

August 29, '08

Report from Trust Authority committee

Committee members: Mr. Jeff Jesse, Mr. Dave Fleurant, Ms. J. Kate Burkhart, Ms. Faith Myers, Mr. Dorrance Collins.

The committee's goal:

Put forth recommendations on how to improve Alaska's psychiatric patient grievance procedure statute, regulations, and Behavioral Health's grantee grievance procedure requirements. Recommendations were decided by a simple majority and recommendations were based on a philosophical opinion rather than on cost or data reflecting psychiatric patient complaints.

Some or all of the committee reviewed the state of Alaska's, Maine's Georgia's, and Wisconsin's psychiatric patient grievance procedure statutes, rules and/ or regulations along with JACHO's grievance procedure.

- 1. Recommendation:** It should be clearly stated in statute, regulations or requirements that a psychiatric patient or an interested party on behalf of a patient has a right to file a grievance at the time of their choosing. Patients cannot be required to go through an informal complaint process before being allowed to file a grievance.

Discussion: In Maine the following was added to grievance procedure regulations:

"Under no circumstances shall the remedies requested in a grievance be denied nor the processing of a grievance be refused because of the availability of a less formal procedure."

- 2. Recommendation:** It should be outlined in statute or regulations that all psychiatric patients have a right to file an urgent grievance.

Discussion: There should be more detail concerning due process in the grievance procedure statute or regulations describing how facilities must handle an urgent grievance—the present Behavioral Health requirement's urgent grievance procedure of elevating an urgent grievance to a Board of Directors was not acceptable. It was felt a Board could not act in a timely manner—There should be at least two staff persons reviewing an urgent grievance—What constituted an urgent grievance should be defined.

3. **Recommendation:** It should be clearly stated in statute, regulations or requirements that a grievance or a complaint filed by a psychiatric patient must receive a written answer.

Discussion: Medicaid/ Medicare see a grievance and a complaint as interchangeable—Alaska Psychiatric Institute produced a written form that easily allows for a written answer to a grievance / complaint.

4. **Recommendation:** It should be clearly stated in statute, regulations or requirements that all facilities or units treating psychiatric patients must post a notice stating that patients have a right to receive in a timely manner a copy of state statute, regulations, Behavioral Health requirements and associated rules concerning the grievance procedure.

Discussion: It was stated that other states already offer this right to psychiatric patients.—Timely was seen as within one hour.

5. **Recommendation:** DHSS/ Behavioral Health by regulation must require all facilities and units treating psychiatric patients to post the phone number of a DHSS person / position who will answer the phone and investigate complaints made by a psychiatric patient or an interested party on behalf of a patient.

Discussion: DHSS should not be involved in the initial assisting of patients filing a complaint (i.e. facilities should have an internal advocate to assist psychiatric patients), but DHSS should investigate or offer assistance if a patient does not receive a timely response or is encountering difficulty in filing a grievance. Also if the patient feels the resolution is unfair.. For sexual abuse allegations, physical abuse allegations, DHSS should be immediately informed.

6. **Recommendation:** It should be clearly stated in statute, regulation or requirements that DHSS will collect data from facilities or units treating psychiatric patients on the number and type of grievances filed by patients

Discussion: DHSS already has the authority to collect data on psychiatric patients in statute. (AS47.30.590) (b) Similar data is collected in Georgia and they use it to : “analyze such data in order to identify adverse effects upon the safety, well-being, and rights of consumers.” The information is released to the general public.

7. **Recommendation:** It should be in statute, regulations or requirements that there must be a designated staff person in all psychiatric facilities and units, who is trained as an advocate and “who will assist a psychiatric patient in bringing a grievance or other redress concerning treatment, care and rights.” The training can be accomplished by reviewing an on-line program.

Discussion: the idea of a psychiatric patient having access to an in-house advocate is in statute (AS47.30.847) But it presently only applies to a few facilities. Committee members felt it was important to have this apply to all facilities treating psychiatric patients.

8. **Recommendation:** AS47.30.847 states “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.” (No conclusion was reached on extending this right to all psychiatric patients)

Discussion: The committee could not decide what an Impartial body would look like.—It was felt a Board of Directors could not act as an impartial body in a timely way.

9. **Recommendation:** It was felt that those with a developmental disability should have access to a timely urgent grievance procedure.

Discussion: It should be in state regulations—The due process procedure should be clearly defined in state regulations.

10. **Recommendation:** That psychiatric patient grievance procedure statute AS47.30.847 needs to be revised.

