

Dear Mr. Dave Fleurants,
Exe. Dir.—Disability Law Center,

February 22, 2008

Without psychiatric patient advocates putting forth an opinion, there will be no system changes and psychiatric patients will be left with the status quo. There is little or no cost with establishing a position or an opinion and it can be enormously helpful to psychiatric patient's rights.

We are asking Disability Law Center, Psych/Rights, NAMI—Anchorage, to be proactive and establish opinions on specific patient rights. We are asking that the opinions be placed in writing.

1. The state of Alaska presently investigates some psychiatric patient's complaints. Office of Licensing has limited authority to go into about 5 facilities. Behavioral Health has some rights to look at patient grievances in 82 grantee facilities. Neither agency advertises their phone number to psychiatric patients nor does the state require grantee facilities to post state agency phone numbers.

DHSS has the obligation by statute to investigate patient complaints—and also the authority by statute to look at patient records. The state DHSS is in a unique position because of their authority. DHSS can force facilities to do the right thing. Also, DHSS has an obligation to oversee psychiatric patient grievances and facilities.

Should the state of Alaska establish a single office where grantee patients/psychiatric patients can call for assistance?

We would like the opinion of your organization on the above question.

2. **Should the state DHSS require all psychiatric facilities / units to establish an urgent grievance procedure using state guidelines? In an in-patient setting, patients would receive a second level review within 24 hours—out-patient, within one working day.**

We would like the opinion of your organization on the above question.

3. **Should those with a developmental disability also have access to an urgent grievance procedure?**

We would like the opinion of your organization on the above question.

4. **Should a description of an urgent grievance be as follows?:
“all sexual abuse allegations, physical abuse, denial of services, denial of rights granted by statute.”**

We would like the opinion of your organization on the above question.

5. **Should all urgent grievances be reported within 24 hours to a state DHSS office for assistance and oversight to protect the consumer?**

We would like the opinion of your organization on the above question.

6. **Should the state DHSS maintain statistics of the number and type of grievances filed at all psychiatric facilities and units? As a note, Office of Corrections keeps statistics on 12 jails / prisons.**

We would like the opinion of your organization on the above question.

7. **Should DHSS / Behavioral Health, as required by AS47.30.847, tell all psychiatric facilities to have an employee on duty, who is trained as an advocate, who will assist the patient in bringing grievance or other redress?**

We would like the opinion of your organization on the above question.

We would appreciate the opinion of your organization / Board members as soon as possible. Thank you,

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Faith Myers
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Cc: NAMI—Anchorage
Psych / Rights
AMHB
Trust Authority

To Patient Advocates Date Feb 22, 08

Subject: Improving Patient Rights

Senate bills would help protect rights of psychiatric patients

Senate Bill 186 was introduced to protect and guarantee by state law all psychiatric patients' right to file a grievance.

Psychiatric patients in acute-care facilities almost without exception have dementia or diminished capacity. SB 186 needs to pass to protect psychiatric patients.

Senate Bill 8 requires psychiatric facilities, including acute-care facilities, to make a good-faith effort at providing the patient's choice of gender of staff for intimate care services. The passage of this bill will reduce trauma to psychiatric patients, a high percentage of whom have experienced sexual or physical abuse in their backgrounds.

We encourage the general public, news outlets and institutions to support the passage of these bills.

— Faith Myers and Dorrance Collins
Anchorage

Shortening the legislative session would hurt the average citizen more

Shortening the legislative session will hurt the average citizen trying to improve rights for Alaskans ("90-day limit might control Legislature," June 26).

The table has been set. There is a limited number of representatives. The oil giants will always have their seats at the table, along with the billion-dollar health care industry. It is the crumbs that fall off the table that the average citizen can pick up. If the voters in November choose to shorten the legislative session, the table will get a lot smaller.

Since 2000, there have been nine special sessions called. Even putting aside that issue, Alaska is still a relatively young state trying to get its feet on the ground. Not only should the legislative session not be shortened to 90 days, it should be lengthened to 150 days.

— Faith Myers and Dorrance Collins
Anchorage

Developmentally disabled need a much better grievance procedure

Half a world away children with severe emotional or physical disabilities are tied to a bed and left untouched. The recent newspaper stories and television images were powerful and we believe will bring about changes to an abusive system.

