County of San Bernardino

Department of Behavioral Health Administration
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CaSONYA THOMAS, MPA, CHC
Director

November 27, 2013

Re: CA Mental Health Planning Council Patients' Rights Committee Survey Results for San Bernardino County

Dear Members of the Behavioral Health Commission,

BACKGROUND

The California Mental Health Planning Council (CMHPC) is mandated by federal and state statute to advocate for children with serious emotional disturbances and adults and older adults with serious mental illness, to provide oversight and accountability for the public mental health system, and to advise the Governor and the Legislature on priority issues and participate in statewide planning.

The State Legislature recently mandated that a Patients' Rights Committee (PRC) be formed within the CMHPC (WIC Code 5514). One of the first projects that the PRC has undertaken is to determine what is and is not taking place around the State of California regarding patients' rights and access and quality of the mental health services consumers are receiving.

The PRC developed a short survey to better understand available services. Following are the results of that survey for San Bernardino County.

SURVEY RESPONSES

WIC Code 5520 - (a)

(a) To receive and investigate complaints from or concerning recipients of mental health services residing in licensed health or community care facilities regarding abuse, unreasonable denial or punitive withholding of rights guaranteed under the provisions of Division 5. Is this being done in your county? If so how?

Yes. San Bernardino County (SBC) Patients' Rights Office (PRO) handles complaints/grievances concerning locked facilities as well as PRO issues in licensed programs. We are the "external" option for clients to access should they choose not to utilize the internal, facility complaint process. We have a confidential, toll free number they can call or mail us a county grievance form or letter; our address and contact information is available to clients at numerous points in the inpatient process (at admission, on the back of the state issued PRO handbook, on posters and on the county grievance forms on the units). We ensure these informing materials are in place during investigation and monitoring we conduct throughout the year at all Lanterman Petris Short Act (LPS) Inpatient Hospitals and Skilled Nursing Facilities. Awareness of our services is also provided through the various educational trainings we provide and our involvement in coalitions, subcommittees, etc.

Describe any suggestions you have about how the process can be improved.

I would suggest the providers and programs in our county need to have a clear understanding of our role with regards to the complaint, grievance and investigation process. They do not seem to understand we are not an enforcement agency, although we will notify (and empower our clients to notify) the appropriate enforcement agency relevant to the issue in question. Additionally, sometimes facilities are not very forthcoming with the external complaint options (via PRO) redirecting the client to utilize only the internal process. Education is key in addressing these areas. If there was a way clients could submit their concerns via a webpage or internet (email) it would be helpful. Clients also need to have realistic expectations of what types of outcomes our office can provide for their complaints and grievances.

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WIC Code 5520 - (b)

(b) To monitor mental health facilities, services and programs for compliance with statutory and regulatory patients' rights provisions. Is this being done in your county? If so how?

Yes. We monitor all LPS designated psychiatric facilities as well as (2) Skilled Nursing Facilities with Special Treatment Programs (SNF/STP) twice a year; once a quarter, we monitor the LPS facilities' Certification Review Hearing process; every 2 years, we do a thorough review of the LPS facilities during the LPS Re-Designation process. We developed specific monitoring forms that encompass all the PRO related issues within our jurisdiction. The facility and re-designation monitoring include random chart reviews, walk-through of the facility, and observation of groups/admission/discharge, observation of staff, interviews with clients and staff and policy reviews. A final report is provided to the facility with recommendations that would bring them into compliance. The goal of monitoring is to help share best practices, allow for discussion on the direction DBH is going related to patient care and also learn the direction the LPS facility is going.

Describe any suggestions you have about how the process can be improved.

I feel facility monitoring could be done more frequently. I also think facilities should be required to submit a plan of correction to our office following receipt of a monitoring report. Currently, it seems the facilities are not taking action to address the recommendations made. I also feel county Quality Management (QM), Contracts and Medical Services divisions should become more involved in monitoring, even if it is not collaboratively with our office. It is important to understand that while many advocates are licensed therapists, in a role as a Patients' Rights Advocate, we must act within the ethical principles of advocacy and address PRO issues only. Generally, it seems our office is doing a lot of work during monitoring and follow up meetings (debriefings) but we really have little power to force change, hence the entities that do (Contracts, QM) should be more actively involved.

WIC Code 5520 - (c)

(c) To provide training and education about mental health law and patients' rights to mental health providers. Is this being done in your county? If so how?