Discussion: Statute needs to be revised-don’t know to what extent or how.—statute needs to be revised, even if it is just giving new direction to DHSS—There was agreement that the system could be improved, but further research on consumer complaints would be helpful.—more evidence is needed before revising to establish priorities.

The committee was unable to answer the following question in a definitive way?

11. Should one state (DHSS) psychiatric patient grievance procedure statute and associated rules cover all psychiatric facilities, psychiatric hospital units, and grantee facilities?

Discussion: a state can have different categories for a psychiatric grievance procedure—children—anyone over 18—inpatient—outpatient—forensic, etc

—there must be some uniformity within a single category in the grievance procedure regulations / grievance procedure statute.—There should be clarity and ease of access as a first consideration.

The current grievance procedure statute AS47.30.847 only applies to some psychiatric facilities. Behavioral Health grievance procedure requirements only apply to some facilities. Alaska may be the only state that civilly commits its citizens and the citizens are asked to use the Joint Commission for Accreditation of Hospital Organization's grievance procedure regulations.

Secretary,
Dorrance Collins
929-0532

Dorrance Collins

September 8, '08

Testimony to Trust Authority Board:

Many of the provisions in Behavioral Health's 4 pages of Grantee grievance procedure requirements are not fair to psychiatric patients.

And as patient advocates, we should not need x number of consumers with dementia to come forward and complain that Behavioral Health's grievance procedure requirements are not fair before we fix it. As advocates we should all be able to say, "The grievance procedure requirements are not fair," and work to change them.

According to Behavioral Health's grievance procedure requirements:

1. Patients can file a grievance.
2. Grantee facilities can ask or require patients to go through an informal process before a patient is allowed to file a grievance and there is no time limit for the informal process.
3. When patients do file a formal grievance, facilities can offer a 1st level resolution verbally which may be a denial of the patient's request.
4. After a facility denies a patient's requested resolution on a first level grievance review (within 35 days), if the patient files an appeal—the facility can answer whenever they want—the time in which a facility has to answer an appeal is open-ended.
5. Once a first level resolution is offered to a patient, the grievance is not forwarded to Behavioral Health even if the patient is unsatisfied. And patients are not routinely given the phone number to Behavioral Health to call for help.

The major rights that patients need to protect themselves in the grievance process are missing from Behavioral Health's 4 pages of Grantee grievance procedure requirements.

Changes need to be made in Behavioral Health's requirements and its going to take a commitment and pressure from patient advocates and advocacy organizations.

A bi-partisan committee made up of advocacy organizations, Alaska Mental Health Board, Disability Law Center, API employees, API Board, private citizens took one year to revise API's grievance procedure. It was a good job and API's 2008 grievance procedure should be used as a model for Behavioral Health's grievance procedure requirements.

Bear in mind that no psychiatric facility anywhere has any motivation or incentive to let a patient or a client file a grievance in a fair manner—that is why Alaska needs strong grievance statutes/ regulations and requirements to provide the incentive.
(As a note: DHSS/ Behavioral Health are providers. Why is DHSS, a provider, the primary author of psychiatric patient grievance procedure regulations.)

Patient advocates and advocacy organizations need to vocalize that they want changes. Behavioral Health is going to have to be notified that patient advocates and patient advocacy organizations want changes to an unfair system.

Thank you for your help.

Patient Advocates
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Cc: Open letter

Faith Myers
Dorrance Collins

*To be given to Board members
at the next Board meeting—
Public Comment.*

Dear William H. Hogan,
Commissioner, DHSS,

September 2, '08

Senate Bill 8 became effective law September 2, '08. DHSS had 90 days (3 months) to write new rules concerning Senate Bill 8.

For the second time, we are requesting this information from DHSS.

1. Which facilities / units treating psychiatric patients will Sen. Bill 8 apply to?
2. We are requesting a written copy of the new DHSS regulations that will be guidelines for psychiatric facilities on how they must follow Sen. Bill 8's law -- psychiatric patient's gender choice of staff for intimate care.
3. Senate Bill 8 requires all psychiatric facilities / units to "post a notice in a conspicuous place" informing psychiatric patients that they have a right to gender choice of staff for intimate care services. -- We want a sample copy of the notice produced by DHSS. We also want an actual copy of the notice produced by Alaska Psychiatric Institute.

We are not asking for anything that DHSS doesn't have to produce already. There will be little or no cost or time in sending us copies.

We are asking that the information be sent within 10 days.

Thank you,

Mental Health Advocates,
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Cc : State Ombudsman's Office
Open Letter

Faith Myers
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