



LOS ANGELES COUNTY COMMISSION ON HIV

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PUBLIC POLICY COMMITTEE MEETING MINUTES

February 15, 2018



The Public Policy Committee acts in accordance with the role of the Commission on HIV, as dictated by Los Angeles County Code 3.29.090. Consistent with Commission Bylaws Article VI, Section 2, no Ryan White resources are used to support Public Policy Committee activities.

MEMBERS PRESENT	MEMBERS ABSENT	PUBLIC	COMM STAFF/ CONSULTANTS
Aaron Fox, MPM, <i>Co-Chair</i>	Kyle Baker	Jason Brown	Cheryl Barrit, MPIA
Eric Paul Leue, <i>Co-Chair</i>	Eduardo Martinez (<i>Alt.</i>)	Kevin Donnelly	Jane Nachazel
Jerry D. Gates, PhD	Katja Nelson	Joseph Green	Doris Reed
Terry Goddard, MA	Martin Sattah, MD	Ayako Miyashita Ochoa, JD	Julie Tolentino, MPH
Lee Kochems, MA		Craig Pulsipher	
Andrew Lopez (<i>Alt.</i>)		Peter Soto	
Ricky Rosales			DHSP STAFF
Greg Wilson			None

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- 4) **Reference:** California, A Quick Reference Guide for Clinicians to California HIV Testing Laws, 9/19/2011
- 5) **Reference:** Compendium of State HIV Testing Laws, Quick Reference Guide for Clinicians, 9/19/2011
- 6) **Press Release:** HHS Announces New Conscience and Religious Freedom Division, 1/18/2018
- 7) **Article:** HHS is targeting health workers' religious objections. Here's why., 1/19/2018
- 8) **Overview:** Gubernatorial Candidates Clash Over Single-Payer Healthcare, 2018
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- 12) **Memorandum:** Washington, D.C. Update - Report on the Federal Bipartisan Budget Agreement, 2/9/2018
- 13) **White Paper:** AIDS Healthcare Foundation, Funding for Prevention of STDs, 1/8/2018
- 14) **White Paper:** AIDS Healthcare Foundation, Treating HIV the Same as AIDS, 2018
- 15) **Fact Sheet:** Methods and Timeline for Reporting HIV Data: Overview of Legal Requirements for Providers, Labs, and Local Health Officers, November 2017
- 16) **Memorandum:** Assembly Bill 2640 - Public Health: HIV, 1/5/2018
- 17) **Article:** After approving Medicaid work requirements, Trump's HHS aims for lifetime coverage limits, 2/7/2018
- 18) **Bill:** Assembly Bill 2119: Foster care: gender affirming health care and behavioral health services, 2/8/2018
- 19) **Bill:** Assembly Bill 1791: Physicians and surgeons: continuing education, 1/8/2018
- 20) **Bill:** Amendments to Senate Bill No. 971, 2/6/2018
- 21) **Report:** Conversion Therapy and LGBT Youth, January 2018

CALL TO ORDER: Mr. Fox called the meeting to order at 10:10 am. He welcomed new Public Policy Committee member Andrew Lopez, Director, Programs, Friends Community Center, a community-based organization (CBO) in Hollywood. Friends Community Center provides a continuum of services for HIV prevention and care such as testing, drop in groups, and substance interventions. Mr. Lopez is also a Fellow with the California HIV/AIDS Policy Research Centers under Ms. Miyashita Ochoa.

I. ADMINISTRATIVE MATTERS

1. APPROVAL OF AGENDA:

MOTION #1: Approve the Agenda Order, as presented (*Passed by Consensus*).

2. APPROVAL OF MEETING MINUTES:

MOTION #2: Approve the 1/8/2018 Public Policy Committee Meeting Minutes, as presented (*Passed by Consensus*).

II. PUBLIC COMMENT

3. **OPPORTUNITY FOR PUBLIC TO ADDRESS COMMISSION ON ITEMS OF INTEREST WITHIN COMMISSION JURISDICTION:** Mr. Donnelly announced running for re-election to an Executive Committee At-Large seat and appreciates support. He has held the seat two years, but also supports leadership rotation and facilitated a fourth candidate running for the three open seats.

