

CAMPRA

California Association of Mental Health Patients' Rights Advocates

Quarterly Board Meeting Minutes

Date: July 23, 2008

Time: 10:00 am – 4:00 pm

Locations @ PAI

1330 Broadway, Suite 500
Oakland 94612
510-267-1200

2580 Wilshire Blvd, Suite 902
Los Angeles 90010
213-427-8747

Teleconference Call-in:

Phone: 1-888-968-4311

Password: 40975

I. Call to order by President Jim Raphael at 10:00.

Present: Jim Raphael, Jim Preis, Barbara Rocha, Kathleen Piche, Francesca Tenenbaum, Sarah Barnes, Hank Hallowell, Ann Coller, Gloria Hernandez, Jill Ward, Merle Charles, Janet Marshall Wilson, Dennis Wall

Absent: Ann Menasche, Dave Vandenberg, Adele Lynch

Visitors: Dan Brzovich, Disability Rights California, Kyra Kazantsis and Brenna Silverstein, Law Foundation of the Silicon Valley

- a. Approve minutes from 4/23/08 meeting M/S/Carried Preis/Rocha accepted as written with Hallowell abstaining.
- b. Additional agenda items/time accommodations: none
- c. Announcements
 - i. 2008 Alternatives Conference NY this October.

II. Organizational Business [30 min.]

- a. Treasurer's report (Kathleen Piche)
 - i. Balance \$4530.36 CA Coalition dues due soon \$250.
- b. Board composition:
 - i. Francesca Tenenbaum moves to BAYPAC rep
 - ii. Sarah Barnes moves to an-large member until the remainder of the term [until PRAT conference. M/S/C Hallowell/Piche. Unanimous.
- c. Website issues: We should put CAMHPRA achievements on website, update 2x yearly. Jim R. to summarize and do. We are current w/webmaster fees. Jim R. to e-mail webmaster to ask how many hits the

website is getting. Manual posted on website: if OPR updates, has to go through DMH. Try to get permission to make it CAMHPRA's so we can revise it. Still very useful re: seclusion and restraint. Possibly hire someone to do new draft. Check with OPR re possible person. M/S/Carried unanimously [Hallowell/Tenenbaum] set up exploratory ad hoc committee to explore ways to update the OPR manual. Hank, Jim P, Jim R. We could put link in manual to PAI publications.

- d. PRAS list serve issues: one person, Gaynor, keeps kicking back.
- e. PRAT: Ann: looking into possibility of CEU's for professionals. OPR or PAI would need to be a provider, have a provider #, to do MCLE's for attorneys. Barba
 - i. Workshop topics: still accepting ideas. Ann will send PRAS e-mail re: suggested topics and ones speakers already obtained for.
 - ii. Award nominees: CAMHPRA luncheon Friday 10/31. No entertainment: too expensive. Check w/Jim Preis re Ellen Sacks to speak. Thursday evening 10/30 6-8 CAMHPRA Board meeting.
 - 1. advocate of the year: get PRAS nomination form which Sarah Barnes/Francesca Tenenbaum sent out last year.
 - 2. provider of the year
 - 3. legislator of the year
 - 4. lifetime achievement
 - 5. Steve Musick award (new PRA)
 - 6. Awards Nominating Review Committee: M/S/C [Hallowell/Ward] Janet, Francesca, Barbara Rocha. Francesca will look for the form and send out over PRAS. Not done by sheer volume. Deadline date to be decided by Nominating Committee.
 - iii. CAMHPRA luncheon:
 - 1. Speaker: Check w/Jim Preis re: Ellen Sacks, client attorney.

III. Coalition updates [40 min.]: new coalition reps need to be designated b/4 PRAT. Also at large members are elected annually.

- a. Far North (Jill Ward): No meeting. Shasta County Audit recently. No Far North County had policy and procedure for Patients' Rights. Still some advocates have no e-mail access, including Glenn. Many Far North advocates are very part time. Ann Coller did training at coalition meeting a long time ago. Consider teleconferencing. Could use state office help.
 - i. Still no advocate in Amador County.
 - ii. Siskiyou has advocate for only 20 hours/month.
- b. BAYPAC (Sarah/Francesca): has not met
 - i. Revised Santa Clara County Certification Review Hearing P&P Manual approved by Sup. Ct.; procedural defects section eliminated by new Presiding Judge.. issues go to habeas review. Waiver of hearing still allowed. With waiver, escape firearms prohibition.
 - ii. 15 bed shelter "medical respite program" for homeless approved by BOS, operated by Emergency Housing Consortium, so no discharge to street
- c. Central Valley (Gloria)

