

# **The Office of Patients' Rights Semi-Annual Activity Report**

**July 1, 2009 – December 31, 2009**

## **I. SIGNIFICANT EVENTS, ACTIVITIES, ISSUES**

### **Significant Events and Activities**

#### **Department of Mental Health – Long Term Care**

Michele Mudgett, Director of the California Office of Patients' Rights (COPR) worked with the DMH-Long Term Care Unit and the five state hospitals to address proposed regulations that impact the daily living of individuals within the state hospitals, Therapeutic Strategies & Interventions implementation, transgender issues, and patients' rights trainings provided to staff.

#### **Patients' Rights Advocacy Training-(PRAT)**

In September this year the California Office of Patients' Rights hosted the annual PRAT. The three day conference was held in the Bay Area with an attendance of 130. A variety of topics were included ranging from Wellness and Recovery, Transgender Awareness, how to Prepare for Hearings, to Basic Training for advocates.

#### **California Association of Mental Health Patients' Rights Advocates (CAMHPRA)**

Agnes Lintz and Ann Coller, Patients' Rights Specialists, provided trainings and technical assistance to county advocates and attended the in person quarterly CAMHPRA meetings. In addition, they attended the regional coalition meetings in northern California, southern California and the Bay areas. Generally, these meeting discuss advocacy approaches, trends in issues being addressed by the advocacy programs, and training needs for the annual Patients' Rights Training held by California Office of Patients' Rights each fall.

### **Issues & Cases**

California Office of Patient's Rights has worked diligently this year on protecting individual rights for those residing in the five state mental health hospitals.

Our advocacy has made some small but significant changes to several areas of policy and practice for those residing in the state hospitals. Recently, we advocated for stopping the practice of staff documenting their assumptions in individual's medical charts and only document facts as they occur. The state hospitals perform random drug screening on individuals. When an individual exercises their right to make medical choices and refuses the urine analysis, the staff were charting this not as a refusal but rather as a "positive" in the medical chart. Doing this, makes an assumption as to why the person refused the testing when, in fact, it is unknown why there was a refusal. We were successful in guiding the administration to provide direction to staff who does the charting to only document the facts of the refusal and not their assumption as to why.

The delivery of medical and dental services is an issue we continue to work on both on a systemic and individual level. With the recent state wide budget crisis, the services provided to those residing in state hospitals has been delayed due to the lack of funding for the necessary outside medical contracts. We recognize the systemic issue is larger than the Department of Mental Health and continue to advocate on an individual level to ensure the necessary services are provided. We have been successful ensuring services such as physical therapy, dental care specialty services, hearing aides, and second opinions for cancer patients.

### **Water Intoxication**

The COPR staff have worked with various state hospitals regarding the involuntary treatment of those who drink excessive amounts of water. Individuals have been placed on water restriction and are monitored by being weighed frequently throughout each day. Many of these individuals retain the right to make medical decisions and have expressed to us a violation of their right to make medical choices is occurring.

We have addressed these restrictions with the DMH who has taken the position that involuntary treatment includes medical decisions under the “care and treatment” model. Our office will continue to address this violation.

### **Denial of Rights**

COPR staff continue to work with the state hospital staff to ensure when a Denial of Rights (DOR) is initiated, all required components are met including “good cause” criteria. By ensuring all required documentation is met, we protect the person’s patients’ rights.

We continue to work with staff who fill out the DOR forms upon patient request. We find many staff simply completes the form to silence the patient when they remove contraband from a patient instead of taking the steps to explain that a DOR is not applicable to the contraband. DOR’s are based on patient behavior when exercising their rights. Removal of contraband is not based on a patient’s behavior rather on a systemic security approach which does not allow an item into security or in patient possession. It is not based on a specific patient or behavior.

## II. SUMMARY OF SERVICES AND DATA REPORTS

### Complaints Filed; Listed by Hospital

All of the information gathered in this report and shown in the tables reflects the information entered into the data-tracking program, known as DAD. The Central Office of Patients' Rights gathers the information from the entries made at the remote sites (state hospitals) of the Office of Patients' Rights.

The following table gives the total number of complaints filed at each state hospital, by hospital, by month. The "closed" column is the number of complaints that were brought to resolution within the reporting period.