III. COMMITTEE COMMENT

4. **NON-AGENDIZED OR FOLLOW-UP:** There were no comments.

IV. REPORTS

5. **EXECUTIVE DIRECTOR'S REPORT:** There was no report.

6. CO-CHAIRS' REPORT:

6a. Co-Chair Elections:

- Ms. Barrit reported previously nominated candidates were Messrs. Fox and Leue. Mr. Goddard also chose to run.
- Mr. Goddard was previously Co-Chair for the Standards and Best Practices (SBP) Committee and is now Housing Task Force Co-Chair. The Task Force is on a quarterly cycle and in good stead so should not impede his Public Policy work.
- His philosophy on chairing is to engage people, not view himself as the expert. At SBP, that approach was successful in finalizing the last iteration of Standards. He looked forward to a successful Committee year with any of the Co-Chairs.
- Mr. Leue chose Public Policy three-and-a half years ago on joining the Commission as he felt his point of view could make the most impact at this table. He was glad to accept the Co-Chair position last year and views additional meetings and communications as a great opportunity. Considering the current administration, he felt having a sex worker voice represented at the Executive Committee was very valuable, but also complimented all the candidates.
- Mr. Fox has been Co-Chair since September 2011, prior to unification of the Commission and Prevention Planning Committee. He let his record speak for itself and looked forward to a strong year.
- Mr. Kochems thanked all for serving. It is difficult work. He also wanted to honor and bring to this Committee that the Consumer Caucus has been discussing the definition of "consumer." Meanwhile, it will diversify its three Co-Chairs with one an HIV+ and one an HIV- Unaffiliated Consumer (UC). The third HIV+/HIV- position will be open to the community.
- The Caucus also was concerned that UCs, HIV+ or HIV-, are not as reflected in leadership as in the past. That can impact parity and provision of safe spaces. Mr. Fox noted only four people were eligible to run for Co-Chair as candidates must be on a Committee one year and many are new. Mr. Donnelly added only two people were eligible for SBP Co-Chair.
- Mr. Green said the purpose of the Consumer Caucus is evolving along with the Commission. HIV- UCs were invited to join the Caucus when the Commission unified, but few have. Reserving a slot for an HIV- Co-Chair makes HIV- membership a priority. Training and mentorship will help empower UCs to step up into leadership positions.
- Mr. Fox thanked Mr. Leue for his service and looked forward to his ongoing voice especially on PrEP and sex workers.

MOTION #3: Elect Aaron Fox, MPM as Public Policy Committee Co-Chair, as voted (*Election: Fox, Gates, Lopez, Rosales, 4 Fox; Goddard, Kochems, Wilson, 3 Goddard; Leue, 1 Leue*).

MOTION #4: Elect Terry Goddard, MA as Public Policy Committee Co-Chair, as voted (*Election: Gates, Goddard, Kochems, Wilson, Rosales, 5 Goddard; Fox, Leue, Lopez, 3 Leue*).

