

# C · A · M · H · P · R · A

California Association of Mental Health Patients' Rights Advocates

## Quarterly Board Meeting

Date: April 23, 2008

Time: 10:00 – 4:00

## Locations @ PAI

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

3580 Wilshire Blvd., Suite 902  
Los Angeles 90010  
213-427-8747

1111 6<sup>th</sup> Avenue, Suite 200  
San Diego, 92101  
619-239-7861

## Teleconference Call-In:

Phone: 1-800-831-2976

Password: 29090

**Present:** Jim Raphael, David Vandenberg, Sarah Barnes, Ann Menasche, Jim Preis, Dennis Wall, Gloria Hernandez, Kathleen Piche, Ann Coller, Jim Marquez, Merle Charles, Barbara Rocha, Jill Ward.

**Absent:** Francesca Tenenbaum, Hank Hallowell, Adele Lynch

**Visitors:** Pam Cohen, Dan Brzovic, Michele Mudgett

- I. **Call to order 10:32 [15 min.]**
  - a. Introductions
  - b. Approve minutes from 1/29/08 meeting M/s Wilson/Barnes approved.
  - c. Additional agenda items/time accommodations
  - d. Announcements
    - i. 5/15 Disability Capital Action Day 10 -3.
    - ii. APA clinical conference 7/22 in LA; co-occurring disorders; wants to know CAMHPRA's involvement. Please forward notice to your mental health directors.
    - iii. 5/14 next meeting of CA Coalition for Mental Health in Sacramento. Ann Coller to represent CAMHPRA.
- II. **Organizational Business [30 min.]**

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- a. Treasurer's report (Kathleen) A couple of new members, current balance \$4436.12. Since January 3 payments, 1 to John Crawford for \$50 [website], and \$100 for California Coalition [2 meetings]. Filed IRS 990 on internet. About 62 total members now.
- b. Board composition:
  - i. Welcome Dennis Wall the Board's new at-large member
  - ii. Welcome Jim Marquez [Orange], new Southern CA Coalition rep.
- c. Website issues: Diverting of website questions: John Crockford seems to be forwarding. Jim Raphael to e-mail him. Will put a notice on patients' rights manual on website to check to make sure information is current.
- d. **Pras list serve:** Subscription/membership/confidentiality: Ann Coller brought membership list. It would be helpful for advocates, and neighboring county advocates, to notify state office of deletions. One former advocate from Fresno County to be deleted.
- e. PRAT training topic suggestions: table, work with listserve.

### III. Coalition Updates [40 min.]

- a. Far North (Jill Ward): all advocates e-mailed, not much response. Did receive response from Linda Martinez in Modoc. Change in directorship in Modoc, now Karen Stanton who is working well with her. In Shasta, successful, now pendulum swinging back toward her, now as result must have HIPAA releases signed before attending placement hearings. New Director is pro-patients' rights.
- b. BAYPAC (Sarah Barnes)
  - i. Closing of Starlight CTF run by Stars. 500 s/r violations in 2-month period. Closing as of 6/6. Affecting other counties which have placements there. John George 6 beds temporary inpatient beds, return to PES at night. CCRMC might close inpatient psychiatric unit in favor of a PHF/PES/Crisis residential.
- c. Central Valley (Gloria Hernandez): haven't met, going to meet next month.
  - i. Mental Health America of the Central Valley, burgeoning organization.
  - ii. Young psychiatrically disabled student shot by police in Fresno, raises a lot of questions especially re: training.
- d. South/county updates met last week for the first time in many years. Jim Marquez new representative.
  - i. DSS agrees to change B&C eviction regs (Kathleen) 80068.5[b] agreed. Will be on December agenda for change next year.
  - ii. San Diego ordered to expand health care benefit (Adele)
  - iii. Riverside Bd of Sups unanimous vote to opt out of MediCal MHP if state does not provide enough funds. Very serious. Orange and LA Counties would get all the medi-cal clients from Riverside. May

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pressure state to stop cuts. No public hearing, but hearing was held where MH Director recommended opting out. Requirement for Bielensen hearing? Unclear. Shasta and Glenn are also considering. Leverage with state.

