

# BEST PRACTICES FOR LPS FACILITY MONITORING

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## **Slide 2**

### **OUR STAFF (ORANGE COUNTY)**

This slide shows pictures of the Orange County staff.

Annette Tran, LCSW – Service Chief II

Gerry Aguirre – Service Chief I

Patti Yamamoto – RN, Patients' Rights Advocate

Katy Orlando – RN, Patients' Rights Advocate

Jim Marquez – IMFT, Patients' Rights Advocate

Esmi Carroll – LCSW, Patients' Rights Advocate

Paula Bishop – LMFT, Patients' Rights Advocate

Patricia Hikida – LMFT, Patients' Rights Advocate

Josie Luevano – Office Specialist

Jessica Thornton – MSW Intern, Patients' Rights Advocate

## **Slide 3**

### **PROBABLE CAUSE HEARING (PCH) ADVOCATES (ORANGE COUNTY)**

Pictures of Orange county staff.

Mike Lopez – Team Lead Supervisor

Naijwa Lewis – PCH Advocate

Michele Sclarandis – PCH Advocate

Lindsay Campbell – PCH Advocate

## Slide 4

### AGENDA

1. Authority of Advocates
2. Preparation and Planning
3. Advocate's Facility Assignments
4. LPS Initial Designation & Re-Designation Process
5. Policies & Procedures Review & Recommendation
6. Chart Audit & Forms
7. Patient, Staff and Doctor Interviews
8. Facility Walk-Through
9. Annual Patients' Rights Training
10. Post Audit & Plan of Corrections
11. Recommendations for Remedy Deficiencies
12. Grievance Process
13. Probable Cause Hearing (PCH) Information: Forms & Monitoring Tool
14. Facility Tracking Log & Corrective Action Plan
15. Advocate's Expectation & Performance Tracking
16. Contact Information

## Slide 5

### AUTHORITY OF ADVOCATES

County patients' rights advocates are authorized to act by state law (WIC Section 5520). Advocates may enter facilities within their county to respond to and investigate client complaints and to monitor for compliance with patients' rights.

#### **ACCESS AUTHORITY FOR COUNTY PATIENTS' RIGHTS ADVOCATES**

1. To request that mental health facilities, when available, provide reasonable space for county patients' rights advocates to interview clients in privacy and shall make appropriate staff persons available for interview with the advocates in connection with pending matters. (W&I Section 5530 [c])
2. To interview all persons providing the client with diagnostic or treatment services. (WIC § 5530 [b])
3. To inspect and copy patient records. A specific authorization by the client or by the guardian ad litem is necessary for a county patients' rights advocate to have access to copy or otherwise use confidential records or information pertaining to the client. Such an authorization shall be given knowingly and voluntarily by a client or guardian ad litem and shall be in writing or be reduced to writing. The client or the guardian ad litem, whoever has entered

into the agreement, may revoke such authorization at any time, either in writing or by oral declaration to the advocate. (WIC § 5541)

4. To inspect or copy, or both, any records or other materials not subject to confidentiality under WIC § 5328 or other provisions of law in the possession of any mental health program, services, or facilities, or city, county or state agencies relating to an investigation on behalf of a client or which indicate compliance or lack of compliance with laws and regulations governing patients' rights, including, but not limited to, reports on the use of restraints or seclusion, and autopsy reports. (WIC § 5542)

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### **AUTHORITY OF ADVOCATES**

#### **CLIENTS ACCESS**

1. Clients have a statutory right "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"(WIC § 5325 [h]).
2. The advocate is entitled by statute to visit a client or other recipient of services "at all times necessary to investigate or resolve specific complaints" (WIC§ 5530 [a]). For any other purposes (monitoring, training and general provision of rights information), the advocate is entitled to access during normal working and visiting hours.

#### **FACILITY ACCESS**

1. County patients' rights advocates 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 to monitor mental health facilities, services and programs for compliance with statutory and regulatory patients' rights provisions in accordance with WIC § 5523(b). The advocates 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 Section 5530[a]). The advocate is entitled to "reasonable" and "available" private space in which to meet with the client (WIC §5530 [c]).

