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MEMORANDUM

April 28, 2025

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

TO: Representative Zack Fields
Attn: Courtney Owen

FROM: Allison L. Radford
Legislative Counsel 

You have asked several questions about the provisions in CSHB 52 version I (HB 52) and amendment I.1, which both establish a cumulative minimum amount of time a minor undergoing mental health evaluation and treatment is entitled to have communication with a parent, guardian, or other approved adult. Specifically, you asked if these provisions would potentially diminish the right to communication provided to minor patients under current law. You also asked for clarification of whether, if amendment I.1 is adopted, the minor would have the right to access a parent anytime via telephone and have the right to no less than two hours of video communication with a parent, guardian, or other approved adult, or if the two hours would be split between video and telephone communication. As discussed further below, the provisions in the bill and amendment would not diminish the existing right to communication provided to minors by statute and the two hours of communication could be either by video or telephone.

Existing protections in the law; HB 52 and amendment I.1. AS 47.30.840 sets out several rights retained by an individual undergoing evaluation or treatment for mental health. 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 and patients, depending on the policy of each facility, the ratio of private rooms equipped with telephones to patients, and the specific circumstances of each patient.¹ Nothing in HB 52 or amendment I.1 would negate or diminish the minor's existing right to reasonable access to a telephone under AS 47.30.840(7).

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].

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, as you note, 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. Amendment I.1 would increase this cumulative minimum to two hours. Further, HB 52 requires the hospital to "facilitate" this 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 inadvisable 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.

Would the minor have the right to both the facilitated communication under HB 52 and to call their parents anytime? Under amendment I.1 would the minor have the right to two hours of video communication and to use the telephone at any time? As noted, nothing in HB 52 diminishes or alters the existing right of a patient under AS 47.30.840(7). The minor will still be entitled to reasonable access to a telephone to make and receive confidential calls. However, note that providing reasonable access is not the same as being able to make calls or receive calls at "any time." Each facility may have different definitions 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 or amendment I.1 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.

HB 52 and amendment I.1 do not provide a right to a minimum amount of video communication, specifically. The minimum amount of communication that must be facilitated can be either by telephone or video. The ratio of telephone to video communication provided may differ from facility to facility, depending on factors like the availability of private rooms that are equipped for video communication versus

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telephones, and may also differ depending on the preference of the minor patient, or the technology or equipment available to the minor's parent, guardian, or other approved adult. Not all parents, guardians, or approved adults will have access to the equipment and internet bandwidth required for video communication.

Please let me know if you have any additional questions or I may otherwise be of further assistance.

ALR:mis

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