V. DISCUSSION ITEMS

7. HIV TESTING LAWS UPDATE:

- Ms. Miyashita Ochoa, JD, Assistant Adjunct Professor, Department of Social Welfare, School of Public Affairs, University of California, Los Angeles (UCLA) and the California HIV/AIDS Policy Research Centers which focus on collaboration between academics and community leaders looking at policy issues, especially time-sensitive issues such as pending legislation.
- The California Department of Public Health (CDPH) and the Office of AIDS (OA) developed a compendium of HIV laws in the past, but it is out of date. One of her California HIV/AIDS Policy Research Center projects is to update it. CDPH and OA have not yet confirmed they will accept the update, but she is working with law students to annotate significant changes.
- Regarding substantive requirements for testing, information provision can be both valuable in educating clients and a barrier to clients choosing to test as well as a barrier to providers offering tests due to the time required. In the last ten years, there has been a shift towards moving information provision from pre-test to post-test.
- Changing the legislation to craft information provision may not be effective since providers may not always follow the law. Mr. Pulsipher said, while it simply enshrines the standard of care in law, that is not done with all standards of care. Ms. Miyashita Ochoa added the medical establishment chafes at non-medical people saying what should be a standard of care and points out that standards of care change over time so placing them in law increases the possibility of outdated laws.
- Legislation has shifted from an early emphasis on protecting privacy and confidentiality of PLWH towards requiring provider activities. She stressed, however, that discrimination remains. For example, a case was just settled with a home health services provider who discontinued services when the client mentioned she was a long-term survivor. The provider said they could not expose their workers though duties were, e.g., taking out trash, grocery shopping, lifting heavy items. Such cases stress the need to continue to respect individual rights and autonomy even while increasing screening and testing.
- In updates, Senate Bill 239 to change criminalization laws impacted Health and Safety Code Section 1202.6 by repeal of Penal Code 647f. Under this Code, HIV testing was mandatory for a person arrested for prostitution. If a person tested HIV+, the next solicitation charge could be upgraded to a felony. Repeal of the upgrade also essentially repealed the associated testing. A high proportion of criminalization cases were related to this Code with the most in Los Angeles County (LAC).
- A Penal Code Section 7502 change extends mandatory testing from those in custody to include some previously in custody.
- Insurance Code Sections 799-799.10 refers to the continued allowance of an HIV test in the provision of life and disability insurance. There has been discussion recently on the use of PrEP to deny a person life or disability insurance.
- Health and Safety Code Section 120991 now mandates an offer of an HIV test with an opportunity to give voluntary consent and opt out when a primary care physician orders a blood draw. The mandate is satisfied if there is no payer for the test.
- There is an effort to expand the Code to Emergency Departments and other care contacts, but the medical establishment has seen that as a burden. Jurisdictions that successfully implemented more testing are being studied for best practices.
- Health and Safety Code Section 121020 is a new law that allows social workers, with a physician's documented rationale, to consent to HIV testing for a child in their care temporarily until custody has been determined judicially. Parents are notified.
- Ms. Miyashita Ochoa suggested, especially as a Public Policy Committee, it would be helpful to identify and share best practice policy interventions that may not be the law, but could become policy for the jurisdiction.
- Regarding Immigration and Customs Enforcement (ICE), she was unaware of any federal mandatory HIV testing laws. It is recommended that detained PLWH disclose their status because ICE is required to provide care in confinement. Thomas Donohoe, MBA, Director and Principal Investigator, UCLA/Pacific AIDS Education and Training Center (PAETC) is working with the ICE Medical Director. Disclosure does not independently offer immigration relief, but will not harm the petition.
- Mr. Leue reported sex workers who are detained often seek to avoid an HIV test and report they are HIV+ regardless of status as it lessens the risk of being sexually abused. On the other hand, an LAC guard used access to a female prisoner's HIV medication as a bargaining tool for certain behaviors. That case was addressed with LAC and resolved.
- Often adult film performers are also treated as though they were sex workers and there are racial discrepancies with Black women who are sex workers treated more harshly compared to White women who are sex workers.
- Ms. Miyashita Ochoa reminded all that mandatory HIV testing for those arrested for prostitution ended 1/1/2018. A new report is on the Williams Institute website on Black women and their susceptibility to criminalization for prostitution. There is an unwillingness to study sex work in the United States so sex worker demographics are lacking. Consequently, it is not known if Black women are more likely to engage in sex work or in street based sex work, but their rates are much higher.
- She visited Twin Towers, reserved for those with psychiatric conditions, in the summer of 2017. Some officer comments pertaining to HIV and its transmission were very concerning, e.g., her law students said an officer recommended burning their shoes on returning home. Mr. Fox reported the LAC Sheriff's Department has an LGBT Advisory Committee that hosts town halls where the community may address any issues. Town halls are also posted on their website.

- In respect to screening, Dr. Gates reported the Jail has a medical screening on entrance. HIV testing is not mandated on entrance or exit, but can be requested. PLWH who disclose their status are referred for their medications. Many PLWH do not disclose their status initially to avoid a long wait in holding. They may advise staff later than they are HIV+ and/or have other medical issues. There is also an effort to initiate Hepatitis C testing, but securing a confidential site has been an issue.
- Regarding a mandatory offer of testing in confinement, Mr. Rosales reported efforts towards that goal 10-15 years ago. Two key cost concerns have been: treating people who are diagnosed; and liability for a person seroconverting in confinement.
- Mr. Fox noted condoms are being phased into the state prison system. Mr. Brown added condoms are available in the LAC Jail, K-6 only, three at a time by request. Distribution is monitored since the general population uses them for contraband.

