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California Association of Mental Health Patients' Rights Advocates

Quarterly Board Meeting
May 19, 2010
Time: 10:00 am to 4:00 pm
Minutes

Locations:
All Disability Rights CA Offices

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

1330 Broadway, Suite 500
Oakland, CA 94612
(510) 267-1200

100 Howe Ave, Suite 235N
Sacramento 95825
(916) 488-9950

1111 6th Ave, Suite 200
San Diego 92101
(619) 239-7861

567 West Shaw Ave, Suite C3
Fresno, 93704
(559) 476-2000

Teleconference Call-in number:
1-866-711-9897 (permanent number)

I. Call to order
a. Introductions and Roll Call

Present: President Barbara Roche, Vice President Jill Ward, Secretary Janet Marshall Wilson, Treasurer Teresa Alvarez, Past President Jim Raphael, Gloria Hernandez, Linda Helling, Jim Marquez, Hank Hallowell, Ann Menasche, Ann Coller, Jim Preis, David Vandenberg.

Absent: Francesca Tenenbaum, Dennis Wall

Also present: Iris Sanders [Shasta County Home Resource Board, Advocacy Center for Mental Health Clients], Mike Stortz, Disability Rights California, Mort Cohen, Golden Gate University, Robert Farrow, Alameda County Patients' Rights Advocacy Program.

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b. Approve minutes from February 3, 2010. M/S/Carried unanimously
Hallowell/Raphael to approved as written.

c. Additional agenda items/time accommodations: Williams v. Lamkins
issues moved to agenda when Mort Cohen is here at 11:00.

d. Announcements

II. Organizational Business

a. Treasurer's report: Teresa Alvarez: Teresa was acknowledged for doing a good job bringing CAMHPRA current with several requirements. 990 form [not current since 2009] was made current as of 5/14/2010; with 882 IRS change of address form [not compliant since 2004], was brought to current status as of 5/14/10. Secretary of State must be notified when there are any board member changes including any change of address. Also, the Franchise Tax Board had not been filed since 2004 [requirements to be brought current was to file for the past 4 years]. Active status since 5/18/2010. Yesterday she did the charitable trust registration renewal w/attorney general. The status is currently pending [only 2006 had been filed] in order to be brought to current status. CAMHPRA had to file back from 2002 to current. Teresa paid \$20 out of pocket to the Secretary of State. M/S/Carried unanimously [Hallowell/Raphael] authorized reimbursement for approved board-related expenses not to exceed \$50. The current balance is \$4940.01. Secretary of State was paid \$20; Mental Health Coalition is owed \$250. M/S/Carried unanimously [Hallowell/Wilson] to accept payment to Secretary of State and to pay Coalition. In addition, Teresa will forward all information to the Board by Friday by e-mail regarding what she did. Janet mentioned that she will be mailing [approved] copying/postage expense receipts to Teresa for reimbursement [budget letter 2/10]

b. Board issues: Are we still having notification problems? Sarah Barnes is dropping off board as an at large member at least for now; she is now a research attorney w Santa Clara County Court. Jessica Martinez and Teresa Alvarez have new e-mail addresses. Noted for new roster, which Barbara Rocha will have done.

c. Website issues: Jim Raphael has had problems unlocking information re changes in officers. E-mail from John Hocksford [?] re discontinuing as webmaster; he sent follow-up referral to Rochan Performance Posting. Jim Raphael will consult with IT person at the Law Foundation. Once we get his proposal, need to know how to route questions. Who wants to continue on as answer person? Jim Marquez, Jim Raphael, Barbara Roche. Gloria Hernandez, Hank Hallowell. Questions will be routed to the closest PRA office. CAMHPRA will ask to build in drop-down memo for county, and will add link to Disability Rights California.

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d. Legislation committee: report on activities. Hank Hallowell volunteered for the committee. Janet wrote letter opposing governor's cuts to MHSA, modeled after CMHDA letter, which had intended effect.

e. Bylaws Committee: Jill Ward, Jim Marquez, Jim Raphael, any report? Jill and Jim Raphael met yesterday: proposed amendments reviewed. Barbara to make electronic copy of entire bylaws with proposed changes in red. County-internal funded MHSA staff? Public defenders? This has been controversial over the years. Strategic value. "CAMHPRA Principles can be attached to bylaws." [Coalitions are separate from CAMHPRA and predate CAMHPRA. The Board should look over proposed bylaw revisions and forward comments to the committee.

f. investigations: client's right to a resolution. Medi-Cal? Grievance. A county is ignoring its own policy if it denies client access to the grievance policy. Recording by camera is a privacy issue. Expectation of privacy. Consent to record? Part of medical record? Forfeiting right as safety consideration? No informed consent. Document results and whether closure. Data base. Title IX §§1850.206 and 1850.205[c]. There is also the complaint procedure in Title IX §864 also.

