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MEMORANDUM

April 29, 2025

SUBJECT: Rights of minors in a psychiatric hospital
(CSHB 52(HSS); Work Order No. 34-LS0399\I)

TO: Representative Maxine Dibert
Attn: Mattie Hull

FROM: Allison L. Radford
Legislative Counsel 

You have asked whether the provision of CSHB 52 (Work Order No. 34-LS0399\I) (HB 52), which sets a cumulative minimum amount of time a minor receiving inpatient mental health care is entitled to communicate by telephone or video with the minor's parent, guardian, or other approved adult, is in addition to rights the minor may have to communication in current statute. The short answer to your question is "yes," HB 52 provides additional protection to the right of a minor receiving inpatient mental health care to communicate with their parent, guardian, or other approved adult.

Existing protections in the law and HB 52. AS 47.30.840 sets out several rights retained by an individual undergoing evaluation or treatment for mental health conditions. These rights apply to both adults and minors. AS 47.30.840(7) provides that a person undergoing evaluation or treatment "shall have reasonable access to a telephone, both to make and receive confidential calls" What constitutes "reasonable access" is not defined, and so could vary between facilities.¹ Nothing in HB 52 would negate or diminish the minor's existing right to reasonable access to a telephone under AS 47.30.840(7).

Whereas AS 47.30.840(7) only requires that a patient must have reasonable access to a telephone, HB 52 confers additional protections on the right of a minor to communicate with a parent, guardian, or other approved adult and imposes a more active role on the hospital to support this right.

First, HB 52 requires that a minor patient be provided "confidential telephone or video communication each week for at least one cumulative hour" with the minor's parent, legal guardian, or other approved adult. Further, HB 52 requires the hospital to "facilitate" this

¹ Note that while AS 47.30.840(7) only requires "reasonable access" to a telephone, AS 47.30.840(10) provides that a patient has "the right, *at any time*, to have a telephone conversation with or be visited by an attorney . . ." [emphasis added].

communication. These provisions require something more of the hospital than merely providing "reasonable access" to a telephone, which is all that is required under AS 47.30.840(7). Instead, each week the hospital will have to ensure the minor is provided at least the specified amount of time for communication with the minor's parent, guardian, or other approved adult unless it is prohibited by law or court order or considered therapeutically unadvisable by the professional person in charge. The hospital must also "facilitate" the communication, which, although is undefined in the bill, requires the hospital to take a more active role in ensuring these communication opportunities exist than merely passively providing reasonable access.

As noted, each facility may have a different definition of "reasonable access." Determining what is reasonable often depends on the context. For example, it may be reasonable for a facility to limit calling hours to daytime so that patients have adequate quiet time to sleep, to prohibit phone access during time periods the patient is expected to attend group activities or individual therapy, or to limit the number and length of calls a resident may make each day to ensure all patients have an opportunity to use the telephone. While HB 52 does not provide the minor the right to call a parent, guardian, or other approved adult at "any time," it does require the hospital to ensure the minor patient's opportunities to communicate with a parent, guardian, or other approved adult meet at least the minimum set by HB 52. Meeting the minimum requirement set by HB 52 may require the hospital to make exceptions to otherwise generally applicable rules around telephone use. However, the hospital can continue to place reasonable restrictions on other phone calls the minor may wish to make, including additional calls to the minor's parent, guardian, or other approved adult.

Please let me know if you have any additional questions or wish to discuss this further.

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