8. HEALTHCARE ACCESS:

- Mr. Fox noted two documents in the packet on a new Conscience and Religious Freedom Division, Office for Civil Rights, Department of Health and Human Services. It will focus on reviewing complaints from medical professionals under existing laws and there is a related proposed regulation. HIV, LGBT, and health care legal minds are analyzing the situation.
- Several HIV and LGBT legal organizations are collecting stories about denial of treatment based on sexual orientation, gender identity, and/or HIV status in anticipation of potential lawsuits. People can submit stories to Mr. Fox.
- The rule targets abortion, sterilization, and transgender individuals, but is vague so could be applied more broadly. Comments are currently being accepted on the Federal Register website until March.
- A new coalition, Health Care for All - California (#Care4All), grew out of a convening the prior week in Sacramento of a broad range of concerned organizations representing, e.g., nurses, unions, consumers, legal, LGBT. Its goal is to improve the Affordable Care Act (ACA) in California to make it more affordable and stabilize the market.
- The deadline for bills is 2/16/2018 so the full docket can be reviewed next month. Most likely larger health care bills will include: reduce cost-sharing and deductibles; reduce premiums to no more than 8% of annual income; a statewide individual mandate for health care based on the state income tax system; increase consumer protections.
- This is a multi-year effort to improve the ACA and expand coverage as much as possible parallel to single payer efforts. The coalition has a set of legislative priorities and will be developing legislation. Additional organizations are encouraged to join.
- There have been hearings in the Assembly around universal coverage and the Commission has, in concept, supported SB 562, The Healthy California Act by Senators Lara and Atkins. It is unlikely, however, the bill will move this year.

9. STATE LEGISLATION AND BUDGET:

- OA reported at the 2/8/2018 Commission meeting that there are no ADAP programmatic changes in the budget.
- Mr. Fox noted documents in the packet on the LAC analysis of the state budget which has a multi-billion dollar surplus and the annual California HIV Alliance budget priorities. The latter reflects the most, and most diverse, asks in the last seven years because of the size of the surplus. Some asks are from the General Fund and others are from the ADAP Rebate Fund. They will be presented to the Budget Subcommittees of the Legislature next week.
- There are also AIDS Healthcare Foundation (AHF) ask documents in the packet. The California HIV Alliance is supporting AHF's ask for a \$10 million annual allocation to address STD prevention and screening. There was a one-time \$5 million allocation two years ago to address STDs, but the need is ongoing.

10. COUNTY LEGISLATION AND POLICY ISSUES: This item was postponed.

VI. NEXT STEPS

11. TASK/ASSIGNMENTS RECAP: There were no additional items.

12. AGENDA DEVELOPMENT FOR NEXT MEETING:

- Mr. Fox said the 3/5/2018 meeting will be the annual meeting to develop recommendations on the docket of pertinent legislation. Recommendations to support, oppose, or support or oppose with amendment, are forwarded to the Commission for approval. Once approved, they are forwarded as recommendations to the Board of Supervisors.
- ➡ Bills will be distributed in advance for review.

VII. ANNOUNCEMENTS

13. OPPORTUNITY FOR PUBLIC AND COMMITTEE TO MAKE ANNOUNCEMENTS:

- Mr. Brown asked about the recommendation in President Trump's budget to provide part of the Supplemental Nutrition Assistance Program (SNAP) benefit in food. Mr. Fox said presidential budgets are not key to Congress' budget development.
- More concerning is funding of SNAP, Medicaid, Medicare, et cetera under "entitlement reform." However, while the House Budget Committee seems to want a budget reconciliation, the Senate does not as it would need an unattainable 60 votes.

VIII. ADJOURNMENT

- 14. ADJOURNMENT:** The meeting adjourned at 12:00 noon.