

Dear Ms. Andrea Schmook
Chair, AMHB,

March 20, 08

We received a letter from Alaska Mental Health Board's Exe. Director, J. Kate Burkhart, March 14, 2008. (Enclosed)

As long time advocates, we have different opinions on patient rights than those expressed by AMHB employees and are asking that the entire Alaska Mental Health Board examine both sides.

It is the Alaska Mental Health Board member's right and responsibility to set the agenda for AMHB, especially for patient rights.

AMHB staff are simply repeating the same rhetoric put forward by DHSS and DBH staff. When there is absolutely no tension between a patient advocacy organization like AMHB and providers and policy makers like DHSS and DBH, then patients and patient rights will suffer.

* AS47.30.847—psychiatric patient grievance procedure statute, for a host of reasons, needs to be revised. But in the meantime, the present statute needs to be followed. There is no mention or even a reference of AS 47.30.847 in the 4 pages of the "State Behavioral Health Requirements for Grantee Grievance Procedures."

There are 3 main portions to AS47.30.847:

1. Patients have a absolute right to file a grievance including a formal grievance.
2. Facilities must have a designated person with training in advocacy who will assist patients and act as an advocate. Patients have a right to receive assistance from an advocate. (There is no specific use of the word advocate or advocacy training in DBH requirements.)
3. Patients have a right to have their grievance heard in front of an impartial body. (An Impartial Body can consist of a single person.)

None of the 3 major rights in AS47.30.847 are spelled out or stated in Behavioral Health requirements.

The state of Maine uses peer advocates to assist psychiatric patients; Illinois we believe is the same. In state of Maine regulations it states that patients have the right to receive the assistance of an advocate in the protection of their rights. AS47.30.847 says basically the same thing but it is just not practiced or required in Alaska regulations.

State employees have said that the state does not need to put information contained in AS47.30.847 in Behavioral Health grievance procedure regulations. We disagree. Regulations should be reflective of the related statutes and psychiatric facility policies should be reflective of the regulations and that is presently not happening. That should be a concern of every patient rights organization.

* It should be a DHSS requirement and also placed in Behavioral Health Grievance Procedure requirements that all resolutions to a psychiatric patient's grievance must be answered in writing. And when a facility provides a written answer, the facility must attach the appeal process. There are some Federal regulations to that effect.

Adult public assistance, the food stamp program, Veterans Administration, etc., all provide a written answer and attach the appeal process. Alaska Psychiatric Institute uses an effective, but very simple form that covers all of the requirements.

* The state should keep statistics of the number and type of grievances filed in psychiatric evaluation and treatment facilities and units including grantee facilities. State employees have said it would be too difficult to keep statistics. We disagree. We believe the state should keep statistics and they should be available to advocates and consumers so they can make rational decisions and help make improvements. (Grantee facilities are now required to maintain grievances but as of now facilities can keep the numbers secret from the public.)

* All grievances unresolved to the satisfaction of the patient are supposed to be forwarded to Behavioral Health for technical assistance. In the last 5 years, only about 5 have been forwarded. Patients have a right by statute to have their grievances heard in front of somebody impartial, but yet no patients seem to be able to do it.

* Every person who enters a psychiatric grantee facility or unit is supposed to receive an entire grievance policy and procedure. The majority of grantee policies only mention that patients will receive an abbreviated policy—not the entire procedure. Also, psychiatric patients or clients should be provided the number to DHSS and Behavioral Health.

* There should be a specific state office similar to an Ombudsman's Office, to assist psychiatric patients (and those with a developmental disability) with the grievance process.

State employees stated there should not be a specific state office to assist patients in the grievance process. State employees stated patients should be on their own until 30 or 40 days have passed as per DBH grantee grievance procedure requirements. We disagree. There should be a state office that psychiatric patients can call anytime they are having difficulty and receive help within a few days: Patients that are having trouble filing a grievance, receiving a timely answer to a grievance, or wanting to file an urgent

grievance, etc. Remember, we are talking about a group of people with dementia, and diminished capacity. A state office handling grievances should also include those persons with a developmental disability. The state of Alaska and DHSS have a statutory, if not a moral obligation, to operate such an office.

State employees have said that DHSS should not operate an office to assist in the resolution of psychiatric patient grievances. They said such an office “would interfere with patient care.” Justice and fairness never interferes with patient care.

* Behavioral Health Grantee Grievance Procedure Requirements must include a directive and guidelines for each facility to produce an urgent grievance procedure. What if the patient has a legitimate grievance—denial of service, sexual abuse, physical abuse, denial of rights granted by statute? Where is the timely oversight? Patients can’t wait 30 or 40 days or longer for a review.

The State Supreme Court said that too often “there is a tendency of psychiatric facilities to take shortcuts and operate on convenience.” It would be reasonable to include that facilities take shortcuts on the grievance procedures and patient assistance.

* The new buzz words at DHSS and AMHB is “person centered treatment”, with an emphasis on handling grievances informally. That’s not good for people with dementia or diminished capacity. Patients are repeatedly told to jump through hoops before being allowed to file a formal grievance. The statute says patients have a right to file a grievance. It should be clearly stated in the DBH requirements/ regulations that nothing should be required of a patient before being allowed to file a formal grievance.

In closing, we are asking that the entire Alaska Mental Health Board have the right to discuss and vote on these psychiatric patient rights. All patient rights organizations, including AMHB, should put these patient rights issues in front of their Board.
Thank you,

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Open Letter

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