It is the ability to be heard that most often brings about change. In our opinion, the state of Alaska has terrible grievance procedure statutes and associated rules concerning the rights of individuals with a developmental disability or mental illness.

The state does not keep clear statistics on the number and type of grievances filed by patients at the state Division of Behavioral Health's 82 grantee facilities.

A patient or client age 60 or older with a grievance can call the Long Term Care Ombudsman office for assistance. But there is no similar state office for psychiatric patients or those with a developmental disability, under age 60, to call for assistance.

We agree with helping people half a world away, but changes need to be made in Alaska. Statutes and regulations concerning grievance procedures for psychiatric patients and those with developmental disabilities need to be revised. Statistics need to be kept of the type and number of grievances filed. And a state office has to be established to oversee and assist in the grievance process.

— Faith Myers and Dorrance Collins
Anchorage

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Acute care psychiatric patients vulnerable to sexual predators

We read the Daily News' editorial about sexual assault and abuse (Feb. 2). We are asking that more of the story be told.

Children are one of the most vulnerable populations that suffer from sexual abuse — but just as vulnerable are individuals with a mental illness and in Alaska that number ranges into the thousands. Acute care psychiatric patients, or consumers, almost without exception have dementia or diminished capacity and in some ways are childlike. Those with a developmental disability are also in a vulnerable category.

From the standpoint of a sexual predator, the acute care psychiatric patient is the ideal victim. Consumers frequently mix delusional ideas with factual reporting, therefore hospitals, courts and law enforcement often tend to discount a consumer's entire report of sexual abuse or assault.

There are 82-plus behavioral health grantee psychiatric facilities in Alaska. The state of Alaska does not keep clear statistics of the grievances filed in the 82 grantee facilities. That would include sexual abuse, sexual assault, etc.

The Department of Health and Social Services currently offers no assistance to patients filing grievances. All 82 psychiatric facilities should be required to have an urgent grievance procedure and all sexual abuse allegations, physical abuse, denial of services, denial of rights granted by statute should be reported within 24 hours to a state DHSS office for assistance and oversight to protect the consumer.

— Faith Myers and Dorrance Collins
Anchorage

Reprinted from ADN-
Feb 14, 08.

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Page from Grantee requirements for grievance procedures.
BH should be required to assist patients in a more active way.

BH Role & Responsibility: DHSS BH shall initially represent the Department of Health and Social Services for any grievance referred for technical assistance involving BH grantee treatment organizations. BH shall take the following steps to assist with these grievances:

1. **Exercise the primary responsibility of DHSS BH to orient consumers, or other individuals calling on behalf of consumers, to the grievance process and procedures available thru the involved grantee organization**
2. For questions regarding grievances which have been heard according to the involved grantee organization's grievance procedures, BH may:
 - a. Review any written response from the involved grantee organization regarding their findings and resolution to the grievance.
 - b. Investigate whether the involved grantee organization complied with the following, as indicated, in regards to processing the consumer grievance:
 - i. Alaska Statute / Behavioral Health Regulations
 - ii. Medicaid Regulations
 - iii. Special Conditions of Grant Award
 - c. Determine if resolution of the grievance is reasonable based on resources available to the grantee organization
 - d. Share BH findings with both the consumer and the involved grantee organization
3. In the course of providing technical assistance for any consumer grievance BH may:
 - a. Communicate with any involved party to seek clarification of information, or to obtain access to supporting documents
 - b. Consult with other Department or division resource
 - c. Refer case to other Department or division resource for continued technical assistance or action
 - d. Take any other action deemed prudent or necessary to assist consumer and / or grantee organization

Policy Clarifications:

- 1) The Department of Health and Social Services is authorized to review, obtain, and copy confidential and other records and information about clients, including services requested or furnished, to evaluate a grantee organization's compliance with statutes (AS 47.30.520 – 47.30.620)⁵
- 2) For substance abuse treatment facilities and programs, DHSS has adopted by reference the standards contained in the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) *Standards for*

⁵ AS 47.30.590 (b) Patient rights and the confidential nature of records and information