Suggestion: send letter to County Counsel, Executive Director, Mental Health Director re statutory and regulatory authority. Title IX §1790 is for inpatient. Crisis Stabilization Units are outpatient.

Other organizational business: as a Non-profit organization, have we or do we need to be filing tax returns?

Special Report with Mort Cohen at 11:00am (1 Hour): Case of Sidney H, re: court order denying the right of temporary conservatee to refuse/consent to antipsychotic medication absent and evidentiary hearing determining the incapacity. A discussion of the case, and related issues; and discussion of CAMHPRA's consideration of signing on as party to the petition.

Updates, Jackie B and John L. John L. went before CA Supreme Court re whether resident had to be present for a determination of conservatorship, when attorney had waived presence. Court decided it depended completely upon attorney. This raised adequacy of representation issues, issues of attorney time and court resources. The issue of whether one is competent to waive presence but otherwise incompetent [Christopher C] has not been eliminated. There may be a legislative fix: nature of evidence required to waive presence.

Jacqueline B: how courts can avoid deciding on merits. Yes determination of incapacity is needed; mootness; rather than going back to court on motion of noncompliance. Mort is looking for new Jacqueline B clients in Marin County. Sidney H: gets to Pam Cohen, who notified Mort Cohen. Alameda's policy: t-con, only get order re refusal of antipsychotics based on best interests of the person. Sidney H. won; has taken Depakote for 50 years; psychiatrist wanted him to take an antipsychotic. He

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took orally and had significant reactions. 6 days later the psychiatrist released him, no difference in his condition. Won Riese on 5250; psychiatrist said we know he won Riese but now he's on t-con.

Regarding inconsistent application of Williams v. Lamkins; when the psychiatrist says, "I intend to put you on t-con . . . there is no proper notice to object. Footnote 14 kahea: notice, paragraph 14 of mort's petition. Michael Stortz: considering public records act request from 58 county public guardian offices regarding what they are doing for Williams notice.

Anticipate cuts to mentally disabled and prepare Americans with Disabilities Act litigation. Have set of sample papers. Mental Health Directors Association is on top of this. Change of waiver. Implications monumental: repeal of rehab option; repeal of waiver; supplantation.

M/S/Carried unanimously [Hallowell/Helling] for CAMHPRA to sign on to Sidney H. petition [can't take away disability to refuse medication on t-con, and that there be an administrative review on t-con for people who do not want to take medication.

LUNCH [ONE HOUR]

III. Coalition updates [50 minutes]

a. Far North: Linda Helling (Placer): get report from Linda. Shasta: ERs & HS 1799.111. Status of Patients' Rights Advocate office in Shasta: Jill Ward is the advocate, still full-time, with no designated facilities. Emergency rooms are backlogged; they are using §1799.111. Modoc County is proud of consumer center [Rainbows of Hope]. The county tried to keep people in their homes rather than hospitalize them; the belief is that they do well with services they have. Humboldt: Laura's Law brought up lately. T-con: automatically lose right to consent. Sacramento: county mental health crisis unit closed in October; currently safe from budgetary cuts. Placer County: 1 FTE advocate; staffing shortage. A crisis residential program has begun, contracted with ANKA, which does not have very experienced staff. Implemented 5270. Everyone on t-con automatically loses right to refuse.

b. BAYPAC: Francesca Tenenbaum (Alameda/San Mateo): Francesca absent: Robert Farrow reported. Santa Clara: mid-November Kaiser will open a 26-bed PHF. A hearing officer was terminated [lack of judicial temperament]. County revising 5150 policy; extended 5150 training; Patients' Rights doing the legal aspects of the training. The relationship with the Mental Health department has improved. MHSA: postvention, involving mental health, family member and consumer following up on each mh police contact. Purpose: assist family and individual to access services; also to monitor police. This will be in effect later this year. [2] faith-based post-release program, express prohibition on

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proselyting. Sonoma: large inpatient facility set to open in 2011. Contra Costa County: Kaizen process [Toyota management process] for rapid improvement at County Hospital, resulting in direct admits to Crisis Stabilization Unit rather than routing through the Emergency Department; issues on overnight shift on Crisis Stabilization Unit; site visits to augmented b&c's, client-run centers run by same agency [MHCC] which provides Patients' Rights; issue with unlicensed homes in the County; Napa County: Board and care/Community outreach.

