

# Advocacy in Small Counties

## PRAT 2018

Presented by:

Jill Ward, Patients' Rights Advocate  
Shasta County Health and Human Services Agency  
(530) 225-5506 or [jward@co.shasta.ca.us](mailto:jward@co.shasta.ca.us)

Carol Underwood, Patients' Rights Advocate  
Trinity County Behavioral Health Services  
(530) 623-3508 or [carolunderwood1951@yahoo.com](mailto:carolunderwood1951@yahoo.com)

Gilda Adame, Patients' Rights Advocate  
Imperial County Behavioral Health Services  
(760) 482-4002 or [gildaadame@co.imperial.ca.us](mailto:gildaadame@co.imperial.ca.us)

## Slide 2

### County Patients' Rights Advocates

- The number of Patients' Rights Advocates varies from county to county.
- The ratio of full time advocates is based on a county's total population, currently, 1 advocate to 500,000 people in the County.

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### County Patients' Rights Advocates

- Some counties have 32 advocates and some have part-time or volunteer advocates.
- Small counties usually do not have inpatient psychiatric hospitals and send consumers to other counties for inpatient treatment.
- Some small counties have Psychiatric Health Facilities (PHF).

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### Patients' Rights Advocate's Duties

- Monitor facilities for compliance with patients' rights laws, regulations and policies.
- Assist staff in ensuring information about patients' rights is posted in all facilities providing mental health services.
- Ensure that all incoming patients/resident are notified of their rights.
- Investigate and resolve complaints received from patients about violations or abuse of their rights.

W&I Code 5520(a-d), Title 9 CCR, 863.2

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### Patients' Rights Advocate's Duties

- Train staff in mental health facilities about patients' rights, laws, regulations, and policies.
- Advocate for patients and residents who are unable or afraid to register a complaint.
- Act as a local consultant in the area of patients' rights.

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### Patients' Rights Advocate's Duties

Inpatient Psychiatric Facility Hearings representation:

- Probable Cause Hearings- 3 day hold (PRA)
- Writ of Habeas Corpus/Judicial Review (Public Defender)
- Certification Review Hearing -14 day hold (PRA/Attorney/Public Defender)
- Riese/Capacity Hearings (PRA/Public Defender)

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### W&I Code 5150 and 5250

- 5150 is a 72 hour involuntary hold (3 days) during which client is or may be hospitalized
- 5250 14 day hold- at the end of 72 hour hold doctor can certify that client needs further treatment
- Procedural Defects: The consumer has defenses to this hold if the paperwork is not filled out correctly

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### W&I Code 5150 & 5250 Advisements

Paperwork hospitals should be providing: W&I 5150, Notice of Certification W&I 5250 and Involuntary Patient Advisement

- These forms are available at Department of Health Care Services ([www.dhcs.ca.gov](http://www.dhcs.ca.gov))
- PRA reviews documents, interviews client and asks the client's for "Expressed Interest"
- Inquires if client wants to stay in the hospital or not?

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### Review Reason for Hold

- Danger to Self, Danger to Others, or Gravely Disabled (all 3 boxes can be checked)
- Gravely Disabled: unable to provide food, clothing or shelter due to a mental illness
- Obtain signed Release of Information (if client agrees)
- Patients Advisement Document

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### Preparation for Probable Cause Hearing

- If client is contesting: Develop case and ask what the client's plans are to keep self-safe, other's safe, where they plan to sleep, eat or fix their food and where they get their clothing
- Explain to client and "Third Party Assistance" (with signed release) meaning of "Against Medical Advice"

## Slide 11

### Writ of Habeas Corpus Hearing Rights Information

- Explain Writ of Habeas Corpus to client
- Hospital staff or PRA can assist with filling out and or filing the Writ with the County Superior Court
- Advise Public Defender's office, who then will interview the client and represent in court

## Slide 12

### Additional Advocacy in Small Counties

- Grievance and Appeals System
- Attend EQRO Onsite Review meetings, Quality Improvement Committee meetings, Quality Assurance and MHSA Stakeholder meetings
- Jail – Mental Health Services Advocacy
- Provide Patients' Rights Information at NAMI meetings, CIT Trainings and Community Events
- Assistance with Wellness Center issues

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### Patients' Rights Advocate's Access

- To conduct investigation regarding possible past or present rights violations (W&I Code 5522).
- MH facilities shall, when available, provide space for patient rights advocate to interview clients in privacy and shall make staff available for interview with the advocate (W&I Code 5550(b)).

- No person shall knowingly obstruct any county patients' rights advocate in the performance of duties including access to clients or their records... (W&I Code 5550(b))

## **Slide 14**

### **Patients' Rights Advocate's Access**

County patients' rights advocates shall have access to all clients and other recipients of mental health services in any mental health facility, program, or service at all times as are necessary to investigate or resolve specific complaints and in accordance with subdivision (b) of Section 5523. County patients' rights advocates shall have access to mental health facilities, programs, and services, and recipients of services therein during normal working hours and visiting hours for other advocacy purposes (W&I 5530 (a)).