Yes. We have a role in the monthly new hire orientation for the county, annually we do an LPS law and PRO law for all the LPS designated facilities. We provide training at cultural competency subcommittees, District Advisory committees, and when requested from programs or clinics. Quarterly, we are involved in the 5150 Writer training provided by the county, the process by which those other than law enforcement are trained and certified to initiate 5150/5585 holds. We provide training to all DBH interns (BSW, MSW, MFT and Ph.D.) as well as residents at our teaching LPS facilities. We frequently collaborate with the Superior Court, Office of the Mental Health Court Counselors to provide training to providers as well. Additionally, when we trend an issue occurring in our facilities, we will offer training to the provider/program/facility and provide trainings at the annual State Office of Patients' Rights Training in Sacramento. We also have a Peer and Family Advocate on staff in our office that does PRO education groups in our county LPS designated facility for patients once a week.

Describe any suggestions you have about how the process can be improved.

Some facilities are more inclined and open to trainings than others. It would be good for our office to do a review of the trainings the facility received annually or at the 5150 Re-Designation Process. As part of the facilities' contract with the county, I feel they should be required to have PRO training (staff/providers) at least annually. I also think it would be helpful to the clients we serve if our office could do PRO groups in all the LPS designated facilities and SNF/STPs , not just at the county facility, or at least provide a Train-the-Trainer sessions.

WIC Code 5520 - (d)

(d) To ensure that recipients of mental health services in all licensed health and community care facilities are notified of their rights. Is this being done in your county? If so how?

Yes. We do this via the monitoring & review processes, via chart reviews and interviews with clients. Additionally, when preparing to represent clients at their Certification Review Hearings, we review their charts to ensure they signed an acknowledgment of receipt of the state PRO handbook and were told of their right to contact the county PRO and how to contact our office. When interviewing clients during hearing preparation, we also ask them if they received that information. When clients call our office, we frequently direct them to their PRO handbook or PRO posters on the unit; sometimes they state they did not receive them and we then contact the facility to ensure they do. We also give the facilities the contact information for the state so they can order PRO handbooks and posters as well as give them a template to print out labels with our office's contact information to be placed on all PRO handbooks and posters.

Describe any suggestions you have about how the process can be improved.
Not all facilities have a specific form that the client signs to acknowledge they received their PRO handbook and the county PRO contact information. I think this should be a requirement. At times we are informed by staff that the client was not receptive to receiving that information at admission (which we understand occurs). We advise them to document their continued effort to comply with this requirement over the next day or two. If we can continue to do trainings at the LPS and SNF/STP facilities it would be beneficial to the clients, staff and also give us a better awareness of how the units are running. However, current staffing would not allow us to do this regardless of the facilities willingness to have us.

WIC Code 5520 - (e)
(e) To exchange information and cooperate with the patients' rights program. Is this being done in your county? If so how?
Yes, to the degree possible and when appropriate. In the last few years, we have consulted with State PRO twice outside of the annual trainings and sending Denial of Rights, Electroconvulsive Treatment, and Seclusion & Restraint reports. We do communicate frequently with other county PRO programs via the state run list serve, as well as via our involvement in CA Association of Mental Health Patients' Rights Advocates (CAMHPRA). The Chief Advocate in San Bernardino County is the Southern California Representative for the California Mental Health Patients' Rights Association.

Describe any suggestions you have about how the process can be improved.
It is our understanding that state PRO is required to train and monitor county PRO programs. It doesn't feel like state PRO really provides us much support. When we have consulted with them, they do not directly answer our questions; rather they answer them as an attorney would - being philosophical and avoidant. I feel they should be more clear in their answers, provide more than one annual training (in which most presenters are PRA from various counties, not state PRA). It seems most of what we've learned, is through our own experience and research. The dissemination of information from the state down to county advocates is not good.

Do you assist with Medi-Cal grievances and appeals? If so, please describe your roll and how you carry it out.
No.

Do you assist with Medi-Cal fair hearings? If so, please describe your roll and how you carry it out. *
No.

On behalf of the Patients' Rights Committee, thank you for participating in this survey. Your answers will be extremely helpful in the future direction of the committee. If you have any other comments you would like to make, please use the space below.
A big problem is the staffing calculations allowances that state DMH issued years ago which only requires 1 full time PRA for every 500,000 people in the population. In counties that have a large number of psychiatric facilities, this simply does not provide enough staff to adequately fulfill all the requirements in 5520. In San Bernardino County, we have six LPS facilities and we should be representing clients at their Certification Review Hearings in all the facilities. However, because of this staffing ratio, that is not physically possible. Additionally, we have two large SNF/STP facilities. There is a great variety from county to county in the PRA duties; for example, in some counties, PRAs do not represent clients at Certification Review Hearings, in others not only do they do those hearings, but also Reise (Medication Capacity Hearing) representation. The required number of advocates should really be based upon the number of facilities and the duties the advocates in that county are charged with, not a straight population ratio.

Should you have any questions or need further information regarding this survey, please contact my office at (800) 440-2391. Thank you.

Sincerely,

Cynthia White,
Chief Patients' Rights Advocate
Department of Behavioral Health

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