<b>Office of Patients' Rights Report of Complaints - By Hospital, By Month July 1, 2009 through December 31, 2009</b>										
State Hospital	Open From Previous Period	Opened This Quarter							Closed This Period	Carried to Next Period
		July	Aug	Sept	Oct	Nov	Dec	Total New		
ASH	174	81	141	75	226	169	159	<b>851</b>	<b>983</b>	42
CSH	295	152	108	115	173	127	117	<b>792</b>	<b>773</b>	314
MSH	37	61	53	60	110	44	69	<b>397</b>	<b>381</b>	53
NSH	154	148	128	144	148	115	161	<b>844</b>	<b>833</b>	165
PSH	150	196	195	176	239	151	182	<b>1,139</b>	<b>1,084</b>	205
<b>Total</b>	<b>810</b>	<b>638</b>	<b>625</b>	<b>570</b>	<b>896</b>	<b>606</b>	<b>688</b>	<b>4,023</b>	<b>4,054</b>	<b>779</b>

### Complaint Listed by Problem Code – Listed by Hospital

In order for a complaint to be received as a Patients' Rights Issue, it must fall within one of the categories or problem areas listed below. (See attached) The table below identifies by problem area the number of complaints at each hospital.

**Office of Patients' Rights  
Complaints - By Problem Area, By Hospital  
July 1, 2009 through December 31, 2009**

	ASH	CSH	MSH	NSH	PSH	Total
Abuse/Neglect	27	62	45	60	43	237
Medications	44	12	25	33	77	191
Patients Rights	289	472	85	313	331	1,490
Restraint and Seclusion	7			4		11
Treatment Environment	465	210	227	407	686	1,995
*Unrelated	19	36	15	27	2	99
<b>Total Complaints (CO)</b>	<b>851</b>	<b>792</b>	<b>397</b>	<b>844</b>	<b>1,139</b>	<b>4,023</b>
<b>Total Clients (CL)</b>	<b>321</b>	<b>246</b>	<b>137</b>	<b>285</b>	<b>387</b>	<b>1,376</b>

\*The "Unrelated" category is when the complaint has been withdrawn, or is unreadable.

**Treatment Environment**

This problem code reflects complaints that raise the issues of:

- Daily Living-
  - TV usage
  - Unit temperature
  - Search & Seizures / Room searches
  - PAS / Grounds
  - Legal (access to library, commitment info, etc.)
  - Staff attitude & behavior
  - Toileting supplies
  - Conservatorship

**Patients' Rights Issues – by Problem Sub-Code**

The following table reflects the number of complaints by subcategory. These were entered into the problem code of "Patients' Rights". This table provides the actual sub-categories for each patient's rights complaint. The total number of sub issues (980) equals the total number of **Patients' Rights** reflected in the previous chart.

**Office of Patients' Rights**  
**Patient's Rights Complaints - By Problem Area, By Hospital**  
**July 1, 2009 through December 31, 2009**

Patient's Rights Issue	ASH	CSH	MSH	NSH	PSH	Total
Access / Use of Personal Possessions	41	113	15	39	45	253
Advocacy Services	2	19	3	3	1	28
Clothing Issues	4	6	3	1	15	29
Confidentiality of treatment, records, etc.	22	8	2	4	11	47
Dignity / Privacy / Respect / Humane Care	15	23	20	77	35	170
Free From Hazardous Procedures	1	0	0	1	0	2
Keep / Spend Reasonable Sum of Money / Personal Funds	37	44	5	20	46	152
Letter Writing / Confidential Correspondence	15	18	5	13	3	54
Medical Care and Treatment	88	150	24	101	103	466
Mental Health Treatment	24	35	3	15	40	117
Packages	7	4	2	9	3	25
Physical Exercise / Recreation / Out of Doors	2	7	0	5	0	14
Religious Freedom and Practice	4	4	1	10	18	37
Social Interaction / Participation	2	5	1	3		11
Storage Space	0	0	0	2	2	4
Telephones / Confidential Use	7	11	0	1	3	22
Treatment Services Promoting Independence	18	22	1	7	2	50
Visitors / Visiting Space	0	3	0	2	4	9
<b>Total</b>	<b>289</b>	<b>472</b>	<b>85</b>	<b>313</b>	<b>331</b>	<b>1490</b>