- iv. Requirement for number of hours translation? Not specific hours requirement, but effective treatment. Ann Coller e-mailed within the last month re this. Hearing forms in threshold languages. Gloria Hernandez has lawsuit settlement. Sarah to scan and e-mail forms.
- v. Excessive IM use. Orange County standard of care is: after 2 emergency IM injections, must document filing for Riese or why not. Patients' Rights audits IM charts. Public defender, who does Riese hearings, notifies Pts' Rights if more than 2 IMs. Plans of correction. Pts' Rights has backing of designation person. LA: issues in some facilities. Poor documentation eg "Patient agitated," working with facilities [trainings] and documenting, has not contacted Licensing, which is backed up.

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

- a. CCMH report on 3/20 meeting (Kathleen): Two subjects for next year: budget cuts and parity. 5/15 Mental Health Advocacy Day. CAMHPRA assist CCMH in Sacramento? Meetings will be held more in Sacramento, because more people attend meetings from that area. Legislative update, on their website. State hospital budget cut proposed \$13 million, stemming from SVP overbudgeting, for Coalinga and DMH headquarters. Other state hospitals got increases.
- b. OPR (Ann Coller and Michele Mudgett) monitoring tool. Michele: will share but it may not be of much help, not designed for broad county use. State office will put on listserv request for s/r tools, forwarded to Jim Raphael. E-mailing 2 tools. Barbara Rocha e-mailing Jim s/r tool, and sending Ann Coller all of her tools. Program review Tulare County completed, planning for PRAT this fall in Sacramento, won't have a date until July. Probably end of October, beginning of November. Will be an accessible hotel, either Holiday Inn or Doubletree.
- c. PAI (Dan Brzovic/Pam Cohen) Pam: legislative update. AB1651 Corrections MH Act. Oppose unless amended. Issue: criminal status of those in mh courts eg must plead guilty. AB2903, zoning of group homes [alcoholic and drug tx] for small grp homes attached to larger facilities. Would not be considered exempt. Oppose. Also looking at existing law presumptively invalidates bequests which dependent adults [people with disabilities] make to care custodian. Pre-bill stage, at Law Revision Commission. SB1606 did not make it out of health committee, amended to study bill. Would have amended 1421 to take away procedural protections and allow counties to provide any services they want, not case

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management or MHSA type services. Nevada County BOS voted to implement 1421; Dan Brzovic to follow up, see how funded, eg through MHSA funds. LA and Nevada county have argued that court order is unenforceable therefore voluntary; no.

### Litigation:

- MHA v Swarzenegger: deleted funding for 2034. Repeat the parties. \$55 million line item vetoed. Petition for writ of mandate against governor, mayberg, dmh, asking for funding to be restored. State filed demurrer [because governor has authority to line-item veto. Hearing: demurrer overruled. Briefing schedule w/in next 30 days so all parties can answer on merits. By end of summer, hope to get to real meat of matter. Looking for counties to write descriptions re impact of 2034 defunding. Send e-mail to dan b. and jim preis by end of April. What have counties done? Closed down entirely? Shift to other MHSA programs? What has happened to individual clients? What are they looking at for future? Environment: medi-cal cuts.
- Conservatorship case, ATTORNEY CLIENT PRIVILEGE. case has morphed into [1] whether court needs to make specific findings b/4 taking away rights to consent re grave disability and [2] routine medical tx both at temporary and full conservatorship stages. At least two clients now, one who is coming into the process, the other conserved a few years ago. Demand letter w/in 2 weeks to public guardian's office, then file suit in month or so if not favorable response. DRC Disability Rights California PAI.
- Review of conservatorship of John L. can attorney waive client's appearance when client has indicated opposition to conservatorship. Court of appeal said attorney could waive.. legislative hx of ??? is on our side. Supreme court granted review. Mort working on, PAI amicus.