## **Slide 7**

### **AUTHORITY OF ADVOCATES RECORDS/INFORMATION ACCESS**

1. County patients' rights advocates must obtain the client's written consent before inspecting or copying a client's mental health records except for the purpose of monitoring mental health facilities, services and programs for compliance with patients' rights law (WIC §§ 5520 [b], 5545, 5541). County patients' rights advocates have the right to inspect or copy any records or other material not subject to confidentiality under W&I Section 5328 or other provision of law, in the possession of any mental health program, service, or facility, relating to an investigation on behalf of a client or which indicate compliance or lack of compliance with laws and regulations governing patients' rights (WIC § 5542).
2. Welfare and Institutions Code Section 5326.1 provides access to the local mental health director, or his or her designee, which may include county advocates, information pertaining to denial of rights, including consent forms, required documentation for convulsive treatment, seclusion and restraint, physician's orders, nursing notes and involuntary detention papers.

### **SANCTIONS FOR INTERFERENCE WITH ADVOCATE**

1. Welfare and Institutions Code § 5550 states no person shall knowingly obstruct any county patients' rights advocate in the performance of duties, including, but not limited to, access to clients or potential clients, or to their records, whether financial, medical, or records, or otherwise violate the provisions of this chapter.
2. Any person or facility knowingly found to obstruct a patients' rights advocate in the performance of their duties may subject the individual or facility to a civil penalty of \$100 to \$1,000 (WIC § 5550[b][c][e]).

## **Slide 8**

### **INPATIENT FACILITIES (ORANGE COUNTY)**

Images of Hospital names and logos

Anaheim Global Medical Center\*

College Hospital Costa Mesa\*

Huntington Beach Hospital

St. Joseph Hospital\*

Newport Bay Hospital\*

West Anaheim TRC  
Orange County Global Medical Center  
Chapman Global Medical Center\*  
South Coast Global Medical Center  
West Anaheim Medical Center  
La Palma Hospital  
Los Alamitos Hospital\*  
County Crisis Stabilization Unit\*  
Mission Hospital Laguna\*  
CHOC Hospital  
Mission Viejo MHRC  
Royale TRC  
Westminster TRC  
County Men's Correctional Crisis Stabilization Unit\*  
UCI Neuropsychiatric Center\*

\*LPS Designated Facility

## **Slide 9**

### **PLAN AND PREPARE FOR MONITORING FACILITIES (SANTA CLARA COUNTY)**

- 1) Identify date/time/resources needs
- 2) Develop tools and train staff to use them (practice)
- 3) Notify facility/county behavioral health/etc.
- 4) Coordinate logistics with the facility
  - (a) How to access charts
  - (b) Staff availability for interviews
  - (c) How select charts
- 5) Day of Logistics:
  - (a) Chart reviews
  - (b) When and where to interview staff
  - (c) When and where to interview patients
  - (d) Use organizational tools!

## **Slide 10**

### **LPS INITIAL DESIGNATION (ORANGE COUNTY)**

1. Policy & Protocol Review and Recommendations
2. Facility Walk-Through (Each Unit)

3. Letter of Summary Findings & Corrective Action Plan

## LPS RE-DESIGNATION (ORANGE COUNTY)

1. Policy & Protocol Review and Recommendations
2. Random Chart Selection (25-30 Charts)
3. Patient Interview Survey (10 interviews)
4. Facility Walk-Through (Each Unit)
5. Annual Patients' Rights Trainings
6. Letter of Summary Findings & Corrective Action Plan

## Slide 11

### REVIEW OF HOSPITAL POLICIES & PROCEDURES (SANTA CLARA COUNTY)

Picture of table of Obtain and Review Hospital P&Ps for alignment with relevant statutes.

## Slide 12

### POLICIES & PROTOCOL REVIEW (ORANGE COUNTY)

1. Notification of the Patients' Rights upon Admission
2. Seclusion & Restraints Advisement & Practice
3. Patient Notification of Their Rights
4. Voluntary Admission
5. Discharge/Aftercare Plan
6. Patients' Rights Grievance Process
7. Interpreter/Translation Services
8. Patients' Rights Handbook
9. Patients' Rights Poster
10. Denial of Rights
11. Monthly & Quarterly Patients' Rights Reporting
12. Independent Clinical Reviews

## Slide 13

### PRAS POLICY REVIEW & RECCOMENDATIONS (ORANGE COUNTY)

(See Handout)

## **Slide 14**

### **CHART AUDIT REVIEW (SANTA CLARA COUNTY)**

(See Handout)

