

# PsychRights<sup>®</sup>

Law Project for  
Psychiatric Rights, Inc.

March 31, 2008

Faith Myers/Dorrance Collins  
3240 Penland Pkwy, SP. 35  
Anchorage, Alaska 99508

Re: Request for Opinions

Dear Ms. Myers and Mr. Collins

This is meant to address your February 22, 2008, request to respond to your letter of the same date to Mr. David Fleurant of the Disability Law Center.

## Questions Asked

You asked for PsychRights "opinion"<sup>1</sup> as to the following issues:

1. Should the State of Alaska establish a single office where grantee patients/psychiatric patients can call for assistance?
2. Should the state DHSS<sup>2</sup> 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.
3. Should those with a developmental disability also have access to an urgent grievance procedure?
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."
5. Should all urgent grievances be reported within 24 hours to a state DHSS office for assistance and oversight to protect the consumer?
6. Should the state DHSS maintain statistics of the number and type of grievances filed at all psychiatric facilities and units?
7. Should DHSS/Behavioral Health, as required by AS 47.30.847, tell all psychiatric facilities to have an employee on duty, who is trained as an advocate, who will assist the patient in bringing grievances or other redress?<sup>3</sup>

## Documents Reviewed

In responding to these questions I have at least looked at the following:

- A. FY 2005 Grantee Grievance Standards (Attachment A);
- B. June 27, 2007, Letter from Melissa Wetzler Stone, to DHSS Behavioral Health Grantee Organizations, including State Behavioral Health Requirements for Grantee Grievance Procedures, approved June 18, 2007 (Attachment B);
- C. December 17, 2007, letter to William Doolittle, M.D., Chair of the Alaska Mental Health Trust Authority;

---

<sup>1</sup> You ask for PsychRights' "opinion," which I am treating as asking for PsychRights' "position."

<sup>2</sup> Department of Health and Social Services hereinafter sometimes referred to as the "Department."

<sup>3</sup> Emphasis in original.

- D. January 3, 2008, letter from Commissioner Jackson to Faith Myers and Dorrance Collins.
- E. January 24, 2008, Dorrance Collins Testimony to Alaska Psychiatric Institute (API) Governing Board;
- F. January 24, 2008, Faith Testimony to API Governing Board;
- G. January 28, 2008, letter to Governor Sarah Palin;
- H. February 4, 2008, Testimony of Faith Myers to Alaska Mental Health Trust Authority;
- I. February 4, 2008, Testimony of Dorrance to Alaska Mental Health Trust Authority;
- J. February 9, 2008, letter to Sen. Betty Davis;
- K. February 13 2008, letter to Jeff Jessee, Executive Director of the Alaska Mental Health Trust Authority;
- L. March 14, 2008, letter from J. Kate Burkhart, Executive Director of the Alaska Mental Health Board to Faith Myers and Dorrance Collins;
- M. March 20, 2008, letter from Faith Myers and Dorrance Collins to Andrea Schmook, chair of the Alaska Mental Health Board;
- N. March 21, 2008, letter from J. Kate Burkhart, Executive Director of the Alaska Mental Health Board to Faith Myers and Dorrance Collins.
- O. March 25, 2008, letter from Faith Myers and Dorrance Collins to J. Kate Burkhart, Executive Director of the Alaska Mental Health Board;

### **Background**

The issue of consumer grievances not being taken seriously is a fairly long standing problem. It was a major issue when I was a member of the Alaska Mental Health Board (AMHB) from 1999 to 2004. In analyzing this issue it is important to distinguish between the different standards involved for (1) DBH "grantees"<sup>4</sup> and (2) "evaluation and treatment facilities."

For grantees the following regulation is applicable:

#### **7 AAC 71.220. Grievance procedures**

A center must establish a grievance procedure by which a client may seek redress of grievances. A copy of the grievance procedure must be filed with the department and posted at the center

---

<sup>4</sup> The word "grantees" herein means recipients of DBH community mental health grants and does not include designated evaluation and treatment facilities even though they may also receive DBH grants for those services.

For designated evaluation and/or treatment facilities, the following statute applies<sup>5</sup>:

**AS 47.30.847. Patients' Grievance Procedures.**

(a) A patient has the right to bring grievances about the patient's treatment, care, or rights to an impartial body within an evaluation facility or designated treatment facility.

