PAIMI* Deep Dive

PAIMI Advisory Council Empowerment Project

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PRESENTED BY

MindFreedom International

Law Project for Psychiatric Rights

paimi@psychrights.org

***Protection and Advocacy for Individuals with Mental Illness Act**

November 1, 2026

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MFI
MindFreedom International

Mission:

MindFreedom leads a nonviolent transformation, championing human rights and options in mental health care, uniting psychiatric survivors, consumers and allies with movements for justice everywhere.

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Psych Rights | Law Project for Psychiatric Rights

Mission:

Mount a Strategic Litigation Campaign Against Forced Psychiatric Drugging and Electroshock

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About Me

- Hospitalized for a month in 1982
- Lucky Not to Have Been Made Permanently Mentally Ill
- Video: Escape from Psychiatry: Jim Gottstein's Story
- Founded Law Project for Psychiatric Rights (PsychRights) in 2002
- Author of *The Zyprexa Papers*

PAIMI Act--Purposes

42 U.S.C. § 10801

(b) The purposes of this chapter are--

(1) to ensure that the rights of individuals with mental illness are protected; and

(2) to assist States to establish and operate a protection and advocacy system for individuals with mental illness which will--

(A) protect and advocate the rights of such individuals through activities to ensure the enforcement of the Constitution and Federal and State statutes; and

(B) investigate incidents of abuse and neglect of individuals with mental illness if the incidents are reported to the system or if there is probable cause to believe that the incidents occurred.

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Facilities Access Authority

42 U.S.C. § 10805(a)(3)

- Reasonable Unaccompanied Access at All Times to Investigate Incidents of Abuse or Neglect. 42 C.F.R. § 51.42(b)
- Reasonable Unaccompanied Access At Least During Regular Business Hours for Rights Violations 42 C.F.R. § 51.42(c)(2)
- Extended to All P&A Authorized Agents. 42 C.F.R. § 51.42(a)

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Records Access Authority

42 U.S.C. § 10805(a)(4) and 10806

- If Consented to by Client or Their Legal Representative.
- If Dead or Whereabouts Unknown, without a representative and probable cause of abuse or neglect.
- If Has Representative Who Has Failed to Act when complaint received or probable cause to believe the health or safety of the individual is in serious and immediate jeopardy.
- Pre-empts HIPAA and state confidentiality laws, but has own confidentiality requirement

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Associational Standing (Right to Sue) 42 USC §10807 & 42 C.F.R. § 51.31

- PAIMI Act Confers Special Standing on P&As to Sue Without Named Plaintiff
- May Sue Directly Under PAIMI Act, e.g., doesn't require 42 USC §1983, Section 504 of the Rehabilitation Act of 1973 (29 U.S.C.A. § 794), Americans with Disabilities Act/*Olmstead*, or Class Action.
  - Must Still have
    - Injury
    - Causation
    - Redressability
- Must First Exhaust Administrative Remedies Unless Won't be Resolved Within Reasonable Time
  - Does Not Apply to Cases to Eliminate Imminent Serious Harm

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42 USC §10802(4) "PAIMI Eligible"

(4) The term "individual with mental illness" means, except as provided in section 10804(d) of this title, an individual—

(A) who has a significant mental illness or emotional impairment, as determined by a mental health professional qualified under the laws and regulations of the State; and

(B)(i)

(I) who is an inpatient or resident in a facility rendering care or treatment, even if the whereabouts of such inpatient or resident are unknown;

(II) who is in the process of being admitted to a facility rendering care or treatment, including persons being transported to such a facility; or";

(III) who is involuntarily confined in a municipal detention facility for reasons other than serving a sentence resulting from conviction for a criminal offense; or

(ii) who satisfies the requirements of subparagraph (A) and lives in a community setting, including their own home.

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42 USC §10804(d)

(d) Definition for purposes of representation of individuals with mental illness; priority

The definition of "individual with a mental illness" contained in section 10802(4)(B)(iii) of this title shall apply, and thus an eligible system may use its allotment under this subchapter to provide representation to such individuals, only if the total allotment under this subchapter for any fiscal year is $30,000,000 or more, and in such case, an eligible system must give priority to representing persons with mental illness as defined in subparagraphs (A) and (B)(i) of section 10802(4) of this title.