#### **Possible patients' rights aspects to monitor:**

- 1) Intake procedures:
  - a) Advance directive/seclusion and restraint advisement
  - b) Patients' rights handbook
  - c) Complaint procedure
  - d) Property inventory
- 2) Civil commitments/consent to treatment
- 3) Informed Consent
- 4) Emergency Medications
- 5) Seclusion and Restraint
- 6) Denial of § 5325 Rights
- 7) Prompt medical care
- 8) Treatment and Discharge Planning

## **Slide 15**

### **CHART AUDIT REVIEW (ORANGE COUNTY)**

1. Patients' Rights Handbook and Acknowledgement Receipt Form
2. Advance Directive/Assessment for Seclusion & Restraint
3. Voluntary Admission Consent Form or Detain & Treat Form
4. Consent for Anti-psychotic Medication
5. 5150, 5250 and 5270 Evaluation & Advisement
6. LPS T-Con
7. Letters & Orders of Conservatorship of Minute Order
8. Denial of Rights
9. Seclusion & Restraints
10. Emergency Medications
11. Nurse, Doctors & Social Worker Notes
12. Treatment Plan
13. Discharge/Aftercare Plan

## **Slide 16**

### **CHART AUDIT FORM (ORANGE COUNTY)**

(See Handout)

## **Slide 17**

### **PATIENTS' RIGHTS HANDBOOK & ACKNOWLEDGEMENT FORM (ORANGE COUNTY)**

(See Handout)

## **Slide 18**

### **SECLUSION/RESTRAINT ADVISEMENT FORM (ORANGE COUNTY)**

(See Handout)

## **Slide 19**

### **DENIAL OF RIGHTS MONTHLY TALLY FORM (MH306)**

(See Handout)

## **Slide 20**

### **SAMPLE PATIENT INTERVIEW (SANTA CLARA COUNTY)**

(See Handout)

#### **Restraint & Seclusion – Patient Questionnaire**

1. What happened right before you were given the injection of medications and/or restrained/secluded?
2. Did staff offer you other things to do such as time out, outside time, materials, PRN, music etc.? If yes, what were they?
3. While you were in seclusion or restraint, did staff respond to your personal needs? [e.g., rotation, fluids, bedpans, meals, comfort of restraints]
4. While you were in seclusion or restraint, were you medicated? Did you consent?
5. What were the circumstances around you being medicated? Did they tell you what medications you were being given?
6. Did staff come in to talk to you while you were secluded or restrained?
7. Were you secluded or restrained beyond the time that you needed to calm down?
8. What happened when you were released?
9. Did staff offer you the opportunity to participate in a debriefing about the incident?

10. (If given medications) How long did you feel the effects of the medications?  
How long were you asleep?

## **Slide 21**

### **STAFF INTERVIEWS (SANTA CLARA COUNTY)**

Tip:

Design the questions to both share and collect information.

Example:

Ask RN what the legal standard is for the use of seclusion and restraint. Discuss the answer and whether it reflects the law.

Explain to staff the purpose of the audit

Ask for examples from their own experience

Start out by asking about their training and experience in Psychiatric Nursing

## **Slide 22**

### **SAMPLE RN/MHW QUESTIONS (SANTA CLARA COUNTY)**

(See Handout 22A & 22B)

Describe this unit's protocol for using seclusion and restraint.

1. Have you ever been shown or reviewed the APS Policies for seclusion and restraint or emergency medications?
2. What are behaviors do you feel necessitate the use of seclusion or restraint?
3. What LRAs do you often use?
4. Do you ever check the patients chart to see if they have expressed preferences for LRAs or emergency interventions?
5. Who notifies the patient's designated family or friends of the incident?
6. How do you assess readiness for release?

Do you know a patient's options after they have been placed on a 5250 hold?  
If yes, what are they?

Describe your practices for communicating with non-English-speaking patients.

Is there any assistance or training that you would like from us as patients' rights advocates?

## **Slide 23**

### **SAMPLE MD INTERVIEW QUESTIONS (SANTA CLARA COUNTY)**

(See Handout)

How did you first learn about LPS patients' rights?

Have you received any updates about patients' rights since your initial training?

If yes, how often and from whom?

Have you participated in de-escalation training?

Have you participated in training on trauma informed care?

What is your practice for obtaining informed consent for psychiatric medications from a patient?

Describe this unit's protocol for using emergency medications.

What are common situations in which emergency medications are appropriate?

Who decides when forced medications are appropriate in an emergency?