d. Other advocacy organizations

## LUNCH

### V. Public Policy [3 hours]

- a. **PRA: population project update/next step(s)** (Sarah/Jim) Contact at Fresno State, project would cost between \$30,000 - \$40,000. Gloria Hernandez has contacts in the Humanities Department at Fresno State, with a program for students to do grantwriting. Gloria and Sarah to be in touch to coordinate.
- b. **Litigation:**
  - i. CAMHPRA v. DSS (Dave V.) ATTORNEY CLIENT PRIVILEGE. Trial date pushed back to sometime in September. Breakthrough: DSS willing to meet re: settlement next month. Discovery

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suspended pending settlement talks. Some movement in case. Motion to dismiss filed, court dismissed, waiting for written ruling. RE: reaching age of 60 in ARF, can stay, but cannot go into facility. Age discrimination? Lack of reasonable accommodations, needs assessment? B&C home gets notice that Licensing wants person moved out. If operator does not appeal, resident has no standing to appeal. Need for process for client to be able to stay, or go to ARF rather than RCFE. Eliminate age restriction on admission and retention. Placement needs to be needs assessment driven, not age given. Eliminate cap of 50% exception. Question: over 50% >60, need relicense as RCFE? Language available at time of admission or retention, right to request reasonable accommodation, and have some resident appeal rights. Any retainer agreement signed by CAMHPRA? Try to get a portion of attorney fees awarded donated to CAMHPRA.

- ii. Last week Disability Rights Advocates went to court to get immediate services for suicidal veterans.
- iii. Class action against SSA to provide reasonable accommodation to mental health clients.
- iv. Conservatorship/powers of contor (Mort/Pam)
- v. MH Assn. v. Schwarzeneger (Jim Preis/Dan Brzovic)
- vi. Supreme Ct review of *Conservatorship of John L.* (Mort)
- c. **Case Law:** any recent court decisions of interest?
  - **9<sup>th</sup> circuit, Gunther v Linn, case re Unruh, del Taco to review.**  
**Have to prove intent to discriminate in order to ge statutorydama**
- d. **Tele-psychaitry in non-designated ERs** (Kathleen)
- e. **Legislation:**
  - i. **State:**
    1. AB1768 (Evans): reinstatement of special ed "stay put" provisions pending fair hearing determination.
    2. AB1824 (Beall): regional center employee liability
    3. AB1872 (Cotto): special ed; autism spectrum disorders.
    4. AB2038 (Lieber): persons w/ disabilities: victims of crime
    5. AB2424 (Beall): persons w/ disabilities: ed & employment
    6. AB171 (Beall): restraining orders on behalf of con'tee
    7. AB225 (Beall): restraining orders: dependent adults
    8. AB2117 (Evans): dependent children: psychotropic meds
    9. AB1887 (Beall): Health care coverage: MH svcs (Thanks Gloria for writing letter of support of behalf of CAMHPRA)
    10. SB1427 (Calderon): psychologist scope of practice: med prescription.
    11. SB1606 (Yee) implementation of Laura's Law (Dan)
  - ii. **Federal:**
    1. S-558 MH parity

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2. 4/14 House Energy/Commerce passed out bill blocking implementation of new MediCaid rules. Sec'ty Leavitt urges Bush to veto if passed. Rule could cost Calif \$12B over 5 yrs

### VI. **Other relevant state/federal developments:**

- a. Status of governor's proposal of 10% across the board cuts including MediCal
- b. Proposed changes in MediCal eligibility requiring beneficiaries to complete eligibility forms 4 Xs/yr
- c. Governor requests \$7B for prison health care upgrades
- d. 3/6 House Budget Com'tee included \$50B increase in SCHIP funding

### VII. **Adjourn/schedule next meeting**