(b) An evaluation facility and a designated treatment facility shall have a formal grievance procedure for patient grievances brought under (a) of this section. The facility shall inform each patient of the existence and contents of the grievance procedure.

(c) An evaluation facility and a designated treatment facility shall have a designated staff member who is trained in mental health consumer advocacy who will serve as an advocate, upon a patient's request, to assist the patient in bringing grievances or pursuing other redress for complaints concerning care, treatment, and rights.

It is apparent the regulation pertaining to grantees, as opposed to the statute pertaining to inpatient facilities, is standardless. Because of complaints by "consumers," the Alaska Mental Health Board made it a priority to have sufficient standards promulgated. As a result of the AMHB's leadership on the issue at that time, the then Division of Mental Health and Developmental Disabilities (DMHDD) established the Grantee Grievance Standards, Attachment A hereto (FY 2005 Grantee Grievance Standards), which became conditions of grantees' grants. I think it is fair to say these standards ended up being negotiated between the AMHB and the Division. The AMHB sought to have these promulgated in regulations because of the concern that these conditions could just as easily be taken out of any subsequent grant conditions, but the Division would not agree to do so.

I left the AMHB right after this happened and my impression is these new grant conditions had very little impact until you started advocating on the issue in 2006. My perhaps faulty memory is that as a result of your efforts, the Division of Behavioral Health (DBH), the successor to DMHDD by virtue of an internal reorganization, found widespread non-compliance with the requirement of grantees having a compliant grievance procedure, and on June 18, 2007, issued a revised policy (FY 2008 Grantee Grievance Standards) and sent it to all grantees by letter dated June 27, 2007, with all grantees being required to submit a copy of their grievance policies by July 31, 2007. *See*, attachment B.

---

<sup>5</sup> Evaluation and treatment facilities are defined in AS 47.30.915(4)&(5). There seems to be some disagreement about what facilities AS 47.30.847 applies to. To me, it is pretty clear that by its terms, AS 47.30.847 applies to all designated evaluation and treatment facilities, which I believe includes not only API, but also Bartlett Regional Hospital, Fairbanks Memorial Hospital, the Providence Psychiatric Emergency Room and the Providence Crisis Respite Center. There may be other "designated beds," such as in Bethel, but I'm not sure. DBH has a web page set up to list Designated Evaluation and Treatment facilities at <http://www.hss.state.ak.us/dbh/mh/eval.htm>, but it only says "coming soon." However, Commissioner Jackson's letter of January 3, 2008, states that Providence Hospital is not subject to AS 47.30.847 because it is accredited by the Joint Commission and CMS. To me, Commissioner Jackson's statement is clearly incorrect unless AS 47.30.847 is preempted by federal law. The Department, however, has not provided any authority that federal law preempts AS 47.30.847, and if it asserts AS 47.30.847 is preempted by federal law it should provide citations supporting that assertion. I also know that you believe AS 47.30.847 also applies to grantees, but that also does not seem correct.

I haven't exhaustively compared the FY 2005 Grantee Grievance Standards promulgated as a result of AMHB advocacy/pressure with the FY 2008 Grantee Grievance Standards, but I think it is fair to say with respect to at least two provisions, the current standards are "watered down," in one case, failing to acknowledge the Department's statutory obligation. More specifically, the FY 2005 standards provide that "The grantee must treat all grievances as genuine and pursue resolution accordingly," while I didn't find a comparable provision in the current standards. More troubling is that the current standards do not acknowledge the Department's responsibility to "investigate complaints made by a patient or an interested party on behalf of a patient" as required by AS 47.30.660(b)(12). This was specifically acknowledged in the 2005 Grantee Grievance Standards ("Grievances unresolved to the consumers satisfaction within 30 days shall be reported to the DMHDD Regional Coordinator pursuant to AS 47.30.660(b)(12)"), but nothing similar appears in the current standards.

In fact, the Department has putatively reduced its role to the point that it "may," but is not required to, provide "technical assistance."<sup>6</sup> However, the Department's failure to investigate a complaint is a violation of AS 47.30.660(b)(12), which provides that the Department "shall . . . investigate complaints made by a patient or an interested party on behalf of a patient."