- i. Adolescent psych unit in the works for Central Valley; working with Community Behavioral Health Center. Have not been able to hire psychiatrist. OPR audited Tulare since last CAMHPRA meeting. Very few problems. No layoffs. Clients are filing restraining orders against other consumers. Tuolumne, Crisis Stabilization Unit. Kern County audited, added more beds. Merced Wellness Center is doing well. Advocate not able to speak at certification review hearings unless patient signs release of information. Merced: since 1/2008 18 suicides, 2 homicides. Kings County: clients getting arrested for terrorist threats, being sent to jail. Stanislaus closed 2 room and boards. Modesto: riot at Residential Living [room and board] center because of no food. Licensing went in. Fresno: issue of habeas corpus and having advocate sign request. New public defender with some attitude.
- d. South: Jim Marquez: issues: deaf at IMD, admitted as voluntary; lack of communication considered consent? Facility has responsibility under ADA. Coalition meeting organized resources to get her out of there and identify assessment to decide if she is mentally ill.
- e. Resource swap. Recommend for PRAT.
- f. Access to jail; some county advocates have no access to jail. New jail staff needs training. Panel on jail issues at PRAT. Subcommittee of advocates who work in jails to work with Gloria re formulary issues. Gloria to send out brief issue over PRAS.
- g. MHSA brought in new programs but no mechanism to keep track of complaints, advocacy. LA MHSA has housing component: increase in complaints, LA County shelters, human trafficking. LA County has residential task force. Add peer advocates into MHSA contract.
- h. Riverside County: dropping services and collapsing clinics. 25% cut in services. Moving staff into MHSA programs.
- i. LA, Medi-cal cuts: some pharmacies are refusing to fill prescriptions.

IV. Reports from other advocacy organizations [30 min.]:

- a. CCMH/5/14/08 meeting (Dan Brzovic); no report
- b. OPR (Ann Collier): working on PRAT. Many issues with state hospitals. Smoking ban [AB3010] has taken a lot of work. Seclusion and restraint monitoring at state hospitals has been ongoing. Issue of open courtrooms for writs is an issue for legislation. OPR contract: streamlined. Less pre-approval; just have to notify DMH. Took away \$14,000. OPR manual: would need to go to DMH if OPR. Many chapters are fine. Agnes is working on forensics chapters. Ann has done 3 chapters. CAMHPRA ad hoc committee [] will talk with Ann.
- c. Disability Rights Calif./aka PAI (Pam Cohen/Dan Brzovic)
- d. MHAS (Jim Preis): MH/Immigration cases. Use of acute locked psychiatric hospitals used for ICE [Immigration Customs Enforcements: enforcement branch of Homeland Security] detention. Shifted from detention facility to psychiatric hospital based on suspected mental health condition. Minimal constitutional protections. Model: Federal government rents a wing, using same staff. Issue: need to use LPS rather than federal lease. Patients' Rights issue. Licensing issue. Amnesty International. ICE detainees in county jails: a regular phenomenon. Jim

Preis looking for facts, Greg Pleasants, his staff attorney, working on it. Other area: lawsuit with PAI and Melinda Bird at ACLU re TBS for kids. Special Master appointed; expecting a decision in October. Other issues: contacted by county DMH wanting to get conservatees out of state hospitals, not for reasons of autonomy or patients' rights, but rather because of increase in state hospital bed rates of 30% per bed day, effective 7/1/08. All long term rates including IMDs and MHRCs are increasing. Multiple conservatees held at county jails with no charges pending, because public guardian had no placement. Ripe for litigation. LA Public Guardians office wanted Patients' rRghts to ignore the need for signing in conservatees at acute facilities.

LUNCH

V. Public Policy [3 hours]

- a. **PRA:population project update** (Jim R.): no news. Had consulted with person at Fresno State University. In suspense.
- b. **Litigation:**
 - i. CAMHPRA v. DSS (Kyra/Brenna] status of settlement:ATTORNEY CLIENT PRIVILEGE.
 - ii. Con'ship/powers of con'tor (Pam/Mort); no report. Client in Stanislaus? Jim R. to follow up with Mort this week.
 - iii. MH Assn. v. Schwarzeneger (Jim Preis/Dan Brzovic): Dan Brzovic: MHSA/2034 collecting declarations from clients, service providers and county people preparatory to file writ of mandate mid-August. Issue: governor's veto of 2034 money; violates MHSA: has to be maintenance of effort. Jim: can state cut back other programs using MHSA instead? Strong support from MHDirectors Association. State maintenance of effort. Still an issue: can counties pull back county general fund?
 - iv. Supreme Ct. review of *Conservatorship of John L. Anne. M. worked on amicus brief. Legislative intent and history. Mort worked on constitutional grounds. Jim R. trying to get final brief from Mort. Fully briefed. Amicus done. Additional briefing possible based on amicus. Oral arguments to be scheduled.*
 - v. US District Ct for DC blocks CMS Medicaid rule on safety net facilities: total failure by CMS to go through proper procedures, did not have proper authority to make these decisions. Jim R. has information. Related to allowable reimbursements to safety net facilities.
 - vi. PILF/MHAP: SSA failure to provide reasonable accommodation for MH clients applying for SSI benefits (**anticipated/plaintiff search**); working on complaint now. basic issue: mental health clients not granted reasonable accommodations in benefits application. Plaintiff search sent out.
 - vii. WCLP: DHCS failure to process SSI applicants eligibility for retroactive MediCal (**under consideration as of 4/24/08**): **Jim P. to look up.**