Civil Commitment Representation Criteria

42 CFR 51.7

[PAIMI funds may be used in accordance with the jointly established priorities]:

(b) To provide representation of clients in civil commitment proceedings if the P&A system is acting on behalf of an eligible individual to obtain judicial review of his or her commitment in order to appeal or otherwise challenge acts or omissions which have subjected the individual to abuse or neglect or otherwise violated his or her rights. This restriction does not prevent a P&A system from representing clients in commitment or recommitment proceedings using other resources so long as this representation does not conflict with responsibilities under the Act.

Note: This restriction probably does not apply to Forced Drugging proceedings.

PAIMI Advisory Council

42 USC § 10805(a)(6)(A)

"[The PAIMI Advisory Council] will advise [its Protection and Advocacy Agency] on policies and priorities to be carried out in protecting and advocating the rights of individuals with mental illness."

PAIMI Act—Advisory Council Membership

42 U.S.C. § 10805(a)(6)

- attorneys,
- mental health professionals,
- individuals from the public who are knowledgeable about mental illness,
- a provider of mental health services,
- individuals who have received or are receiving mental health services, and family members of such individuals, and

at least 60 percent the membership of which shall be comprised of individuals who have received or are receiving mental health services or who are family members of such individuals,

and

At least one family member shall be a primary care giver for an individual who is currently a minor child or youth who is receiving or has received mental health services

and

chaired by an individual who has received or is receiving mental health services or who is a family member of such an individual

Advisory Council Roles

42 C.F.R. §51.23

(a) Each P&A system shall establish an advisory council to:

(1) Provide independent advice and recommendations to the system.

(2) Work jointly with the governing authority in the development of policies and priorities.

(3) Submit a section of the system's annual report as required under § 51.8.

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Independent Advice

- Council Membership
- Council's Rules
  - Bylaws vs. Operating Standards

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SAMPLE
PAIMI ADVISORY COUNCIL BYLAWS

of the
[Name of Protection and Advocacy Agency]
PAIMI ADVISORY COUNCIL

Date Adopted: _____

Article 1. Name, Authority, and Purpose

1.1 Name. The name of this body is the [Name of Protection and Advocacy Agency] PAIMI Advisory Council (Council).

1.2 Authority. The Council is established pursuant to the Protection and Advocacy for Individuals with Mental Illness (PAIMI) Act[1] and applicable regulations[2]

1.3 Purpose. The Council's purpose is to jointly develop and establish the annual priorities and policies under the PAIMI Act with the [Name of Protection and Advocacy Agency),[3] provide independent advice and recommendations to [Name of Protection and Advocacy Agency],[4] and prepare the annual Advisory Council Report on [Name of Protection and Advocacy Agency]'s activities pursuant to the PAIMI Act.[5]

Article 2. Definitions

2.1 The term "individual with mental illness" means, except as provided in 42 U.S.C § 10804(d), an individual--

(a) who has a significant mental illness or emotional impairment, as determined by a mental health professional qualified under the laws and regulations of the State; and

(b) (1)(i) who is an inpatient or resident in a facility rendering care or treatment, even if the whereabouts of such inpatient or resident are unknown;

(ii) who is in the process of being admitted to a facility rendering care or treatment, including persons being transported to such a facility; or

[1] 42 U.S.C. § 10801, et seq.
[2] 42 C.F.R. Part 51.
[3] 42 U.S.C. § 10805(c)(2) and 42 C.F.R. § 51.22(a).
[4] 42 C.F.R. § 51.23(a)2
[5] 42 C.F.R. § 51.23(a)(1).

1

- Word format (.docx)
- Rich Text Format (.rtf)
- Acrobat Format (.pdf)

- National Disability Rights Network (NDRN) Operating Standards Template

PAIMI Act—Developing Priorities
42 U.S.C. §10805(c)

(2) The governing authority established under paragraph (1) shall--

(A) be responsible for the planning, design, implementation, and functioning of the system; and

(B) consistent with subparagraph (A), jointly develop the annual priorities of the system with the advisory council.

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Establishing Priorities and Policies

42 C.F.R. §51.22

(a) Each P&A system shall have a governing authority responsible for its planning, designing, implementing and functioning. It shall, jointly with the advisory council, annually establish program priorities and policies.

