

February 19, 2014

The Honorable Lance Pruitt  
Majority Leader and Member of Health and Social Services Committee  
Alaska State House of Representatives  
State Capitol, Room 204  
Juneau, AK 99801

Dear Representative Pruitt:

Thank you for your recent inquiry. I can offer the following points:

1. Under federal privacy laws (HIPAA), Providence cannot discuss the specifics regarding patient care. The Office of Public Advocacy would have to authorize the disclosure of any medical information regarding patients with a guardian.
2. We can speak in general about guardianships. Evidence and arguments presented in guardianship proceedings are confidential and are not subject to public disclosure. *See* AS 13.26.013. Whatever information is available can be found in public court records.
3. Health care providers are required by state law to make reports of harm to Adult Protective Services whenever they have reasonable cause to believe a vulnerable adult suffers from abuse or neglect.
4. Under state law, when a patient is not competent to make medical decisions on their own behalf, their (1) guardian, (2) health care agent, or (3) surrogate are allowed to make health care decisions on their behalf. Health care providers are permitted under state law, and required by their standard of care, to decline to comply with the direction of a surrogate if they determine that the surrogate is not abiding by the wishes, values, and best interest of the patient. AS 13.52.030(h). Health care providers are also permitted under state law, and required by their standard of care, to decline to comply with the direction of a guardian, agent, or surrogate if that direction requires health care that is contrary to generally accepted health care standards. AS 13.52.060(f).
5. When a temporary or permanent guardian is appointed by the court for a patient, that guardian will, in most cases, have the sole authority to make health care decisions on behalf of the patient, including decisions regarding medication and how long the patient should stay in the hospital. Accordingly, when a guardian is appointed by the court for a patient at Providence, and the court gives that guardian the sole authority to make health care decisions for the patient, Providence confers with the guardian regarding the treatment of the patient and obtains the necessary consent to treatment from the guardian.

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6. Providence only restricts visitation to a patient when that patient requests no visitors or when restricting visitation is medically necessary and in the best interests of the patient. There are many different types of medical situations in which restricting visitation, including visitation by family members, may be medically necessary. Providence attempts to work with the family and the patient to reinstitute visitation as soon as doing so is both in the best interests of the patient and requested by the patient. For patients that do not have capacity and have a guardian appointed, Providence also confers with the guardian in regards to any restrictions on visitation.

I am sending Representative Higgins a copy of this letter and I ask that he make copies available to members of the House Health and Social Services Committee. I hope this information is helpful.

Sincerely,

A handwritten signature in cursive script that reads "Laurie Herman".

Laurie Herman, Director  
Government Relations

✓ cc: Representative Pete Higgins, Chair, House Health and Social Services Committee