

Concerning SB83:

4/25/17

SB 83—“An act relating to the protection of vulnerable adults and residents of long term care facilities.”

It is absolutely necessary that Alaska bring the protection of Alaska’s vulnerable population into the 21st Century and up to best practice. Regrettably, SB 83 is poorly written.

During testimony to the House Finance Committee April 24th, the Long Term Care Ombudsman testified their office received 662 complaints from vulnerable individuals last year. Three investigators investigate the complaints state-wide. Take away weekends, holidays and vacations—each investigator averages one complaint a day.

Clarify that OLTCO made 926 visits to facilities, opened 662 cases (not the number of complaints), number of requests for assistance was over 1,214.

There is no standard by which complaints from vulnerable individuals are discounted or minimized by the state (and some are). Some states use an impartial panel to review complaints, but not Alaska.

SB 83 leaves it to the good will of the doctors and nurses, etc., to report the mistreatment or distress of the vulnerable population, same as it is today; Because there are no consequences for not reporting mistreatment and there is no state oversight, also same as it is today.

In Alaska, mandatory reporters are required to report A/N/E within 24 hours. Failure to report could result in a class B misdemeanor and possible sanctions by their licensing board. AS 47.24.010

We could envision supporting a bill that more broadly protects the elderly and Alaska’s vulnerable population from the fifty year old individual with dual diagnosis, developmentally disabled and mentally ill receiving forced treatment to the same fifty year old individual locked in Providence Psychiatric ER, unable to file a complaint in a fair way. As much as possible, all the vulnerable individuals should be protected in the same bill.—SB 83 does not do it.

Individuals with mental health diagnoses have several options for advocacy:

- The Disability Law Center of Alaska receives federal PAIMI (Protection and Advocacy for Individual with Mental Illness) funds to advocate for individuals with mental illness. They also received PADD (Protection and Advocacy for individuals with Developmental Disabilities) funds to advocate for individuals with developmental disabilities.
- The SOA Ombudsman can also investigate API to ensure they are doing their job.
- Healthcare Facilities Licensing and Certification can also investigate complaints from individuals in hospitals and API.
- API also has a staff person solely dedicated to advocacy for individuals in API, Ron Cowan.

- Our office does not have jurisdiction in API or hospitals except for transitions out into long term care facilities.

There is a necessity of improving rights for Alaska's vulnerable population:

- grievance procedure
- due process
- assistance in filing a grievance
- informing the vulnerable individual or guardians of their rights
- recognizing and providing treatment for institutional trauma
- etc.

There has to be more specifics in a bill when a bill says patient complaints will be investigated. What are the requirements for due process? What are the standards for discounting a complaint?

Without fair rights, any added protection to vulnerable individuals would be based on subjective observations and the vulnerable population would still be subjected to unnecessary mistreatment.

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Reference Information: Providence Hospital Psychiatric ER evaluated 4,500 individuals last year. Many arrived by force or in handcuffs. The industry standard would be 17% would file a complaint, conservatively it would be 100 complaints per 1000 acute care patients, yet Providence claims that only approximately 100 in total complained—No one would believe that number. It is the same with all the psychiatric facilities around the state.

There is no grievance procedure or Ombudsman's Office for individuals with a developmental disability and no grievance procedure or appeal process that takes into account special needs.