Program Priorities
42 C.F.R 51.24(a)

(a) Program priorities and policies shall be established annually by the governing authority, jointly with the advisory council. Priorities shall specify short-term program goals and objectives, with measurable outcomes, to implement the established priorities. In developing priorities, consideration shall be given to, at a minimum, case selection criteria, the availability of staff and monetary resources, and special problems and cultural barriers faced by individuals with mental illness who are multiply handicapped or who are members of racial or ethnic minorities in obtaining protection of their rights. Systemic and legislative activities shall also be addressed in the development and implementation of program priorities.

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Priority Definitions

- SAMHSA Priorities and Objectives Instructions: "Priority (Goal): is a broad, general description of what the PAIMI Program hopes to accomplish during the fiscal year. Each priority (goal) may have a single or multiple objectives."
- Cambridge Dictionary: "something that is very important and must be dealt with before other things."
- Merriam-Webster: 3. "something given or meriting attention before competing alternatives."

SAMHSA's definition of "priority" in its instructions is inconsistent with the statute and misuses "goal" in the regulations

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REPORT ON IMPROVING MENTAL HEALTH OUTCOMES

James B. (Jim) Gottstein, Esq.; Peter C. Gøtzsche, MD;
David Cohen, PhD; Chuck Ruby, PhD; Faith Myers

September 2023

Available at PsychRights.org

- Psychiatric Imprisonment Massively Associated with Suicide
- Psychiatric Drugs Increase Harm to Self & Others
- Psychiatric Drugs Shorten Life Spans by 20-25 Years
- Psychiatric Drugs Reduce Recovery Rate from Possible 80% to 5%
- Catastrophically diminish quality of life
- There are Proven Effective, Safe & Non-Coercive Approaches

While this is 8 times better than staying on them (40% vs. 5%), it is half of what can be achieved by avoiding the use of neuroleptics in the first place (80%), as established by the Open Dialogue and Soteria House studies.[8] **This demonstrates the importance of avoiding the use of neuroleptics in the first place.** In addition to their lives being so much better, allowing 16 times more people to recover not only saves a tremendous amount of treatment expense, it converts people who would otherwise be receiving life-long publicly paid services and transfer payments into productive, taxpaying citizens.[9]

The Harrow and Jobe results were so unexpected and contrary to mainstream psychiatry's beliefs that other explanations were proposed, such as it was the people with the best prognosis in the first place who got off the drugs and therefore had better outcomes, that additional analysis was undertaken. None of the alternate explanations proved correct.[10]

In addition to dramatically reducing the recovery rate, **the ubiquitous use of psychiatric drugs is extremely harmful physically, reducing lifespans by 20 years or so**.[11] In a given time period, the relative risk of dying increases markedly with the number of neuroleptics the person takes.[12] Neuroleptic users have an increased risk of cardiac mortality, all-cause mortality, and sudden cardiac death compared to psychiatric patients

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[8] While there might not be a 100% overlap between the 80% who recovered and the 80% who were not taking the neuroleptics long term, clearly minimizing the use of the neuroleptics produces dramatically better outcomes.

[9] The best book to understand the impact of psychiatric drugs in general, not just the neuroleptics, is *Anatomy of an Epidemic: Magic Bullets, Psychiatric Drugs, and the Astonishing Rise of Mental Illness in America* (2010) by Robert Whitaker, from whose work this section is largely drawn.

[10] Harrow, Martin; Jobe, Thomas H.; & Faull, Robert N. (2012). "Do All Schizophrenia Patients Need Antipsychotic Treatment Continuously Throughout Their Lifetime? A 20-Year Longitudinal Study." *Psychological Medicine* 42(10): 2145–2155; Harrow, Martin; & Jobe, Thomas H. (2013). "Does Long-Term Treatment of Schizophrenia With Antipsychotic Medications Facilitate Recovery?" *Schizophrenia Bulletin* 39(5): 962–965; Harrow, M.; Jobe, T. H.; & Faull, R. N. (2014). "Does Treatment of Schizophrenia With Antipsychotic Medications Eliminate or Reduce Psychosis? A 20-Year Multi-Follow-up Study." *Psychological Medicine* 44(14): 3007–3016; Harrow, Martin, et al. (2017). "A 20-Year Multi-Followup Longitudinal Study Assessing Whether Antipsychotic Medications Contribute to Work Functioning in Schizophrenia." *Psychiatry Research* 256: 267–274; and Harrow, Martin; & Jobe, Thomas H. (2018). "Long-Term Antipsychotic Treatment of Schizophrenia: Does it Help or Hurt Over a 20-Year Period?" *World Psychiatry* 17(2): 162–163; Harrow, Martin; Jobe, Thomas H; & Tong, Liping. (2022). "Twenty-Year Effects of Antipsychotics in Schizophrenia and Affective Psychotic Disorders." *Psychological Medicine* 52(13): 2681–2691.

