANCE PLAN: veto override failed in house.
 - b. MH parity legislation.
- ii. State:
 - a. state health care reform [ABX11] failed yesterday.
 - b. SB 785, mental health services for foster youth placed out of county. Approved 10/11/07. Formulary issues?
 - c. SB568 approved 10/12/07: authorized county Board of Supervisors, MHD and sheriff to designate county jails as "treatment facilities" for the sole purpose of administering meds to defendants found IST for up to 6 months. Court competency hearing, complying with Sell. 1370 standards apply. Will not be restored to competency w/in 6 months. Lose-lose for inmates. Forced medication in cell or open space. Can't force medicate if will interfere with right to fair trial. A result of delays in getting inmates into treatment facilities. One incentive: lapse in time from treatment in state hospital on meds and return to jail. Don't want them to refuse awaiting trial.
 - d. 60 day eviction notice for people who have lived in b&c more than 1 year. Landlord/tenant law. Community Care Licensing allows only 30 days notice. Jim Beall's legislation. m/s Hernandez/Barnes get CCL to honor current l/t law regarding the requirement of 60 days notice for eviction if residents have lived there for more than one year.

NEXT MEETING 4/23/2008.

ADJOURNED 4:00 P.M.