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February 13, 2008

Dear Kate Burkehart, Esq.,
Exe. Dir. – AMHB,

The enclosed AMHB committee report is too vague. It lacks detail of discussion and decisions of the committee that would be useful to the entire Board when they vote on the issues. The committee report should be expanded.

Eight months ago we asked the AMHB Board to put forth their decision on 13 patient right issues. “Will Alaska Mental Health Board support the implementation of the 13 patient rights issues we proposed?” We ask that this question be on the agenda of the next AMHB meeting.

1. Lacking from the committee report is – we fully believe that the committee stated that psychiatric facilities should give their patient grievance statistics to the state. As a note, Office of Corrections keeps statistics on grievances filed at 12 locations. Behavioral Health should keep statistics, at minimum, on all grantee facilities.
2. We never raised the issue—should API have a step down program for forensic patients? We raised the broader issue—should forensic patients be placed in non-forensic units? In an open API meeting Mr. Ron Adler said “No”, although he did state some sort of step down program would be acceptable to him. Laurance Mailey, M.D., in charge of the forensic unit at API, said that forensic patients and non-forensic patients should not be mixed. Ms. Andrea Schmook attended that API meeting.

Should the state investigate psychiatric patient complaints?

3. We stated in committee that Office of Advocacy has no authority to go into psychiatric facilities to investigate complaints, nor are they obliged to do so by statute. On the other hand, DHSS has the authority by statute to look at patient records and the obligation by statute to investigate complaints. Those facts should have been in the report.
4. One of the questions we raised in committee—Should Behavioral Health in their 4 page grievance procedure requirements explain to facilities that the grantee facilities must have a trained advocate on staff designated to assist psychiatric patients with their grievances as required by AS47.30.847? We thought we heard the committee say “yes” on that issue.
5. Issue number 7—should facilities be required to have an urgent grievance procedure whereas certain types of grievances would be automatically or within 24 hours sent to a state office for resolution or assistance in resolution—sexual abuse allegations, sexual assault, physical assault, denial of services, denial of rights granted by statute. We fully believe to protect patients DHSS needs to have that office

The 13 patient rights issues that we raised in committee were fully discussed by the committee. The entire Board has a right to know what the opinion of the committee was on all 13 issues so the Alaska Mental Health Board can make an informed decision.

As stated, this has gone on for over 8 months—we are asking that the entire Alaska Mental Health Board address all 13 issues and make the decision on whether they will pursue these issues and assist patient advocates in advancing patient rights.

Please let us know if this will be on the agenda and we will testify. Thank you,

Faith Myers / Dorrance Collins
3240 Penland Pkwy, Sp. 35
Anchorage, AK. 99508
(907) 929-0532

Faith Myers
Dorrance Collins

Cc: Mr. Jeff Jesse,
Exe. Dir. –Trust Authority
Ms. Andrea Schmook,
Chair—AMHB
Ms. Ramona Duby
Mr. Arthur Hansen, DDS
Psych/ Rights
Disability Law Center



**Report from the Ad Hoc Committee on Psychiatric Patients' Rights
Alaska Mental Health Board
Advisory Board on Alcoholism and Drug Abuse**

Members of the Ad Hoc Committee on Psychiatric Patient's Rights, Art Hanson, Andrea Schmook and Ramona Duby met twice – October 31st, an organizational meeting, and again on December 12th, when Faith Meyers and Dorrance Collins were in attendance.

During the December 12th meeting, Faith and Dorrance requested that ad hoc committee members address a list of 13 specific questions (attached). During the course of the meeting it was apparent that the 13 questions revolved around three issues:

1. API policy and procedures regarding transitioning forensic psychiatric patients from the facility. Current procedure can result in forensic patients residing in the same units as civilly committed patients;
2. Establishment of a single office with the authority to investigate psychiatric patients' complaints and grievances;
3. Behavioral Health grantee grievance procedure: grantee compliance with the current DBH grievance procedure policy.

API Policy on Transitioning Forensic Patients. The committee heard concerns arising from the API policy that allows those forensic patients in the process of transitioning out of the facility to reside in units other than the secure forensic unit. The concern is that civilly committed patients will be in danger of physical and/or sexual violence at the hands of those who have been found to be criminally insane. It was suggested that the API forensic unit be expanded beyond the current 10 beds.

Members of the committee recounted personal discussions with Ron Adler, API CEO, in which he explained the API policy. As part of the process of recovery and release, and with the oversight of the courts, those patients deemed not to be a danger are "stepped down" from the forensic unit to treatment units. Committee members agreed that the policy was sound and were satisfied that it would not necessarily result in danger to other API residents. To the question of additional forensic beds, the committee agreed that they did not have enough information, and asked Kate to take the question to Ron Adler.