[11] Gøtzsche, Peter C. (2015), *Deadly Psychiatry and Organized Denial*, p. 165, *et. seq*. (Copenhagen: People's Press). See also Parks, Joe, et al. (2006), *Morbidity and Mortality in People With Serious Mental Illness* (Alexandria, VA: National Association of State Mental Health Program Directors). The report documents mortality in people diagnosed with serious mental illness in the public mental health system has accelerated to the point where they are now dying 25 years earlier than the general population. The report does not attribute this to psychiatric drugs, but it is clear the major change is the advent of the second generation neuroleptics, and the great increase in polypharmacy.

[12] Joukamaa, Matti, et al. (2006). "Schizophrenia, Neuroleptic Medication and Mortality." *British Journal of Psychiatry* 188(2): 122–127.

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Involuntary Commitment Permissible Under US Constitution When:

1. Confinement takes place pursuant to proper procedures and evidentiary standards,
2. Finding of "dangerousness either to one's self or to others," and
3. Proof of dangerousness is "coupled ... with the proof of some additional factor, such as a 'mental illness' or 'mental abnormality.'

Kansas v. Crane, 534 U.S. 407, 409-10, 122 S.Ct. 867, 869 (2002).

Being unable to take care of oneself can constitute danger to self if "incapable of surviving safely in freedom." *Cooper v. Oklahoma*, 517 U.S. 348, 116 S.Ct. 1373, 1383 (1996).

Forced Drugging under US Constitution: *Sell*

Court Must Conclude:

1. Important governmental interests are at stake,
2. Will significantly further those state interests - substantially unlikely to have side effects that will interfere significantly (with achieving state interest),
3. Necessary to further those interests. The court must find that any alternative, less intrusive treatments are unlikely to achieve substantially the same results, and
4. Medically appropriate, i.e., in the patient's best medical interest in light of his medical condition, considered on drug-by-drug basis.

Sell v. United States, 539 U.S. 166, 177-8, 123 S.Ct. 2174, 2183 (2003) (Competence to Stand Trial Case).

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Rights Violations

- No More than 10% of Psychiatrically Imprisoned (involuntarily committed) Meet Commitment Criteria
- No One Can Ever Properly be Drugged Against Their Will under *Sell* Criteria
  - Best Interests
  - No Less Intrusive Alternatives

Report on Improving Mental Health Outcomes, p 17.
https://psychrights.org/ReportOnImprovingMentalHealthOutcomes.pdf

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Obvious Highest Priority

Protect the rights of people to not be

1. psychiatrically confined, and/or
2. drugged or electroshocked against their will,

unless the constitutional, statutory, and judicial requirements for such massive deprivations of liberty exist, including the right to the least restrictive and least intrusive alternative, respectively.

New FY 2027 Grant condition

37. Alignment with SAMHSA Mission and Strategic Priorities

As a condition of this award, you must ensure that all activities funded under this award are implemented in a manner consistent with SAMHSA s mission and strategic priorities as authorized by law. Funded activities must advance SAMHSA s mission of protecting and improving the health and well-being of Americans. Refer to SAMHSAs Strategic Priorities.

SAMHSA will implement these priorities consistent with applicable laws, regulations, court orders, and any required procedures.

Ongoing Compliance: You must demonstrate continuous alignment with these priorities through program design, implementation, reporting, and evaluation throughout the period of performance.

Corrective Action: Failure to meaningfully align funded activities with these requirements may result in the imposition of specific award conditions, additional reporting requirements, or corrective action plans.

Termination: In accordance with 2 CFR 200.340(a)(4), SAMHSA may terminate this award, in whole or in part, to the extent permitted by law, if it determines that the award no longer effectuates the program goals or agency priorities outlined in these terms.

