

Mendocino County Mental Health Patients' Rights Advocate

A Patients' Rights Advocate (PRA) is the single strongest protection for assuring appropriate services and treatment for those with mental disabilities. This position in the County Department of Mental Health Services is currently ineffective. This ineffectiveness endangers clients. This problem can be corrected.

Method of Investigation

The Grand Jury reviewed the California Department of Justice "Legal Rights of Persons With Disabilities," 1975. (42 U.S.C. 6000 et seq.); Welfare and Institution Code. (Sec. 4500-5699.99); "Consumer Rights and Complaint Process," Mendocino County Mental Health; Office of Patients' Rights Advocacy, Inc., "Patients' Rights Program Review"; "Finding Our Way Home," Stories from the AB34 projects"; Mental Health Services Compendium of Services; List of Duties of Patients' Rights Advocate; Mendocino County Mental Health Board Annual Report, 1999 and 2000; Grand Jury Final Report 1998-99, "Investigation of Suicide at Mendocino County Adult Detention Facility"; and Rights to Treatment Case Law of Wyatt v Stickney, 1971.

The Grand Jury interviewed clients, family members, members of the Mental Health Board (past and present), the PRA, and the Director of Mental Health. Grand Jury members attended the Mendocino County Mental Health Forum, and contacted Protection and Advocacy in Sacramento.

Background Information

Bronzan-McCorquodale Act of 1986 provides for authorization and financing of county community mental health services for the mentally disordered through locally administered and locally controlled community mental health programs. Both the Welfare and Institutions Code and the California Code of Regulations specify the County's responsibility and the role of the PRA.

When a mental health client has a problem with the system, the PRA should be the person's defender. Also, the PRA assists with educating staff about clients' rights and informs families of their own, as well as clients' rights. This position is a liaison between clients, Mental Health, and the State Department of Mental Health (State). The PRA advises a client when to pursue a complaint to the State, and additionally may pursue it alone. A PRA is never intimidated or held back from duties by fear of staff or managers within the mental health system.

Findings

1. **Mental Health complaints are not resolved in a timely manner, contrary to the two-day “Patients’ Rights Program Review,” May 25 and 26, 2000, which stated,**

Our review indicated that Mendocino County has an adequate process and procedure in place. The PRA informs clients of the complaint process on a regular basis through individual meetings and educational training.

Complaint forms are also available in several locations for use of clients. A standard form is available to all clients for writing and submitting their complaints to the advocate. The advocate has a computerized system for tracking of all complaints. The complaint process however does not inform clients of the complaint appeal process if they remain dissatisfied.

One complaint reviewed by the Grand Jury was unresolved after a year’s time, with no resolution or written response.

Another complaint took eight months for response, but when the client reported the same incident to the State six months into the complaint process, the State’s formal, written response was received in six weeks.

Response (Mental Health): The Department disagrees with this finding. The Grand Jury cited two examples of complaints that had not been resolved within the 30-day timeframe required by the State. Since 1998, only 10% of complaints took more than 30 days to resolve. The Department does not know which two complaints were reviewed by the Grand Jury, but reasons for complaints to take more than 30 days to resolve include the following: 1) consumer not responding to requests for follow-up information 2) limited availability of staff time for interviews (there may be multiple staff to interview, and one PRA to conduct the interviews) 3) consumer deciding to pursue a higher level of review (the complaint remains open pending final resolution) 4) delay in receiving signed release of information when complaint is filed by a consumer’s representative or 5) client leaving the area before investigation is completed. The Patient Rights Advocate is now sending follow-up letters asking consumers to confirm that they want to continue with the complaint process when she has been unable to reach them by telephone.

The report cited by the Grand Jury, above, was from an independent assessment of Mendocino County’s PRA program by Protection and Advocacy, Incorporated, which has a contract with the State Department of Mental Health to review all Patients’ Rights Advocacy programs for conformance with State standards. Protection and Advocacy has a long history of challenging the practices of County Mental Health Departments. This report, mailed January 8, 2001, summarized: “The Mendocino County Patients’ Rights program is a well-developed and run program. The relationship of the advocates to the clients is an excellent one. The relationship between the advocate and the Mental Health

Director is one of good communication, great trust and cooperation.” The Mental Health Director delivered the full report to the Grand Jury, which chose not to report the overwhelmingly positive comments of this review.

Response (Board of Supervisors): The Board disagrees with this finding and supports the response of the Mental Health Department.

2. Clients and family members stated that the staff intimidates the PRA, therefore destroying the clients’ confidence in the effectiveness of the PRA.

Response (Mental Health): The Department disagrees with this finding. The Patients’ Rights Advocate has the full support of the Mental Health Director in her role, and staff is directed to be fully cooperative with any investigations conducted by the PRA. Under Welfare & Institutions Code 5530, the PRA also has the ability to bring any issues directly to the State, bypassing the Mental Health Director if she believes that issues are not being addressed appropriately by staff.

Response (Board of Supervisors): The Board disagrees with this finding and supports the response of the Mental Health Department.

3. Under previous Mental Health administration direction, the keys to the Psychiatric Health Facility were taken from the PRA. The PRA did not appeal this action in accordance with Welfare & Institutions Code §5530 (a).

Response (Mental Health): The Department agrees with this finding. While the keys were taken for security reasons, the PRA was not denied access to the unit during the time she was without keys, so no appeal was deemed necessary.