### Discussion

To me the crux of the issue is what I would consider widely divergent views as to whether there is a systemic problem. The AMHB has apparently currently taken the position that there is no problem because people have rights on paper. However, my uniform experience is that "mental health consumers'" rights are ignored as a matter of course and when they complain, their complaints are often attributed to their mental illness as an excuse for ignoring them. I had a recent example of this, where a forced drugging client expressed dissatisfaction with API not letting him go outside. I gave him a copy of AS 47.30.840(a)(9), which provides patients have "the right to reasonable opportunity for indoor and outdoor exercise and recreation." During his involuntary commitment hearing,<sup>7</sup> the API psychiatrist testifying against him cited this as a symptom of the patient's mental illness, ie., that he was delusional. Faith, perhaps you remember that when you were in API, you were retaliated against for asserting your right to decline the medication and were not only not allowed outside, but were hardly allowed off the unit at all for the four months you were there. You might not remember that the then Medical Director wouldn't let you talk to a reporter who was interested in covering your fight against forced drugging. As I pointed out to him, his action in denying your free speech right to talk to a reporter was a crime under AS 47.30.835(a). That an API Medical Director would feel he has the right to prevent a patient from talking to a reporter with impunity is illustrative of how patients' legal rights are often considered irrelevant.

---

<sup>6</sup> One of the things it "may" do is:

- b. Investigate whether the involved grantee organization complied with the following, as indicated, in regards to processing the consumer grievance:
  - i. Alaska Statute I Behavioral Health Regulations
  - ii. Medicaid Regulations
  - iii. Special Conditions of Grant Award

Even if the Department chose to conduct such an investigation, this falls far short of that required under AS 47.30.660(b)(12). First, it is only in the context of providing "technical assistance," but most importantly does not constitute an investigation of the complaint itself, as required by AS 47.30.660(b)(12).

<sup>7</sup> At which he was represented by the Public Defender Agency.

Of course, in this case we are mostly talking about grantees and not API, but in my experience the same attitude prevails at most grantee agencies. Thus, while the current Executive Director of the AMHB, as illustrated by the below, seems to believe it is a reasonable assumption that having rights on paper means they are being honored, my experience is just the opposite:

We . . . decline to take up the issue of requiring DBH<sup>8</sup> to resolve patient grievances, as it is AMHB's position that this would interfere with patient care to have a government agency intervene. Currently, DBH is a source of final recourse for patient grievances that are not satisfactorily resolved at the grantee-provider level. As described above, DBH is exercising ongoing oversight to insure that all grantees have compliant grievance procedures.

Finally, all grantees (and all psychiatric facilities) must comply with all Alaska laws. Since this is the case, there is no need for additional instructions from DBH or an opinion from AMHB as to your final issue regarding grantee compliance with AS 47.30.847.<sup>9</sup>

To me, Ms. Burkhart's comments reflect a fundamental lack of appreciation for the situation that most "mental health consumers" find themselves in where retaliation is a real threat, where anything they say can, and often is, labelled delusional, and where the grantee controls the written record. Moreover, under the current standards it does not appear accurate to say that DBY is a source of final recourse because they only provide that it "may" investigate and such investigation is limited to whether the procedures were followed, not the substance of the grievance.

### **Responses to The Seven Questions**

I thought it was important to set forth the above to provide context for my responses to your questions.

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

It seems to me it should. It is hard to see how it can comply with its statutory obligation under AS 47.30.660(b)(12) to investigate patient complaints without doing so.<sup>10</sup> Query: If

---

<sup>8</sup> Division of Behavioral Health.

<sup>9</sup> March 14, 2008, letter from J. Kate Burkhart, Executive Director of the Alaska Mental Health Board to Faith Myers and Dorrance Collins. Previously in the same letter, Ms. Burkart asserts that your statement that all or a majority of grantees have failed to provide adequate grievance procedures is incorrect because 90% of them have written procedures that comply or substantially comply with the FY 2008 Grievance Standards. I don't assume the standards are being complied with just because there were policies written by the grantees in order to continue receiving grant funds. My experience leads me to believe just the opposite is true.

<sup>10</sup> AS 47.30.660(b)(14) provides, "The Department . . . shall . . . after consultation with the Alaska Mental Health Trust Authority, adopt regulations to implement the provisions of AS 47.30.660 - 47.30.915). In your case before the Alaska Supreme Court, Faith, the Court cited this statute in rebuking the Department for failing to adopt appropriate regulations with respect to "establishing formal procedures and standards for treating mental patients with psychotropic drugs." *Myers v. Alaska Psychiatric Institute*, 138 P.3d 238, 251 (Alaska 2006). There is a similar failure here and it would appear

someone were to call the Department right now with a complaint, what would they be told? My guess is there would not even be a uniform answer.

