

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

- 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>3</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>3</sup> AS 47.30.590 (b) Patient rights and the confidential nature of records and information

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APPROVED: 6-18-2007

(D H S S)

WELFARE, SOCIAL SERVICES & INSTITUTIONS

§ 47.30.660

958

(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 § 38 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" pursuant to Act 17, ch 1 FSSLA 1994.

**Effect of amendments.** — The 1991 amendment, effective December 16, 1991, added the subsection designations in subsection (a), moved paragraphs (A)-(E) and made minor stylistic changes, and renumbered subsection (D).

The 1992 amendment, effective September 30, 1992, added paragraph (15).

The 1994 amendment, effective December 16, 1994, in subsection (a), inserted "," as that term is defined by AS 47.30.050(i) in paragraph (D) and "within the limits of money appropriated for that purpose and using grants and contracts that are to be paid for from

the mental health trust income account," in paragraph (8).

**Opinions of attorney general.** — The commissioner of Health and Social Services is clearly vested with the discretion to designate a privately licensed private facility for placement of persons civilly committed by the courts to the commissioner's custody, and such discretion exists whether such commitments be pursuant to AS 47.30.660 — 47.30.915, AS 47.30.050, or AS 12.49.110, however, a statutory revision to more clearly define such powers and duties regarding regional commitments would be beneficial. July 8, 1986 Op. Atty Gen.

**Collateral references.** — 40 Am. Jur. 2d, Hospitals and Asylums, § 1 et seq.; 41 Am. Jur. 2d, Incompetent Persons, § 1 et seq.

56 O.J.S., Mental Health, § 1 et seq.

## 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

**Cross references.** — For legislative findings and purpose of the Act that enacted this article, see § 1, ch. 48, SLA 1987 in the Temporary and Special Acts.

959

**Sec. 47.30.661.** **Ata:** established. For budget board is the state planning laws relating to the me assist the state in ensur 48 SLA 1987)

**Sec. 47.30.662.** **Cor** than 16 members appoin state and balanced geog tees of the board shall f

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

(c) The board membe (1) shall include the disabilities in the depar

(2) may include rep education, vocational re assistance, substance at

(d) Board members at the board.

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

**Cross references.** — For relating to members of the bo 1991 and 1994 amendments, § 1994 in the Temporary and Sp effect of amendments. — effective December 16, 1994, r

**Sec. 47.30.663.** **Term** from

(b) A vacancy occurin of the governor for the u

(c) Members may be attendance or lack of cur

**Sec. 47.30.664.** **Offi** shall annually elect a d membership.

(b) The board shall be limited to, an executive d is in the partially exemp service of the state. The c board to ensure the boar director of the board shal director's duties. (§ 6 ch

**Effect of amendments.** — effective December 16, 1994, in "from candidates provided by the end of the first sentence, ad