## **Slide 15**

### **Patients' Rights & Grievance and Appeals System**

- Become knowledgeable
- Patients' Rights and Grievance and Appeals System
- Solicit support and technical assistance from the State Office of Patients' Rights
- Solicit support and technical assistance from CAMHPRA
- Solicit support and technical assistance from peers

## **Slide 16**

### **Develop Effective Advocacy Relationships**

- Clinical Service Staff & Management
- Mental Health Facility Management
- Quality Improvement Committee
- State Office of Patients' Rights
- PRAT - Network with other PRAs
- Attend Regional CAMHPRA Meetings

## **Slide 17**

### **Provide Trainings and Technical Assistance**

- Patients' Rights trainings for New Employee Orientation
- Technical assistance to staff & management
- Patients' Rights Trainings for Clients

- Patients' Rights training through posters and brochures
- Beneficiary Protection Processes training through posters and brochures

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### Patients' Rights

Persons with Mental illness have the same legal rights and responsibilities guaranteed all other persons by the federal constitution and laws of the state of California, unless specifically limited by federal or state law or regulations. (California, Welfare & Institutions (W&I) Code 5325.1)

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### Patients' Rights

- To access services and grievance procedure information 24 hours a day.
- "Mental Health clients have a right to access services and programs which promote a satisfying life in the least restrictive environment." (California, W&I Code 5600.1)
- Service that is easy to access and provided in a safe, comfortable and inviting environment.

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### Patients' Rights

- Timely access to care, including making services available 24-hours a day, 7 days a week, when medically necessary to treat an emergency psychiatric condition or crisis condition.
- Receive information on available treatment options, alternatives and possible side effects, presented in a manner appropriate to his or her condition and ability to understand.

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### Patients' Rights

- Informed consent to treatment and to prescribed medications.
- Note: Informed consent means that the patient, after being provided adequate information about his/her condition and proposed treatment, knowingly and intelligently, without duress or coercion, clearly and explicitly give their consent to the proposed treatment.

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### Patients' Rights

- Participate in decisions regarding his or her mental health care, including the right to refuse treatment.
- Participate in planning his/her own treatment, in developing a treatment plan that includes the goals of treatment and the services that will be delivered.
- Respectful treatment by mental health providers, all MHP staff, clinic and hospital staff members and with due consideration for his or her dignity and privacy.

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### Patients' Rights

- Be free from any form of restraint or seclusion used as means of coercion, discipline, convenience, punishment or retaliation as specified in federal rules about the use of restraints and seclusion in facilities such as hospitals, nursing facilities and psychiatric residential treatment facilities where a client stays overnight for treatment.

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### Patients' Rights

- Confidential care and record keeping, "All information and records obtained in the course of providing mental health services to either voluntary or involuntary patients is confidential."
- Receive services that are culturally competent, sensitive to language, to cultural differences and ethnic backgrounds.
- Receive free oral interpretative services for clients who speak other languages.
- Free American Sign Language services for the speech and/or hearing impaired.

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### Patients' Rights

- Consideration of a problem or concern about services.
- Request a change of provider (MD, Nurse, Psychologist, Therapist, Case manager), a second opinion, or a change in level of care.
- File a grievance, appeal or State Fair Hearing.

- Be free from discrimination or any other penalty for filing a complaint, grievance, appeal, or State Fair Hearing.

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### Patients' Rights

- With written consent, authorize a person to act in his or her behalf during the grievance, appeal or State Fair Hearing processes.
- Authorize a provider to act in his/her behalf during the appeal process (with written consent).
- Authorize a provider to act in his/her behalf during the appeal process (with written consent).
- Have his/her family member talk to his/her provider about treatment (with written consent).

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### Patients' Rights

- To access (inspect and copy) their protected health information which the MHP created, received, or maintains and which are in the designated record set. (Title 45 CFR 164.524).
- To request that their protected health information be amended or corrected. (Title 45 CFR 164.526)
- To access the services of the Patients' Rights Advocate. (Title 9 CCR, 883(b)(8)  
See and receive services from the Patients' Rights Advocate. (Cal W&I Code 5325(h))

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### LPS Patients' Rights

- To dignity, privacy and humane care
- To be free from harm including unnecessary or excessive physical restraint, medication, isolation, abuse and neglect
- To receive information about your treatment and to participate in planning your treatment
- To consent or refuse to consent to treatment, unless there is a legally defined emergency or a legal determination of incapacity

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### LPS Patients' Rights

- To client-centered services designed to meet your individual goals, diverse needs, concerns, strength, motivations and disabilities
- To treatment services which increase your ability to be more independent
- To prompt medical care and treatment
- To services and information in a language you can understand and that is sensitive to cultural diversity and special needs

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### LPS Patients' Rights

- To keep and use your own personal possessions including toilet articles
- To have access to individual storage space for your private use
- To keep and spend a reasonable sum of your own money for small purchases
- To have reasonable access to telephones – both to make and to receive confidential calls or have such calls made for you

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### LPS Patients' Rights

- To have access to letter-writing materials and stamps – to mail and receive unopened correspondence
- To wear your own clothes
- To social interaction, participation in community activities, physical exercise and recreational opportunities
- To see visitors every day
- To religious freedom and practice

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### LPS Patients' Rights

- To see and receive the services of a patient-advocate who has no direct or indirect clinical or administrative responsibility for the person receiving mental health services
- To participate in appropriate programs of publicly supported education
- To be free from hazardous procedures
- And all other rights as provided by law and regulation

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### LPS Patients' Rights

- For complete lists of LPS Patients' Rights - Non-Deniable or Subject to Denial and Non-LPS Patients' Rights - Non- Deniable or Subject to Denial read:
  - California Office of Patients' Rights
  - Patients' Rights Advocacy Manual
  - Chapter 4, Patients' Rights