Response (Board of Supervisors): The Board agrees with this finding and supports the response of the Mental Health Department.

4. The PRA’s office is located in the Mental Health building. According to the Mental Health Board Annual Report, 1999-2000, clients intimidated by staff are less likely to file a formal complaint at the current location.

Response (Mental Health): The Department partially agrees with this finding. The PRA’s office is located in the Mental Health Building. The Mental Health Board Annual Report from 1999-2000 was a collection of committee reports from the Mental Health Board, not a statement from the full Board, so these comments were actually written by one person. The Patients’ Rights Advocate selected her current office, which had been formerly occupied by the prior Mental Health Director, because of consumer ease of access to her services. The office is directly adjacent to the Mental Health Department lobby, and consumers can access The PRA without having to check in with the receptionist. There is a seeming trade-off of closeness to Departmental functions (“that’s

where the clients are”) and entirely independent operations (“more confidential access”).

The Department is open to suggestions about other locations for the Patients’ Rights Advocate office, and has submitted this question to the current Mental Health Board for their review and comments. It is expected that any recommendations will come from the full Board.

Response (Board of Supervisors): The Board agrees with this finding in part and supports the response of the Mental Health Department.

5. The Director of Mental Health hires, evaluates, and oversees the PRA.

Response (Mental Health): The Department agrees with this finding. Chapter 6.2 of the Welfare & Institutions Code, Section 5520 states “Each local mental health director shall appoint or contract for the services of one or more county patient’s rights advocates.”

Response (Board of Supervisors): The Board agrees with this finding and supports the response of the Mental Health Department.

6. Public awareness of the PRA and/or complaint process is lacking. Families entering the mental health system in crisis are not fully informed verbally of these services. During a crisis, families do not read pamphlets or posters. The PRA represents all clients of Mental Health; however, parents, school counselors, and parent/advocates within Mental Health all testified that they were unaware of a PRA for children.

Response (Mental Health): The Department agrees in part with this finding. There will always be consumers who are unaware of the availability of the PRA. It is the duty of the Department to inform all consumers of their rights, and to disseminate information on how to access the PRA’s services as widely as possible. Staff is informed of the PRA and access thereto and are expected to relay this information to all clients and coordinating agencies.

Response (Board of Supervisors): The Board agrees in part with this finding and supports the response of the Mental Health Department.

Recommendations

A. Mental Health establish a policy and procedure for complaints with strict timelines and frequent notations made on notifying the complainant. (Finding I)

Response (Mental Health): This recommendation will be implemented in September of 2001.

Response (Board of Supervisors): The Board supports this recommendation and the timeline proposed by the Mental Health Department.

B. Develop a memo of understanding between Mental Health and the PRA to explicitly define PRA access to clients and Mental Health facilities. (Finding 3)

Response (Mental Health): This recommendation will not be implemented because the law (W&I Code 5530 & 5550) is clear that the PRA has unlimited and unrestricted access to clients and Mental Health facilities. No MOU is required because the law supercedes any possible MOU. There was only one unit that needed keyed access, the Psychiatric Health Facility. This unit is now closed. The PRA determines all her own contacts with clients, and has full access to records as allowed by law.

Response (Board of Supervisors): The Board agrees with the response prepared by the Mental health Department and will not recommend implementation of this recommendation. Patients Rights Advocate access issues are covered in State law.

C. To eliminate any client discomfort about visiting the PRA, the PRA relocate to a site other than the Mental Health buildings. (Finding 4)

Response (Mental Health): This recommendation requires further study and has been referred to the Mental Health Board for their comments. The Department will include their comments in the review of Departmental space needs which is currently underway with the architectural firm of Ross-Drulis Associates.

Response (Board of Supervisors): The Board supports the response of the Mental Health Department and would like the input of the Mental health Advisory Board regarding location of the PRA office. The current location is right in the lobby and is easily accessible at this time.

D. Mental Health develop a procedure to inform all parents, staff, school counselors, that there is a PRA for children. (Finding 6)

Response (Mental Health): The Department agrees to implement this to the degree practicable. Children's Services staff will meet with the Patients' Rights Advocate no later than October 31 to receive information of PRA services. They will be given supplies of brochures and posters to distribute to school sites and to each family they work with. Mailings of these materials will be made to each school in the County, no later than January 1, 2002. School sites are not under

the jurisdiction of the Mental Health Department, and each school site principal will individually determine appropriate distribution of this information.

Response (Board of Supervisors): The Board agrees with this recommendation and supports the response and timeline presented by the Mental health Department.

E. Mental Health design a better system to inform verbally of the PRA services, location, and phone number. Pamphlets and posters alone are not adequate. (Finding 6)

Response (Mental Health): This recommendation is in the process of being implemented. The Mental Health Director will remind staff that they should speak to consumers about the availability of PRA services at the Department All-Staff meeting August 10, 2001. In addition, the Department has produced an audiotape outlining all services provided by the Department, including the availability of the Patients' Rights Advocate. The tape is currently being translated into Spanish, and will be mass-produced with English on one side and Spanish on the reverse. These will be distributed to all clinic sites and to all providers on contract to the Department by January 1, 2002.

Response (Board of Supervisors): The Board supports this recommendation and the implementation timeline as presented by the Mental Health Department.

Response required

Mendocino County Board of Supervisors

Response requested

Mendocino County Mental Health Services Director

Mendocino County Patients Rights Advocate