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.

If I had any confidence that patient's complaints about sexual and other physical abuse were being taken seriously, I would say no. However, I have no such confidence. It is well known that such abuse occurs frequently and that patients' reports are often dismissed as symptoms of mental illness. It is a perfect environment for abuse. At the same time, it is not my experience that the Department takes patients' rights seriously. My experience with API is that whenever rights violations are brought to its attention, rather than correct them, API makes patently false assertions that rights are not being violated and uses the full force of the Alaska Department of Law to defend the indefensible.

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

I don't see why not.

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."

The current grantee grievance policy requires, "Provision(s) for immediately elevating to the Governing or Advisory Board level any grievances that involve abuse, neglect or unnecessary seclusion or restraint." While I don't know if there is something comparable for inpatient facilities, I think this does constitute a basis for immediately advising the Department of complaints for at least abuse, neglect or unnecessary seclusion or restraint. I don't know about denial of services or denial of rights granted by statute.

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

I think they should. Again, however, there needs to be a change of attitude within the Department that respects rights or I don't see how it would make much difference.

6. Should the state DHSS maintain statistics of the number and type of grievances filed at all psychiatric facilities and units?

Absolutely. A summary of every grievance, on a form developed to allow meaningful analysis should be submitted to the Department, and the summary should be entered into a database so that aggregate analysis can be performed.

7. Should DHSS/Behavioral Health, as required by AS 47.30.847, tell all psychiatric facilities to have an employee on duty, who is trained as an advocate, who will assist the patient in bringing grievances or other redress?

Cont.

the Department's refusal to promulgate the grantee grievance standards as a regulation is a violation of statute.

The Department should go beyond that and make sure it is being done, it is being done appropriately, and that people's rights are being honored.

I apologize for my delay in responding to your questions, but hope the foregoing has been helpful. Please feel free to contact me with any questions or let me know how I might be of further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jim Gottstein", with a long horizontal flourish extending to the right.

Jim Gottstein  
President/CEO

cc Commissioner Karleen Jackson  
Melissa Witzler Stone  
David Fleurant, Disability Law Center  
Sen. Bettye Davis  
Consumer Consortium Advocacy Council  
NAMI-Anchorage  
Alaska Mental Health Trust Authority  
Alaska Mental Health Board

# FY 2005 Grantee Grievance Standards

## Consumer Grievance Redress Standards

1. Each grantee must have a written consumer grievance redress policy. The grantee will clearly explain the policy to all consumers (and family members in the case of minors) upon entry to services. Each consumer and family member will be given a simple language document (DMHDD approved) that outlines procedures, rights, and responsibilities under the policy. A signed form confirming that the consumer and family received this document and understands the policy will be part of the consumer's file and copies given to the consumer and family. DMHDD approved notices outlining grievance redress policy, procedures, and resources will be prominently displayed in all grantee facilities.
2. Grantee consumer grievance policies and procedures should be developed with meaningful consumer and family participation and must be stated in plain language. The grievance process must be available to all grantee clients, without regard to services used or funding source, and to all consumers denied access to services.
3. Grantee consumer grievance procedures must, at a minimum, meet the following criteria:
  - The grantee must treat all grievances as genuine and pursue resolution accordingly.
  - The grantee will provide a simple form with which consumers and family members may file grievances. The form will include an optional waiver of confidentiality. The grantee shall accept grievances submitted in other formats, including grievances submitted orally in person or over the telephone.
  - Consumers or family members may designate a representative (see advocate below) to assist them during grievance proceedings.
  - The grantee must respond in writing within 5 days of receiving a grievance or moving a grievance to the next level. If unable to respond within 5 days, the grantee must explain why in writing.
  - Grantees should develop, or have available, alternative dispute resolution techniques or resources.
4. Consumers and family members may have advocates present during all steps of a grievance. Upon request, grantees shall provide assistance to those who wish to file grievances. Grantees may identify staff to provide assistance, but consumers and family members may choose their own advocate (whether from grantee staff or elsewhere). Grantees must inform in writing those filing grievances or expressing interest in filing grievances that advocates such as the Disability Law Center, the Alaska Mental Health Consumer Web and NAMI-Alaska may be available to assist them in the grievance process.
5. Grantees will maintain separate grievance files, which contain all documents related to grievances and record all actions resulting from grievances. All grievances will be reported to the grantee governing body and consumer advisory body. These reports will maintain consumer confidentiality.
6. A grantee grievance process may not include more than three separate steps, which may include



## FY 2005 Grantee Grievance Standards

- Direct dialogue with the staff member involved (with staff supervisor present if party filing the grievance desires) or that staff member's supervisor;
- Elevation to the executive director;
- Elevation to the Governing or Advisory Board.

