



# PAIMI

## ADVISORY COUNCIL



STATE OF CONNECTICUT  
OFFICE OF PROTECTION AND ADVOCACY FOR INDIVIDUALS WITH DISABILITIES

**PROTECTION AND ADVOCACY FOR INDIVIDUALS WITH MENTAL ILLNESS** •  
*Authorized by Federal Law (42 U.S.C.A. 10801-10826) to protect and advocate for the rights of individuals with mental illness*

### PAIMI Advisory Council Meeting Minutes August 3, 2010

The PAIMI Advisory Council met at 10:00 a.m. on August 3, 2010 at the Office of Protection and Advocacy for Persons with Disabilities.

Present: Selina Welborn, Josefa Correa, Barbara Sloan, Elizabeth Larsen,  
and Lorna Grivois

Excused

Absences: Wallace T. Peterson III, Sandy Chapman, Muriel Tomer, Alicia Woodsby

Staff: Gretchen Knauff, Assistant Director, Nancy Alisberg, Managing Attorney,  
Wiley Rutledge, PAIMI Advocate, Rachel Sherman, PAIMI Advocate,  
Jessica Rival, PAIMI Advocate, Maria Cruz, PAIMI Advocate, Bruce  
Garrison, Education Advocate, Sherri Martin, PAIMI Secretary, Mary Jane  
Keane, Legal Unit Secretary

### **CALL TO ORDER**

The PAIMI Advisory Council Meeting was called to order at 10:25 a.m.

### **INTRODUCTIONS**

PAIMI Staff members were invited to attend the meeting. Council members and staff introduced themselves to each other. Staff gave a brief description of the focus of their PAIMI work.

### **APPROVAL OF MINUTES**

The minutes were reviewed from the June 1, 2010 meeting.

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A motion was made to accept the minutes. All voted in favor.

## **OLD BUSINESS**

### **James McGaughey – Executive Director’s Report**

- Gretchen Knauff reported that James McGaughey was not able to attend the meeting because he was attending the funeral of Eliot Dober, former Executive Director of the Office of Protection and Advocacy for Persons with Disabilities.
- Bruce Garrison, Education Advocate, reported on OPA’s investigative report into the Hartford Public Schools in Mr. McGaughey’s absence. Mr. Garrison, the lead investigator on the report, provided copies of the report to the PAIMI Advisory Council members and explained how the investigation was conducted, the outcomes and resulting recommendations. The Investigation Report is entitled: Left Behind: Students with Emotional and Behavioral Disabilities in the Hartford Public Schools.

Specific findings of the report are:

The Hartford Public School system is segregating and failing to educate, thereby discriminating against students with serious emotional and behavioral disabilities;

Hartford’s system for Student Based Budgeting encourages discriminatory segregation of students with emotional and behavioral disabilities;

Individual education plans are not effective in assessing individual needs and developing appropriate education programming for students identified as having emotional and behavioral disorders;

Social, behavioral and mental health issues of students are not addressed, and mental health supports in the community are not being utilized.

Bruce Garrison referred the PAIMI Council members to the report for recommendations that OPA had made.

Gretchen Knauff informed the PAIMI Council that P&A filed two complaints on the basis of this investigation. One complaint is with the State Department of Education regarding Hartford Board of Education’s failure to institute appropriate Individual Education Plans. The other complaint is a Civil Rights Complaint filed with the U.S. Department of Education charging that the Hartford Board of Education is discriminating against children with behavioral and emotional needs by segregating them in separate programs. PAIMI

members expressed concern that there is still a disconnection between public schools and community supports.

- Gretchen Knauff reported that Susan Werboff, Program Director for PAIMI, has retired effective August 1, 2010. Ms. Werboff's position will be filled internally. There are many qualified staff members at P&A who have passed the qualifying tests and would ably fill this position.

### **Managing Attorney's Report - Nancy Alisberg**

- **OPA v. CT** – The defendants filed a motion to appeal the case to the Second Circuit Court of Appeals and the judge in the case denied this, so the parties are moving straight to discovery. The Judge also ruled that OPA was able to be both a plaintiff in the case and also represent the class now that the case is a class action.

There is a case that is virtually identical to our case that was brought by the P&A in Albany, NY. They went to trial and won and the State is now appealing to the Second Circuit. That decision will have a significant impact on our case and we will be watching it closely. The Attorneys General in our case wrote an amicus brief supporting the State in the New York case. They got very few other states to sign on to their brief. Specifically, Vermont, the third state from the Second Circuit did not sign which is a good development.