## Report of Complaint Type - By Hospital

<b>Office of Patients' Rights Report of Complaints (New Only) - By Type, By Hospital July 1, 2009 through December 31, 2009</b>						
	ASH	CSH	MSH	NSH	PSH	Total
Abuse / Neglect Allegation	26	63	44	60	41	234
Denial of Rights	0	2	0	0	2	4
Direct Advocacy	414	461	197	411	320	1,803
Referral	1	1	2	0	29	33
Technical Assistance	410	265	154	373	747	1,949
<b>Total</b>	<b>851</b>	<b>792</b>	<b>397</b>	<b>844</b>	<b>1139</b>	<b>4023</b>

### **Abuse/Neglect;**

Complaints that present with allegations of abuse or neglect are immediately reported to the Senior Special Investigator, Program Director, and Executive Director by the Patients' Rights Advocate in addition to their own immediate and in-person investigation.

### **Direct Advocacy;**

These complaints present as Patients' Rights issues. The Patients' Rights Advocate will solicit input from the treatment program either in writing, in person, or by phone as part of their investigation. Upon completion of the investigation the Patients' Rights Advocate will provide a written response to the patient.

### **Referral;**

These complaints address issues that do not rise to the level of a rights violation. The issues are generally in regards to dissatisfaction with daily protocols, activities, or policies. They are best addressed by the Program or Unit. Once identified as a referral, the Assistant Patients' Rights Advocate completes the letter of referral and contacts the individual for permission to make the referral.

### **Technical Assistance;**

This is a complaint that raises an issue the advocacy staff can answer or respond to right away without investigating or researching. Typically direction is provided on who to talk to, what the process is, or where to go to find information addressed in the complaint.

### **Method Used to Register Complaints – Listed by Hospital**

The Office of Patients' Rights tracks the method by which formal complaints are filed by clients. The complaints accepted by phone, voice message, or in person, do not have a patient/client written complaint to accompany the issues addressed by the Patients' Rights Advocate. A written summary of the issues discussed are entered into our data tracking program and if necessary, a memo is written by the Patients' Rights Advocate to assist in the advocacy process.

<b>Office of Patients' Rights Report of Complaints (New Only) - By Source, By Hospital July 1, 2009 through December 31, 2009</b>						
	ASH	CSH	MSH	NSH	PSH	<b>Total</b>
Complaint Left on Voicemail	4	12	14	77	71	<b>178</b>
Complaint Made by Telephone	7	31	64	51	51	<b>204</b>
Complaint Made in Person	3	11	3	15	13	<b>45</b>
Complaint Made in Writing	837	738	316	701	1,004	<b>3,596</b>
<b>Total</b>	<b>851</b>	<b>792</b>	<b>397</b>	<b>844</b>	<b>1,139</b>	<b>4,023</b>

### Legal Status of patients making complaints

The following table provides the legal status of the patients making complaints that have been opened and/or carried over from the previous reporting period. This table provides an overview of all complaints received from all State Hospital residents. (CL = individuals and CO = Complaints)

<b>Report of Complaints - By Legal Status July 1, 2009 through December 31, 2009</b>				
<b>Legal Status</b>	<b>Total</b>			
	<b>CL</b>	<b>CO</b>	<b>CO per CL</b>	<b>% of Total CO</b>
PC 1026: Not Guilty By Reason Of Insanity	320	825	2.6	20.5%
PC 1370: Incompetent To Stand Trial	344	1,050	3.1	26.1%
PC 1370.1:	2	3	1.5	0.1%
PC 2684: Referral-CDCR	71	132	1.9	3.3%
PC 2962: MDO: Condition Of Parole	201	663	3.3	16.5%
PC 2964: Parolee Returned	6	7	1.2	0.2%
PC 2970: Evaluation Hold - 180 Days	1	3	3.0	0.1%
PC 2972: Additional One Year Court Ord	167	402	2.4	10.0%
PC 2974: LPS-On Parole	5	10	2.0	0.2%
WI 5270.1: Second 30 Day-GD	1	3	3.0	0.1%
WI 5350: Conservatorship	2	3	1.5	0.1%
WI 5358: Conservatorship Commitment – Year-To-Year Commitment (Mur-Con)	70	166	2.4	4.1%
WI 6316: Mentally Disordered Sex Offender (Continued In Effect For Persons Still Under Commitment Pursuant To Statutes Of 1981, Chapter 928, Section 3)	4	5	1.3	0.1%
WI 6602: Sexually Violent Predator - Had A Probable Cause Hearing	93	383	4.1	9.5%
WI 6604: Sexually Violent Predator - 2- Year Commitment.	134	364	2.7	9.0%
YAC	4	4	1.0	0.1%
<b>Total</b>	<b>1,425</b>	<b>4,023</b>	<b>2.8</b>	<b>100.0%</b>