c. Central Valley: Gloria Hernandez (Fresno); coalition held 2/24 meeting. Kings County b&c problem; contracting for 2 crisis beds; Tulare: low on psychiatric doctors; Stanislaus: Rainbow Heaven: owner left for hospital and 6 people were left with no supervision; licensing called. Merced: new advocate; Madera: mental health 1st aid training for law enforcement officers. Tuolumne: 23-hour facility. FSP are doing data collection. Fresno: bad situation. ACLU now outside jail investigating problems. Rumors that PHF will be closed. Kern: good Sam designation under fire. Nothing prohibiting Fresno from designating out-of-county facility not designated by home county.

d. South: Jim Marquez (Orange) coalition met 5/4. Very low census for ICE detainees, so don't know where they are going. Telemedicine? Still working on, no contact with LA advocates; Transcranial magnetic stimulation: similar to ECT but "not as effective," only effective with moderate resistant depression. No memory loss, but no side effects except short headache. FDA approved, out for 7 years; elimination of psychotherapy services: not available at clinics.

IV. Report from other advocacy organizations [30 minutes]

- a. CCMH
- b. OPR: Ann Coller
- c. DRC
- d. MHAS

V. Public Policy [3 hours]

A Resurging interest in AB 1421: report on activities to counter these efforts: Mike Stortz. In Orange county, Barbara met re AOT: resolution: proposal in lieu of Laura's Law: MHSA full service partnership called Hands to Recovery for 100 conservatees coming out of IMDs, MHRCs, or residential care who need extra services to progress from these settings to independence. This population will be voluntary but may also include conserved consumers. 25 of the eligible consumers will be referred by the Public Defender. These are inmates identified not quite IST; they have only misdemeanor charges and when jail time is complete they will be referred for services rather than just let go from jail. The goal will be to keep this population from returning to jail or ending up on conservatorship. Participation is voluntary as are medications. How voluntary is it really going to be? The jail population will be assessed for medications at the county clinics and the clinics will have dedicated staff for this population. The jail population will NOT be court-ordered into treatment, nor have time or probation hanging over their heads. Many counties are looking to implementing something Laura-like. Sf,

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Marin, Contra Costa; need to go to public hearings. Disability Rights CA would like to be involved and be notified. Need to develop media strategy. Media committee of CARES coalition? Linda Helling is interested. Past position papers are on CNMHC website. Editorials? Format sample letters. 5/14 forum debate on KQED website. It's about services. If they are available then people will come. Kendra's law can't be used [costs of implementation]. CARES discussions about the interest in implementing AB 1421 programs: with Delphine Brody, Pam Cohen, Dan Brzovic and Mike Stortz if available

b. Impact of Federal Health Care Reform on Medi-Cal:

C. Legislation:

- a. Conservatorship of John L. (San Diego/2-25-10)
- b. In Re Freddy Mille (182 Cal.App.4th 635 (3-11-10): recent court decision, Incompetent to stand trial, ordered to treatment for restoration of competency, languished 84 days in county jail. PD filed case in superior court. Appellate found denial of due process. Remedy: notify PD.
- c. SB 1169 (Lowenthal) Mental Health Parity Bill: worthwhile. As of 5/5 in Senate; hearing 5/10 in Senate appropriations.
- d. AB2555 (Feuer) extend funding for long-term care Ombudsman Program: covers a lot of our clients.
- e. AB2234 [Lowenthal] Mental Health Services for Older Adults: separates out and adds functional impairment for older adults which are a different population.
- f. Effective 6-27-10 MD's must post or inform patient of how to contact the Medical Board of California, from CA Healthcare News Service
- g. AB2706 adds Homeless people to the list of persons protected against hate-based violence: Bill states anyone who commits such hate crimes would be liable for actual monetary damages suffered by any victim of such a crime as well as a civil penalty and attorney's fees. 65% of homeless are mentally ill.
- h. William V. Lamkins: county implementation of the proper notice requirements. Discussed prior [see Special Report with Mort Cohen].

M/S/Carried unanimously [Hallowell/Wilson] support abAB2555, AB2234 ['d' and 'e' above]

M/S/Carried unanimously [Raphael/Hallowell] to support SB1169 parity ['c' above] in principle pending Gloria getting more information to everyone by e-mail.

2/1010 Department of MH letter: lmd exclusion for Medi-Cal physical healthcare for patients; change in rules; CA used to set aside money for what feds would not pay. Now will not. Counties must pay. Counties appealed to federal government.

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Gloria: problems w/Public Guardians Offices not using client's funds on their behalf. BOS put PGO under Behavioral Health in Fresno County.

VI. Old Business

a. PRA Population update: where are we with this?

b. Inmates Charged for Medical Services: Any counties implementing this? Santa Clara is, only if determined not to need service. Only charged if they have \$ in commissary account; if no \$ then no charge.

Adjourned 4:03

Respectfully submitted,

Janet Marshall Wilson, Secretary

Approved as written _____

Approved as corrected _____

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