- **Bolmer v. Oliveira** – Mr. Bolmer has received a financial settlement that was placed into a special needs trust. OPA was unable to resolve the question of the attorneys' fees due to the opposition of Attorney General's Office. OPA is still trying to settle the dispute over attorney's fees. The magistrate in this case wants the defendants to move much closer to the plaintiff's figure and we should know their decision by the end of August. If we are unable to settle we will have to litigate the fees. The appeal of the case against Danbury is still pending.
- **Gross v. Rell** – This was originally a probate case involving a man from New York who was involuntarily placed in a nursing home by a family member. Mr. Gross' court appointed attorney, conservator and the probate judge all allegedly deprived him of his rights and eventually he filed suit in federal court and is now represented by CT Legal Rights Project. The case was dismissed because the court found that all the defendants were immune from suit. When that case was appealed to the Second Circuit, that court "certified questions" to the Connecticut Supreme Court asking it to tell the Second Circuit what the state law is on immunity. OPA was involved originally involved in helping with the case in the federal district court, and this past month was involved in the amicus briefs to the Connecticut Supreme Court that were just filed. The case will not be argued until the fall. There is no change in this case.

- **Blick v. Office of the Division of Criminal Justice** – Drs. Blick and Levine are two physicians who filed suit in Superior Court to try to get a ruling that the assisted suicide law does not apply to doctors who help a patient commit suicide, or as they call it, provide “aid in dying.” OPA filed a motion to intervene in this case on behalf of itself, Claude Holcomb, Cathy Ludlum and its constituents with disabilities who are likely to be pressured to commit suicide by doctors who will look at their lives with disabilities as less worth living than lives of people without disabilities. The judge dismissed this case, ruling that the plaintiff was barred by sovereign immunity and so cannot sue the state. The judge’s decision also mentioned points made in OPA’s motion regarding assisted suicide. The judge also said that this is an issue that must be decided by the legislature. The plaintiffs are not going to appeal; they are going to pursue a change in the legislature. The judge never decided our motion to intervene.
- **VOPA v. Reinhard** – This case is from the Virginia P & A (VOPA) and is similar to a case won by OPA (OPA v. Kirk) and involves the right of P & A’s to have access to peer records from a state agency. The district court dismissed the case and ruled that VOPA, as a state agency, does not have the constitutional right to sue another state agency, calling it an “intramural” dispute. The 4<sup>th</sup> Circuit affirmed the lower court and VOPA filed a petition for certiorari in the Supreme Court which was granted. If VOPA loses the appeal it will apply to all state agency P&As and we will lose our right to bring access cases in the Federal Courts where we have had great success. We will be forced to bring these cases in state court with judges who are not familiar with federal law. Additionally, it is possible that any case we would bring in state court could be dismissed on sovereign immunity grounds like the Blick case was. That would leave us without any recourse in access cases, and raises grave concerns about our access rights. The Managing Attorney is involved in helping to put together and review NDRN’s amicus brief. The case will probably be argued in December.

**Program Director’s Report - Gretchen Knauff (P&A Assistant Director)**

- Alicia Woodsby visited St. Francis Hospital and contacted Gretchen Knauff to report on the outcome of her visit. She reported that the visit went well. She went to three (3) units (Adult Chronic, Co-Occurring and Children) during her visit.

The environment on the units seems less cold than that of other treatment facilities she has visited. The units lack information on client rights and it was difficult, if not impossible to identify the client’s rights officer. One of the 3 units had PAIMI information posted. The structure is more flexible and the programs are more individualized than programs she has visited in other facilities. There is full time access to kitchen facilities.

Each patient receives about 3 to 4 hours of treatment per day. There are many groups, activities and opportunities including parent support groups for the kids unit.

The nurses' station is open. The restraint and seclusion room has bare walls and is sterile in appearance but the hospital received a grant to create a new comfort room.

- The DMHAS report on Restraint and Seclusion for April 2010 was discussed. Generally the use of restraints was up and the use of seclusion was down. Some facilities did not use any restraint during the report period and PAIMI Council members suggested that PAIMI check these facilities to see what they are doing. The PAIMI council members asked what is done with this report data, Gretchen stated that currently there is nothing done but that it could be added to the priorities for next year.
- The Open House to celebrate Susan Werboff's retirement was announced to the Council and members were given copies of the invitation. Members will take up a collection and give the proceeds to Sherri Martin so that a gift can be purchased for Susan.

**NEW BUSINESS**

**Review of FY 2010 PAIMI Priorities**

The FY 2010 PAIMI Priorities were reviewed and the results are listed in the table below:

**PAIMI Priorities for FY 2010**

**10/1/2009 – 9/30/2010**

**Goal 1 – Enforce the patients' bill of rights and other safeguards afforded by law.**

<b>Objective</b>	<b>Target Population</b>	<b>PAIMI Progress on this Objective</b>	<b>Council Recommendations 8/3/10</b>
1. Provide advocacy and representation to 90 individuals in public and private psychiatric hospitals, nursing homes, residential care homes and other supervised residential programs.	PAIMI eligible persons in facilities in Connecticut.	The PAIMI staff met this objective.	<i>Continue this Objective</i>