Establishment of a Single Office for Patients Complaints. Currently, the State of Alaska does not have a single office charged with assisting psychiatric patients with complaints and grievances. The committee heard that other states have such offices, and it was suggested that Alaska should follow suit. The committee directed staff Angela Salerno to investigate the current Division of Behavioral Health (DBH) policy for taking complaints

Staff contacted DBH and discovered that one individual informally takes complaints, usually through regional staff, and is assigned to investigate these complaints on a case-by-case basis.

The committee came to consensus that they do not know the feasibility of creating another office or expanding the charge of the Office of Public Advocacy to investigate patient complaints (budget, willingness of the legislature) and could not support the proposal at this time.

Behavioral Health Grantee Grievance Procedure. DBH promulgated a policy that requires a grantee to develop a client grievance procedure and mandates certain elements be included. Grantees are required to submit their policies to DBH for review on compliance with the DBH policy. The concern is that many of these grantees policies are out of compliance with DBH policy.

Committee members agreed that more research is needed and directed ED Kate Burkhart to review the collected agency client grievance procedures.

Committee members thanked Faith and Dorrance and expressed their appreciation for their advocacy work. The committee will continue to develop “informed opinions” on the issues presented.

Dec 27, 07

Give to (2 pages)

Mr. Bill Herman

AS 47.30.660 requires DHSS to investigate complaints. Also AS 47.30.590 (below) gives them the authority to look at patient records.

Office of Advocacy has little or no authority to investigate complaints in a psychiatric facility. Office of Licensing has limited authority.

DHSS has the obligation by statute and the authority to investigate complaints in a timely manner and should be doing so.

cc: - Kate Burkehart, Esq - Ms. Yvonne Jacobsen

Policy Clarifications:

- D H S S - A M H B

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

APPROVED: 6-18-2007

Faith Myers / ³ Dorrance Collins 927-0532

(D H S S)

(7) enter into contracts with treatment facilities for the custody and care or treatment of persons with mental disorders; contracts under this paragraph are governed by AS 36.30 (State Procurement Code);

(8) enter into contracts, which incorporate safeguards consistent with AS 47.30.660 — 47.30.915 and the preservation of the civil rights of the patients with another state for the custody and care or treatment of patients previously committed from this state under 48 U.S.C. 46 et seq., and P.L. 84-830, 70 Stat. 709;

(9) prescribe the form of applications, records, reports, request for release, and consents to medical or psychological treatment required by AS 47.30.660 — 47.30.915;

(10) require reports from the head of a treatment facility concerning the care of patients;

(11) visit each treatment facility at least annually to review methods of care or treatment for patients;

(12) investigate complaints made by a patient or an interested party on behalf of a patient;

(13) delegate upon mutual agreement to another officer or agency of it, or a political subdivision of the state, or a treatment facility designated, any of the duties and powers imposed upon it by AS 47.30.660 — 47.30.915;

(14) after consultation with the Alaska Mental Health Trust Authority, adopt regulations to implement the provisions of AS 47.30.660 — 47.30.915;

(15) provide technical assistance and training to providers of mental health services; and

(16) set standards under which each designated treatment facility shall provide programs to meet patients' medical, psychological, social, vocational, educational, and recreational needs. (§ 1 ch 84 SLA 1981; am § 59 ch 106 SLA 1986; am § 36 ch 66 SLA 1991; am § 2 ch 109 SLA 1992; am § 33 ch 5 FSSLA 1994)

Revisor's notes. — In 1996, in paragraphs (a)(2) and (a)(3) of this section, "mental health trust settlement income account" was substituted for "mental health trust income account" and "mental health trust income account" was substituted for "mental health trust income account".

the mental health trust income account," in paragraph (3).

Opinions of attorney general. — The commission of Health and Social Services is directed to prepare a report on the status of the mental health trust income account and to recommend ways to improve the management of the account.

Article 7. Alaska Mental Health Board.

- Section 661. Alaska Mental Health Board
- 662. Composition
- 663. Term of office
- 664. Officers and staff

- Section 665. Bylaws
- 666. Duties of the board
- 667. Compensation, per diem, and expenses
- 669. Definition

Changes of name. — For legislative history and purpose of the Act that amended this article, see § 1, ch 109, SLA 1992 in the Assembly and Special Acts.

Sec. 47.30.661. Aias established. For budget board is the state plann laws relating to the me assist the state in ensur 48 SLA 1987)

Sec. 47.30.662. Com than 16 members appoir state and balanced geog tees of the board shall f

(b) Not less than one identified in AS 47.30.0f

(c) The board membe

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(2) may include repr education, vocational re

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the board.

(e) The board member who represent public an member who is admitte subsection may also be fa 1987; am § 37 ch 66 SL

Cross references. — For relating to members of the bo 1991 and 1994 amendments. s 1994 in the Assembly and S

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(b) The board shall be limited to, an executive l is in the partially exemp service of the state. The c board to ensure the boor Director of the board shal Director's duties. (S 3 ch

Effect of amendments. — effective December 13, 2004, in from amendments provided by the end of the first session of

The following questions should be answered by the AMHB Committee:

1. Should forensic psychiatric patients be mixed in with civilly committed patients?

Yes _____ No _____

Suggestions or comments:

2. Should the state of Alaska permanently establish one single office and grant that office the authority to go into any psychiatric facility or unit and investigate psychiatric patient's complaints and grievances on behalf of the patients?