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SAMHSA's Strategic Priorities

To the extent allowable by law, SAMHSA intends to give priority for grantees[who] . . . (iv) enforce, and where necessary, adopt, standards that address individuals who are a danger to themselves or others and suffer from serious mental illness or substance use disorder, or who are living on the streets and cannot care for themselves, through assisted outpatient treatment or by moving them into treatment centers or other appropriate facilities via civil commitment or other available means, to the maximum extent permitted by law;

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The Proposed Priority Does Not Violate SAMHSA's Strategic Priorities

SAMHSA's Strategic Priorities explicitly does not mandate or allow violations of rights.

Public Comment

42 USC §10805

(a) A [Protection and Advocacy agency] shall -- . . .

(8) on an annual basis, provide the public with an opportunity to comment on the priorities established by, and the activities of, the [Protection and Advocacy agency];

42 C.F.R. §51.24

(b) Members of the public shall be given an opportunity, on an annual basis, to comment on the priorities established by, and the activities of, the P&A system. Procedures for comment must provide for notice in a format accessible to individuals with mental illness, including such individuals who are in residential facilities, to family members and representatives of such individuals and to other individuals with disabilities. Procedures for comment must provide for receipt of comments in writing or in person.

Budget

42 C.F.R. §51.23

(c) Each P&A system shall provide its advisory council with reports, materials and fiscal data to enable review of existing program policies, priorities and performance outcomes. Such submissions shall be made at least annually and shall report expenditures for the past two fiscal years, as well as projected expenses for the next fiscal year, identified by budget category (e.g., salary and wages, contract for services, administrative expenses) including the amount allotted for training of each the advisory council, governing board and staff.

Note: The requirement that Advisory Councils and P&As jointly develop annual priorities and policies includes jointly determining the budget of how PAIMI funds are to be spent. See, Westlaw Advantage (Artificial Intelligence) analysis.

42 CFR §51.27

Training

A P&A system shall provide training for program staff, and may also provide training for contractors, governing board and advisory council members to enhance the development and implementation of effective protection and advocacy services for individuals with mental illness

PAIMI Act—Annual Report 42 U.S.C. §10805(a)(7)

42 USC 10805(a)(7) provides, [each Protection and Advocacy Agency shall] --

> **(7)** on January 1, 1987, and January 1 of each succeeding year, prepare and transmit to the Secretary and the head of the State mental health agency of the State in which the system is located, and make publicly available, a report describing the activities, accomplishments, and expenditures of the system during the most recently completed fiscal year, including a section prepared by the advisory council that describes the activities of the council and its assessment of the operations of the system;

Lobbying

As a general rule, federal funds may not be used to "influence legislation," but . . .

42 CFR 51.31

(f) A P&A system may monitor, evaluate and comment on the development and implementation of Federal, State and local laws, regulations, plans, budgets, levies, projects, policies and hearings affecting individuals with mental illness as a part of federally funded advocacy activities. A P&A system shall carry out systemic advocacy—those efforts to implement changes in policies and practices of systems that impact persons with mental illness.

Grievances – Statute

42 USCA 10805(a)(9)

(9) establish a grievance procedure for clients or prospective clients of the system to assure that individuals with mental illness have full access to the services of the system and for individuals who have received or are receiving mental health services, family members of such individuals with mental illness, or representatives of such individuals or family members to assure that the eligible system is operating in compliance with the provisions of this subchapter and subchapter III;

Grievances – Regulation

42 C.F.R. 51.25

(b) At a minimum, the grievance procedures shall provide for:

(1) An appeal to the governing authority from any final staff review and/or determination; in cases where the governing authority is the director of the P&A system, the final review and/or determination shall be made by a superior of the governing authority, e.g., a supervisor, or by an independent entity, e.g., an appointed board or committee.

(2) Reports, at least annually, to the governing authority and the advisory council describing the grievances received and processed and their resolution;

(3) Identification of individuals responsible for review;

(4) A timetable to ensure prompt notification concerning the grievance procedure to clients, prospective clients or persons denied representation, and to ensure prompt resolution;

(5) A written response to the grievant; and

(6) Protection of client confidentiality.

More Information

- PAIMI Advisory Council Empowerment Project (https://psychrights.org/PAIMI/PAIMI.htm)
- Video: Legal Strategies
- Email PAIMI@PsychRights.org