Do you consult the patients chart to determine if they have expressed preferences around emergency interventions?

How often are you asked to give the order for EMs BEFORE administration?

What do you ask staff to make sure that LRAs were attempted?

How effective to you believe staff are at deescalating patients?

## **Slide 24**

### **INTERVIEWING DOCTORS (SANTA CLARA COUNTY)**

1. Ask to interview and plan dates/times far in advance
2. Practice the interview questions beforehand
3. Be prepared for resistance
4. Have follow-up questions at the ready
5. What you are looking for: do they know the legal standards, what training have they had, their overall attitude toward patients' rights protections

## **Slide 25**

### **PATIENT INTERVIEW SURVEY (ORANGE COUNTY)**

(See Handout)

1. This is a survey tool the advocates use to assess, monitor and determine if the facility is informing the patients about their rights and ensuring the patient is receiving quality care and services at the facility.
2. This survey form is completed by the advocate when interviewing a patient who is able and willing to participate.
3. During the LPS Re-Designation the advocates will conduct a total of 10-12 patient interview surveys.
4. The advocates, are required to conduct one (1) survey a month for each facility they are assigned to for monitoring purposes.

## **Slide 26**

### **FACILITY WALK-THRU ASSESSMENT FORM (ORANGE COUNTY)**

(See Handout 26A & 26B)

- 1) During the LPS Designation/Re-Designation the facility walk-thru assessment form is completed for all units.
- 2) The advocates are required to complete the form each quarter for all units to ensure the patients' rights components are monitored and addressed with the facilities.
  - a) State Patients' Rights Posters (All Threshold Languages)
  - b) Seclusion & Restraint Room
  - c) Patient Restrooms
  - d) Safe and Clean Unit
  - e) Outdoor Activities and Fresh-Air Breaks
  - f) Access to Telephone
  - g) Auxiliary Aids & Services
  - h) Language Interpreter Services
  - i) Personal Storage Space is available and accessible
  - j) Grievance Forms (All threshold Languages)
  - k) Hospital Posting for Complaints
  - l) Visiting Hours posted Inside the unit
  - m) Unit census within limits
  - n) Ligature Risks

## **Slide 27**

### **SECLUSION & RESTRAINT ROOM (ORANGE COUNTY)**

1. The room should be a standard hospital room with a twin size bed secured in the center.
2. A window to see into the room.
3. A staff needs to be in the room or at the doorway to observe the patient during the S&R.
4. A camera (optional), but it is not to take the place of a staff member who is required to be in the room to observe the patient.
5. A restroom needs to be nearby or in the room.

## **Slide 28**

### **ANNUAL TRAININGS (ORANGE COUNTY)**

As an advocate, we are required to provide training and education about mental health law and patients' rights to mental health providers (WIC 5520 (c)).

The advocates are responsible to coordinate and provide annual trainings for all inpatient mental health facilities. In Orange County, it is a mandatory requirement for all inpatient facilities to have their behavioral health staff attend and participate in the training.

## **Slide 29**

### **POST AUDIT**

#### **Santa Clara County –**

1. Compile results and data
2. Write a report with recommendations (deadline for response/plan of correction)
3. Optional: send draft report to facility to elicit a response
4. Send Report (Facility, MH Director, County Counsel, etc.)
5. Monitor the implementation of the plan of correction (see progress report tool)

#### **Orange County –**

1. Compile results and data
2. Write a report with recommendations (deadline for response/plan of correction)
3. Send Report to the Facility

4. Monitor the implementation of the plan of correction

## **Slide 30**

### PLAN OF CORRECTION PROGRESS REPORT (SANTA CLARA COUNTY)

(See Handout)

## **Slide 31**

### RECOMMENDATIONS TO REMEDY DEFICIENCIES (SANTA CLARA COUNTY)

1. Training by PRAs, outside agencies, internal trainers
2. Changes in documentation methods (alterations in electronic forms)
3. Changes in hospital P&Ps
4. Establishing reoccurring meetings or adding items to meetings (treatment team meetings/facility staff meetings/shift change procedures)
5. Adding resources/activities/groups for patients

## **Slide 32**

### LEVELS FOR CHANGE (ORANGE COUNTY)

Advocate will inform the mid-level administrators (i.e. Nurse Supervisor/Manager) to address and resolve the issue immediately when a patients' rights violations has occurred.