### III. APPEALS

The table below identifies the Appeal requests received by the Sacramento Office of Patients' Rights. With each request, we determine if the first level of Appeal has been completed. If not, the request is returned to the sender with information on how to file for an Appeal. These reflect as Technical Assistance (TA). TA's also reflect calls for information from staff, clients, and family/friends.

<b>Office of Patients' Rights Appeals and Technical Assistance (New Only) July 1, 2009 through December 31, 2009</b>	
ASH - Appeal	12
ASH - TA	1
CSH - Appeal	16
DMH Headquarters - TA	1
MSH - Appeal	1
NSH - Appeal	22
PSH - Appeal	3
Modoc County - Appeals	1
<b>Total</b>	<b>57</b>

### IV. SUMMARY OF COUNTY SERVICES

#### Number of Routine Technical Assistance (TA) Services by County

The columns below reflect technical assistance services that were provided to counties as part the Central Office of Patients' Rights daily operations. These services were provided by way of email, written requests, and telephone inquiries.

Alameda County	4	Napa County	2
Butte County	1	Sacramento County	1
Contra Costa County	1	San Bernardino	2
El Dorado County	2	San Francisco County	1
Fresno County	1	Santa Barbara County	2
Humboldt County	2	Santa Clara County	4
Imperial County	2	Santa Cruz County	1
Los Angeles County	10	Solano County	2
Madera County	1	Tulare County	1
Mendocino County	1	Ventura County	1
Merced County	1	<b>Total</b>	<b>43</b>

## V. QUALITY IMPROVEMENT ACTIVITIES

### Writing in Plain English

In September we provided a 4 hour class and training tools based on “Benchmark’s guide to writing in Plain English”. Below is a summary of the class.

- Develop your Thoughts
  - What is your general direction, purpose, goal? Will you need assistance from others such more information from the client or your supervisor?
- Research
  - Find rules, regulations, codes, or past practices.
- Organize
  - Begin to note relevant information.
- Rethink your theory
  - Are your first thoughts on this still correct? Is the information you are gaining changing your thoughts on this complaint / issue? What if any additional information do you need at this point?
- Organize
  - Now you have your information and you have a direction. Begin to organize your thoughts more formally.
- Compose
  - Write what you know, are there gaps? What do you understand about the facts or don’t know? Write from your impressions, do you need more details? Are you missing information? Write around it and do more research to fill in your missing information.
- Assess Communication Situation
  - Has your purpose, audience, or tone changed? Include necessary context; clarify your terms and concepts.
- Assess your Organization
  - Does your structure work? Is it in logical order? If needed, move your paragraphs and sentences into an order your reader will understand. Check to make certain you are reaching your conclusion.

- Rewrite
  - You have solved the problems in your writing to your satisfaction, now make certain you have satisfied the reader
- Edit for Length, Clarity, Continuity
  - Cut out lengthy substantive discussion. Eliminate clutter, redundancies, and windy phrases. Get over yourself. Your reader will not be impressed if you do not write to suit their needs which is often getting to the point and respecting their time restrictions.
  - Remove lawyer-isms, double negatives, redundant words, flowery phrases.
  - Edit for consistency. First person to third person. References to people, policies, and laws.
- Proofread
  - Have some else do a read through to check for spelling, typos, punctuation, and citations. We often do not see our own mistakes.

## **VI. COMPLAINTS / GRIEVANCE SUMMARY**

### **CSH-**

David M filed a Grievance instead of an Appeal to address his dissatisfaction with the complaint response provided by our on-site Patients' Rights Advocate. The issue he wanted addressed pertained to his desire to interview all of the Mall Group Coordinators prior to agreeing to participate in the treatment group.

In our response we encouraged him to work with the treatment team to better inform him of the goals of his treatment. Additionally, we explained that our office was not able to facilitate his expressed interest in this instance.