Grievances unresolved to the consumers satisfaction within 30 days shall be reported to the DMHDD Regional Coordinator pursuant to AS 47.30.660(b)(12).

7. Grievances involving abuse or neglect of any description, or unnecessary seclusion or restraint will be investigated and reported immediately to the governing body and DMHDD.
8. The grievance procedure must include provisions to ensure the right of consumers to grieve without intimidation to prevent the filing of a grievance or retaliation if they do. Intimidation or retaliation will not be tolerated, and may result in sanctions by DMHDD, up to, and including, loss of grant funds.

# STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES  
DIVISION OF BEHAVIORAL HEALTH

SARAH PALIN, GOVERNOR

ANCHORAGE OFFICE  
3601 C Street, Suite 878  
ANCHORAGE, ALASKA 99503-5924  
PHONE: (907) 269-3600  
FAX: (907) 269-3623  
TOLL FREE: (800) 770-3930

June 27, 2007

DHSS-Behavioral Health  
Grantee Organization

RE: Agency Grievance Policy & Procedure

Dear Grantee,

In a continuing effort to maintain complete and updated grantee records Behavioral Health needs to receive a copy of your agency's Grievance Policy and Procedure. Alaska Administrative Code, 7 AAC 71.220, states that "a center must establish a grievance procedure by which a client may seek redress of grievances. A copy of the center's grievance procedure must be filed with the department and posted at the center."

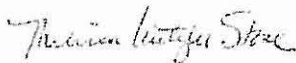
As you know, the mission of Behavioral Health is to manage an integrated and comprehensive behavioral health system based on sound policy, effective practices and partnerships. Confirming that consumer complaints are properly handled is an important element in Behavioral Health's management of the behavioral health system. As a partner in providing effective consumer care we need to know and understand your agency's grievance procedure.

Attached to this letter is a copy of DHSS Behavioral Health policy and procedure: "Requirements for Grantee Grievance Procedures". This policy is based upon the Standards adopted by both Behavioral Health and the Alaska Mental Health Board in 2002 which were subsequently included as Conditions of Grant Award for 2002- 2004.

Please submit a copy of your grievance P&P to your BH Regional Specialist by July 31, 2007.

We appreciate your dedication and service to the peoples of Alaska.

Respectfully,



Melissa Witzler Stone,  
Director Behavioral Health



State of Alaska  
Department of Health and Social Services  
Behavioral Health

---

Policy & Procedure

---

**Topic: State Behavioral Health Requirements for Grantee  
Grievance Procedures**

**Policy:** All Behavioral Health (BH) grantee treatment organizations are required to develop grievance procedures by which all clients, without regard to services used or funding source, including those clients denied services, may seek redress of grievances. The procedures, written in plain language, should be developed with meaningful consumer participation utilizing the general guidelines established by State Behavioral Health. A copy of the procedures must be filed with BH and should also be posted at the grantee organization's facility(s).<sup>1</sup>

**Intent:** The Department of Health and Social Services (DHSS) by law is required to adopt regulations to assure patient rights<sup>2</sup>, to establish standards for treatment facilities and to keep related records<sup>3</sup>, and to investigate complaints made by a patient<sup>4</sup>. This policy outlines the DHSS BH guidelines for grantee grievance procedures, explains BH's role in response to grievances, and lists relevant policy clarifications and all related references of the Alaska Statutes and the Alaska Administrative Code.