1. If the problem continues, the advocate will begin tracking the patients' rights violation and notify the facility administrator (i.e. Behavioral Health Director) to obtain assistance with resolving the issue.
2. If the problem still continues the advocate will report their tracking and outcome to the PRA Supervisor/Manager to initiate contact and/or meet with the facility administrator (i.e. Behavioral Health Director) to address the issue further and place the facility on a plan of correction.
3. If the problem continues to persist a formal plan of correction is written by the PRA Supervisor/Manager and submitted to the executive administrator of the facility (i.e. Chief Executive Officer, etc.) to address

## **Slide 33**

### **CONSULT AND/OR REPORT TO:**

California Office of Patients' Rights  
Disability Rights California  
Department of Public Health  
Medical Board of California  
Child Protective Services  
Adult Protective Services  
Ombudsman

## **Slide 34**

### **FACILITY TRACKING LOG (ORANGE COUNTY)**

(See Handout)

## **Slide 35**

### **FORMAL GRIEVANCE (ORANGE COUNTY)**

(See Handout)

The formal grievances are in the threshold languages and made available on each of the units for patients to access and take at any time. The envelopes are placed alongside the grievance forms. The grievance forms are confidential and are not be allowed to be read by facility staff. It is the responsibility of the facility to stamp and mail the grievances to Patients' Rights Advocacy Services (PRAS).

Once our office receives the grievance:

1. An acknowledgment letter will be mailed
2. The advocates will investigate and resolve the grievance within 90 days.
3. A formal letter of the outcome of the investigation will be mailed

## **Slide 36**

### **PCH ADVOCATE MONITORING (ORANGE COUNTY)**

(See Handout)

This tool is used to monitor the contract of Advocates and their ability to do case preparation and presentation during the hearing.

The monitoring tool is used to ensure the services provided to the patients meets the contractual requirements.

## **Slide 37**

### **PCH POSTPONTMENT FORM (ORANGE COUNTY)**

(See Handout)

This form is used when the patient or advocate request to postpone the Probable Cause Hearing.

This form is filled out by the advocate and signed by the patient. The form is given to the facility to place in the chart as proof that the patient/advocate postponed the PCH.

## **Slide 38**

### **PCH PREPARATION FORM – DRAFT (ORANGE COUNTY)**

(See Handout)

## **Slide 39**

### **EXPECTATION OF THE ADVOCATE (ORANGE COUNTY)**

#### **MEET WITH PATIENTS**

1. Visits the assigned facilities 1-2 times a week to meet with patients.
2. Address and resolve patient Grievances and Complaints
3. Patient Interview Survey
4. Conduct informal Patients' Rights Education Groups for patients (Optional).
5. Attend weekly Treatment Plan (Optional)

#### **FACILITY MONITORING**

1. Conduct annual trainings (1 – 4 trainings) for each assigned facility for all Behavioral Health Staff on the “Rights of Individuals in an Inpatient Setting” and any other trainings requested by the facilities.
2. Conduct random or focus Chart Audits for patients' rights compliance.
3. Check the unit to see if there have been any Seclusion & Restraints during routine site visits, review the chart, consult with the staff and meet with the patient (if possible).

4. Check to see if there are any Denial of Rights on the unit during routine site visits, review the chart, consult with the staff and meet with the patient (if possible).
5. Address with facility, administrator's patients' rights compliance issues, when necessary.
6. Quarterly walk-through for each unit at the facility.

## **Slide 40**

### ADVOCATE MONTHLY EXPECTATION (ORANGE COUNTY)

1. **Monthly Contact:** 200 contacts per month
2. **Trainings:** 1 training per facility/program per year
3. **Patient Interview Survey:** ALL facility per month
4. **Full Chart Audit:** ALL facilities per month
5. **Facility Walk Through:** ALL facilities each quarter

## **Slide 41**

### ADVOCATE MONTHLY PRODUCTIVITY SPREADSHEET (ORANGE COUNTY)

(See Handout)

## **Slide 42**

### PAMPHLETS & BROCHURES (ORANGE COUNTY)

<http://www.ochealthinfo.com/bhs/about/pr>

## **Slide 43**

### CONTACT INFORMATION

#### **Law Foundation (Santa Clara County):**

Megan Wheelehan

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**Patients' Rights Advocacy Services (Orange County):**

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**PATIENTS' RIGHTS ADVOCACY SERVICES (PRAS)**

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