<b>Objective</b>	<b>Target Population</b>	<b>PAIMI Progress on this Objective</b>	<b>Council Recommendations 8/3/10</b>
2. Establish a death reporting protocol with the Department of Mental Health and Addiction Services (DMHAS) in response to Public Act 09-67.	PAIMI eligible individuals residing in DMHAS inpatient facilities.	The Objective was met.	<i>Not Applicable – Objective to be Discontinued</i>
3. Conduct reviews of 100% of DMHAS death reports for the first reporting year.	PAIMI eligible individuals residing in DMHAS inpatient facilities.	The Objective was met.	<i>Continue the objective but take out language that says “for the first reporting year”</i>
4. Represent 25 prisoners at 2 of Connecticut’s prisons, Garner Correctional Institute and Northern Correctional Institution.	PAIMI eligible individuals who are incarcerated at Garner Correctional Institute, and Northern Correctional Institute.	The PAIMI staff achieved the objective.	<i>Continue the objective but add an objective aimed at evaluating the delivery of mental health services at Northern.</i>

**Goal 2 – Monitor the delivery of mental health services as provided for under the patients’ bill of rights and other safeguards afforded by law.**

<b>Objective</b>	<b>Target Population</b>	<b>Expected Outcome</b>	<b>Comments and Recommendations 8/3/10</b>
1. Request periodic data from the Department of Correction (DOC) on prisoners with mental health needs for the purpose of monitoring treatment and care.	PAIMI eligible individuals who are incarcerated in DOC.	This objective was not achieved. Much discussion about what we want to ask of DOC	<i>Move to be an Objective in Goal 1 (Objective 4)</i>
2. Conduct 2 site visits of facilities utilizing PAIMI Advisory Council members to identify patients’ rights issues.	PAIMI eligible individuals in treatment facilities Connecticut.	This objective was achieved and quite successful. (L&M, IOL, Yale, St. Francis, St. Raphael’s)	<i>Continue the Objective</i>
3. Evaluate 100% of restraint and seclusion injury data reported from 1999-2009 as required by Connecticut General	PAIMI eligible individuals residing in facilities subject to Connecticut General Statutes §§46a-150-	New Excel spreadsheet completed to organize data. Still addressing a few bugs in the programming.	<i>Council would like to continue this objective and take action as needed.</i>

Statutes §§46a-150-154 to identify trends and systemic issues.	154.		
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**Goal 3 – Improve the quality of physical health care for individuals with psychiatric disabilities.**

<b>Objective</b>	<b>Target Population</b>	<b>Outcome</b>	<b>Comments and Recommendations 8/3/10</b>
1. Collaborate with PAIMI Advisory Council to conduct at least one public forum at a consumer based social club to identify physical health care issues and barriers for persons with psychiatric disabilities.	PAIMI eligible individuals who receive state medical insurance.	Objective achieved – Prime Time Club in Torrington, CT	<i>Continue the Objective by conducting more forums and analyzing outcome for possible project.</i>

**Goal 4 – Expand the PAIMI program in the children’s mental health services system.**

<b>Objective</b>	<b>Target Population</b>	<b>Outcome</b>	<b>Comments and Recommendations 8/3/10</b>
1. Conduct in-depth interviews of 100% of the children in DCF residential psychiatric treatment facilities who have been involved in incidents reported to P&A pursuant to 42 CFR 483.374(b) where P&A has permission to interview and the child would like to be interviewed.	PAIMI eligible children in the DCF service system.	This Objective was achieved and led to a project at Riverview Hospital	<i>Continue the objective by conducting interviews with children at any hospital.</i>  <i>Continue Riverview Project</i>  <i>Tell the kids stories</i>
2. Conduct one education and training event for family members of children in a psychiatric residential treatment facility.	PAIMI eligible children and families who receive residential and mental health services.	Objective was not met.	<i>Council will continue to the next fiscal year.</i>

The Council developed PAIMI Priorities for FY 2010 and these are listed in the table below:

**PAIMI Priorities for FY 2011 – The draft of the Fiscal Year 2011 priorities are included as an attachment.**

Other New Business

- Michaela Mitchell sent a letter of resignation to the Council as she has taken a new job with the state. Selina read the letter to the Council Members and reported that she had responded to the letter, thanking Michaela for her service to the PAIMI Advisory Council.
- Council Member Terms Ending - Selina and Josefa's terms as Council Members will end on September 30, 2010 emphasizing the need for new members.
- The Council acknowledged the need for as many members as possible to attend the Council meeting, as well as a need to have new members. The current Council members were encouraged to seek new Council members and refer them to P&A if they have any questions. Gretchen also asked Council members to contact her with any ideas on how to recruit new Council members and improve attendance at Council meetings.
- Gretchen informed Council members that the NARPA Conference is coming up in September. Alicia Woodsby had already expressed an interest in attending and when it was discussed at the meeting, Elizabeth Larsen also expressed an interest. Gretchen will speak with Jim McGaughey about sending a Council member.

**ADJOURNMENT**

The PAIMI Advisory Council Meeting adjourned at 1:00 p.m. The next meeting is scheduled for Tuesday, October 5, 2010 from 9:30 – 12:30 p.m.

Respectfully submitted,

c: James McGaughey  
Gretchen Knauff  
Nancy Alisberg