**Grievance Procedure Guidelines:** Grantee consumer grievance procedures must, at a minimum, meet the following criteria:

1. Provision(s) that ensure the right of consumers to file a grievance without intimidation
2. Provision(s) that ensure there is NO retaliation perpetrated against consumers who have filed a grievance
3. Provision(s) that outline a process by which consumers may easily file a grievance, to include:

---

<sup>1</sup> 7 AAC 13.135 Grievance procedures; 7 AAC 71.220 Grievance procedures

<sup>2</sup> AS 47.30.590 Comprehensive services

<sup>3</sup> AS 47.37.030 Powers of Department; AS 47.37.140 Public and Private Treatment Facilities

<sup>4</sup> AS 47.30.660 (b) (12) Powers and duties of department

- a. A simple form written in plain language that also provides for an optional waiver of confidentiality which consumers may complete and submit,
- b. Procedure(s) that allow consumers to submit a grievance orally
- c. Procedure(s) that allow consumers to submit a grievance over the phone or via email
4. Explanation of agency's grievance procedure / policy provided to ALL consumers upon entry to services, to include the following:
  - a. Copy of agency procedure / policy
  - b. A form for consumers to sign, which shall be maintained in the consumer's clinical record, that declares their receipt and understanding of the agency procedure / policy
5. Provision(s) for consumers to designate a representative or advocate to assist them with all steps of the grievance process
6. Procedure(s) for the agency, upon consumers request, to assist the consumer with filing a grievance, which should include either:
  - a. Identifying specific agency staff to provide assistance
  - b. Written referral to other consumer advocacy resources such as the Disability Law Center and NAMI-Alaska
7. Step-wise procedures, limited to the following, for resolving ALL grievances:
  - a. **Resource and means for commonly resolving consumer disputes to minimize the need to invoke the grievance process**
  - b. Communication with consumer upon receipt of grievance that the agency has begun the process to resolve the grievance
  - c. Direct resolution through dialogue with the agency staff member involved or with the staff member's supervisor, or with both as consumer requests
  - d. Resolution through the agency Executive Director
  - e. Resolution through the agency Governing or Advisory Board
  - f. Referral of grievances unresolved at the agency's highest level to DHSS Behavioral Health for technical assistance
8. Established time frames to include the following that ensure prompt hearing of grievances:
  - a. Initiation of resolution (according to the procedures noted in # 7 above) within 5 days of receiving a grievance
  - b. If agency is unable to adequately initiate resolution within 5 days, a written notification shall be sent to the consumer by the end of 5 days from receipt of grievance explaining why and identifying when the grievance process will initiate
  - c. Satisfactory resolution to grievances within 30 days of receipt of grievance
  - d. Referral to BH, within 5 business days, for technical assistance with grievances that remain unresolved after 30 days.
9. Provision(s) for immediately elevating to the Governing or Advisory Board level any grievances that involve abuse, neglect or unnecessary seclusion or restraint.
10. Procedure(s) that provide for the creation, maintenance and storage of files for each individual grievance which shall contain all related documents, records, actions and communications.

11. Provision(s) that address maintenance of consumer confidentiality throughout the grievance process

**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)<sup>5</sup>
- 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*

---

<sup>5</sup> AS 47.30.590 (b) Patient rights and the confidential nature of records and information

*Behavioral Health Care, 2004 – 2005.*<sup>6</sup> The Department also provides for exemption from the provisions regarding substance abuse facilities or programs established by the State of Alaska Administrative Code for those private and public treatment facilities currently certified by JCAHO or the Commission on Accreditation of Rehabilitation Facilities (CARF).<sup>7</sup> Therefore:

- a. All substance abuse grantee organizations are also obligated to comply with JCAHO standards regarding client Ethics, Rights, and Responsibilities (RI.2.120 – RI.2.130)<sup>8</sup> OR
- b. If certified by CARF are obligated to also comply with the CARF standards for rights of persons served (Section 1. Business Practices: Criterion D. Rights of Persons Served)<sup>9</sup>

## References:

### Alaska Statutes (Authority)

Title 47. Welfare, Social Services and Institutions  
Chapter 30. Mental Health  
Section 520 - 620. Community Mental Health Services Act  
Chapter 37, Uniform Alcoholism and Intoxication Treatment Act  
Section 30, Powers of Department  
Section 140, Public and Private Treatment Facilities

### Alaska Administrative Code

Title 7. Health and Social Services  
Chapter 13, Assistance for Community Health Facilities  
Section 135. Grievance procedures  
Chapter 29, Uniform Substance Abuse Treatment  
Section 10. Application of standards  
Section 30. Adoption of standards by reference  
Chapter 71, Community Mental Health Services  
Section 220. Grievance procedures

---

<sup>6</sup> 7 AAC 29.030 Adoption of standards by reference

<sup>7</sup> 7 AAC 29.010 Application of standards

<sup>8</sup> Comprehensive Accreditation Manual for Behavioral Health Care, 2004 – 2005

<sup>9</sup> 2007 Behavioral Health Standards Manual, CARF International