Yes _____ No _____

Suggestions or comments:

3. Should those with developmental disabilities and those in treatment for alcohol or drug abuse have the right to be assisted with their grievances by the same state office as psychiatric patients?

Yes _____ No _____

Suggestions or comments:

4. Should psychiatric patients, persons with developmental disabilities and persons in treatment for alcohol and drug abuse be covered under the same grievance procedure statutes, and Behavioral Health requirements/regulations?

Yes _____ No _____

Suggestions or comments:

5. Should the state advertise a phone number and require all facilities serving clients in psychiatric treatment to post the phone number of a single state agency where patients and clients can call for help with filing and resolving a grievance?

Yes ____ No ____

Suggestions or comments:

6. Should the state be required to maintain timely statistics on complaints and grievances and their type filed by patients and clients in all psychiatric facilities and units?

Yes ____ No ____

Suggestions or comments:

7. Should certain types of patient grievances be automatically referred to a specific office of the state by the facilities for resolution or assistance in resolution immediately such as sexual allegations, abuse allegations, denial of services, etc.?

Yes ____ No ____

Suggestions or comments:

8. Should Alaska Psychiatric Institute's forensic unit be larger than 10 beds?

Yes ____ No ____

Suggestions or comments:

9. Should civilly committed patients have the right to be informed in writing that a forensic patient is being placed on the unit (and that would include family and guardians)?

Yes ____ No ____

Suggestions or comments:

10. Should all 82 Behavioral Health grantees be given 40 days to become compliant with the 4 pages of Behavioral Health's grievance procedure requirements? Behavioral Health collected all 82 grievance procedures—less than 30% are in compliance at this time.

Yes ____ No ____

Suggestions or comments:

11. AS47.30.660 states DHSS must perform an on-site evaluation of all psychiatric facilities and units. Also, DHSS must investigate patient complaints. DHSS has the right to delegate its responsibilities. Some delegation of responsibility is fine, but...
Should DHSS be required to be the main agency performing on-site evaluations?

Yes ____ No ____

Suggestions or comments:

12. Should DHSS be required to perform annual on-site evaluations of all psychiatric facilities and units?

Yes ____ No ____

Suggestions or comments:

13. AS47.30.847 states psychiatric evaluation facilities "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 grievance or pursuing other redress for complaints concerning care, treatment and rights." Behavioral Health does not address any of these rights in their 4 pages of requirements. Senior care Ombudsman trains advocates. Almost every facility trains someone in CPR; it would not be that difficult to give someone a few hours of training in advocacy.

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

Yes _____ No _____

Suggestions or comments:

Committee: Ms. Andrea Schmook; Ms. Angela Salerno; Arthur Hansen, DDS;
Ms. Ramona Duby, Ms. Faith Myers, Mr. Dorrance Collins.

Cc: Karleen Jackson, PhD.
Ms. Anna Kim
Ms. Kathy Craft
NAMI, Psych/Rights
Trust Authority

Faith Myers
Dorrance Collins

Faith Myers / Dorrance Collins
(907) 929-0532

Dear Mr. Jeff Jesse,

February 13, 2008

As you may remember, I testified at the last Trust Authority Board meeting, and Dorrance sent his testimony in by mail.

We are asking the Trust Authority Board to support and move forward 5 issues. We signified the issues we are sending by putting a red x next to them. (Issue # 2 – We want DHSS / Behavioral Health to mandate that all psychiatric facilities provide patients with an urgent grievance procedure and we want the state DHSS to assist patients and oversee the procedure.)

At minimum, could all 5 issues be moved into a Trust Authority Committee and then be given to the full Board? We would appreciate your help on these 5 issues.

The question has been posed by state employees that the state should turn over its protection of psychiatric patients to JCAHO. JCAHO grievance procedure says that facilities have 14 to 21 days to answer a patient's grievance—no appeal is mandated. If a patient complains to JCAHO, JCAHO has 30 days to notify a patient that the letter has been received. We have spoken to JCAHO and Medicare and they believe each state should develop their own statutes and regulations to protect psychiatric patients, an effort in which we encourage the Trust Authority to help.

Thank you. Please let us know if the Trust Authority will address our issues.

Faith Myers / Dorrance Collins
3240 Penland Pkwy, Sp. 35
Anchorage, AK. 99508
(907) 929-0532

Cc: William Doolittle, M.D.
Mr. Bill Herman
Kate Burkehart, Esq.,
Exe. Dir. --AMHB
Ms. Andrea Schmook,
Chair--AMHB

Mr. Tom Obermeyer
DHSS
Psych/Rights
Disability Law Center

Faith Myers
Dorrance Collins

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