- viii. Cal. Network of MH Clts: Implementation of Laura' Law in Nevada Co. (under consideration as of 4/24/08): network considering filing action.
- ix. **Ann Menasche: death in s/r at acute psychiatric hospital, in early 20's, heart attack, chemical restraints, more medications in spite of knowledge that arrhythmia caused, left in restraints in San Diego County. Investigation.**

c. Case law;

- i. *Timothy J. Superior Court [2007]: "developmental immaturity" =* distinct standard for juvenile court when determining IST of minor defendants who are immature based upon brain scan information [myelin sheath not fully developed until age 18]. Case by case evaluation
- ii. *Indiana v. Edwards [US Supreme Court.]* If mentally ill, can be denied right to represent self, even if found competent to stand trial..
- iii. Other case law.

d. Legislation:

- i. AB 1767 (Evans) reinstatement of "stay put provisions" pending fair hearing determination
 - 1. **Status:** Assembly Appropriations/held under submission
 - 2. **Action:** Sarah Barnes wrote letter of support (5/13)
- ii. AB 2038 (Lieber) persons w/ disabilities, victims of crime
 - 1. **Status:** Senate appropriations set for hearing 8/4
 - 2. **Action:** Jim R./PAI to write letter of support
- iii. AB225 (Beall) restraining order dependent adult ex parte. Ripe for abuse
 - 1. **Status** 7/14 referred to Committee on Public Safety per Assembly Rule 77.2
 - 2. **Action:** Table until further review
- iv. AB 2117 (Evans) dependent children, psychotropic meds; reformation of dependency court system, encourage minors to participate..
 - 1. **Status:** Senate Appropriations/suspense
 - 2. **Action:** oppose until amend. Jim R. to write letter. Need more protections for minors.
- v. AB 1887 (Beall) Mental health parity
 - 1. **Status:** Senate Appropriations/suspense Moving through legislature. Governor vetoed last year, has been harsh re coverage expansion. Need to write governor.
 - 2. **Action:** Jim R. wrote letter of support. Governor still vetoed.
- vi. AB 1427 (Calderon) psychologist scope of practice/med prescription
 - 1. **Status:** Senate Health/held in committee w/out recommendation
 - 2. **Action:** Jim R./Ann M. letter of opposition 4/29
- vii. AB 3010 (Blakeslee) smoking ban/state hospitals; a done deal. Already banned at NSH with waiver; Michael Hansen got all patients' medications reviewed before ban [metabolism]. Coalinga set for 8/1., not enough ventilation on patio. Providing patches and providing smoking cessation groups. A problem with staff smoking.

1. **Status:** Senate appropriations/amend & refer to appropriations
 2. **Action:** Gloria to write opposition letter
- viii. AB 2903 (Huffman) zoning alcohol & drug abuse treatment facilities, restrictive zoning.
1. **Status:** Sen health/set 1st hrng, 1st hrng cancelled by author
 2. **Action:** oppose
- ix. SB 1606 (Yee) implementation of Laura's Law
1. **Status:** study bill.
 2. **Action:** oppose
- x. SB 1651 (Steinberg/Romero) mentally ill offender
1. **Status:** Senate Appropriations/held under submission
 2. **Action:** PAI position-oppose unless amended
- xi. SB1738 [Steinberg] allow reimbursement for multidisciplinary treatment programs for frequent users of health care.

e. Due process/other issues:

- i. Local PDs' representation of clients (zealous reception, timely access to court)
- ii. Should 5250 habeas petitions be heard *de novo*?
- iii. PRA needs to get signed release from client to rep client at CRH & access client record
- iv. Written notice to PRA of more restrictive placement of conservatee (WIC 5358(d))

f. MediCal:

Dan Brzovic: Congress passed MediCare bill last week, veto overridden within hours, establishes mental health parity will phase in over 5 years. Coverage is not mandated. Congress is also slated to pass federal MH parity bill for private insurance [Wellstone bill].

MediCaid: changes to the rehabilitation option. MH services funded under a waiver. If no waiver, would be funded under rehabilitation option. Congress put moratorium on problematic, meat-ax regulation.

- i. 6/18; 9th Circuit revoked temporary injunction to 10% MediCal pay cuts to pharmacists. Another hearing this week on petition to reinstate temporary injunction.
- ii. 7/8/08: Assembly Budget Committee approves plan that restores budget cuts.
- iii. MV Transportation [based out of Fairfield] discontinues NEMT [non emergency medical transportation] for MediCal beneficiaries in Calif effective 5/3/08. SF, Santa Clara, Sacramento] Speak with Mental Health Directors re availability of paratransit. State still has obligation to provide.
- iv. Proposed increase of MediCal eligibility verification to 4Xs/yr: a budget item. Legislature rejected the proposal for quarterly, but it will be up to final budget committee.

g. Medicare:

- i. New Medicare law reduces co-pay for MH services from 50% to 20%
- ii. CMS settles class action suit to ensure low-cost prescription drugs for dual eligibles: Dan has no information.

h. Prison Health Care:

- i. Clark Kelso to seek court order for \$2.5 billion to begin construction of 7 new healthcare facilities.

Adjourned 4:20. Next meeting at PRAT Thursday 6-8 10/30.