

**Senator Bettye Davis
Chair—Hess Committee**

February 7, 2012

Re: Senate Hess Committee—Sen. Bill 55 needs to pass

Approximately 1000 complaints are filed verbally or in writing by psychiatric patients each year in Alaska. The current state rules do very little to protect these patients.

Over the last 50 years state and Federal courts have consistently ruled that any individuals who have not committed a crime and are locked up for psychiatric treatment cannot be treated like a criminal and their rights are to remain intact to the greatest extent possible.

As a state we are failing miserably. We give psychiatric patients a right by law to file a complaint but we don't give the right to due process or the right to file an appeal within the psychiatric facilities or to a state agency or an agency authorized by the state; Alaska may be the only state that does not protect psychiatric patients in that respect.

Most psychiatric patients need the protection a state can give, specifically psychiatric patients civilly committed 30 or 60 days, individuals detained for forced evaluation up to 7 days, individuals detained in a jail or in a Psychiatric Emergency Room while waiting for space in a psychiatric hospital.

As a state we don't keep readily available statistics of the number of complaints filed by psychiatric patients. We don't give patients a state office they can file an appeal to with due process, etc. On the other hand, individuals in prison are given all of those rights.

As a state we should be embarrassed for not protecting psychiatric patients in the grievance appeal process as numerous courts have suggested—Maine, Georgia, etc. We can fix that by giving Sen. Bill a hearing and passing the bill.

Cc: Senate HESS Committee
Co-Sponsor Sen. Bill Wielechowski
Co-Sponsor Sen. Johnny Ellis
David Fleurant
Open Letter

Mental Health Advocates
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*Faith Myers
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Reference Information

Senate Bill 55

Approximately 250 complaints are filed by patients at state-run Alaska Psychiatric Institute each year according to public records. That is from a patient population of approximately 1,200 per year.

The other hospitals that do forced evaluations and civil commitments do not make their numbers of psychiatric patient complaints available to the general public and those statistics are not kept separately by the state.

Providence Hospital and its satellites treat approximately 3000 psychiatric patients per year. A large number are forced evaluations—they may arrive in handcuffs, they are detained, etc.

North Star treats approximately 4,000 patients per year, some of them in locked facilities.

Fairbanks and Juneau hospitals do forced evaluations and civil commitments—combined, approximately 800 per year.

Numerous other hospitals do forced evaluations—Ketchikan and Kodiak, Also, patients are detained in jails, Psych ER's waiting for transfer, etc.

Psychiatric patients are court ordered to continue psychiatric treatment in private clinics through Mental Health Diversionary Court, etc.

Estimated number of complaints—1,000. Subject matter, anything from sexual assault, denial of rights to going outdoors, medication errors, mistreatment, physical assault, denied medical treatment, conflicts with staff, inability to file a complaint or an appeal in a fair way, etc.

Psychiatric patients are complaining about the grievance appeal process.

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Letter to the Editor or Comment Piece

1/28/2012

In January it was reported that the State Senate held a "Crime Summit." The Committee goal: identify issues and offer solutions.

Conspicuously absent from the Senate Committee's review was a serious, in-depth assessment of individuals with a severe mental illness who commit crimes or have crimes committed against them and how the state can make improvements.

Ninety percent of females with a mental illness who live on the street (shelters, tents, etc.) will or have at some point become a victim of sexual assault which will in itself damage the individual and will also hinder or prevent recovery from the underlying mental illness.

Men and women with a severe mental illness commit crimes or become victims in higher numbers than the average public. The costs of transportation and one day in a Psych ER can be upwards of a thousand dollars.

Approximately 10,000 individuals in Alaska because of a mental illness will come in contact with law enforcement or a locked psychiatric facility in the next 12 months. Many will be forcibly transported to Psych ER's in handcuffs for forced evaluations, civil commitment or diversionary mental health court.

When a state improves psychiatric patient rights it translates to better care and better recovery. In our opinion, Alaska as a young state has some of the worst patient rights and government oversight of psychiatric patient rights and care in the nation.

Psychiatric patient rights in Alaska need to be improved. If we had the opportunity that is the message we would convey to the state Senate "Crime Summit" Committee.

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1/20/2012

Give / Send to:

Sen. Bettye Davis,
Attn: Tom Obermeyer,

Please give Sen. Bill 55
a hearing in the HESS Committee
this year.

Detained psychiatric patients
have a right to file a grievance, but
as of now do not have a right to file
an appeal by law, state regulations or
JCAHO rules. (Alaska may be the only
state that does not give that right to
detained psychiatric patients.)

Detained psychiatric patients must
be given a state right to file an appeal
with due process within a psychiatric
facility or unit and to the state.

Thank you,

Faith Myers
Dorrance Collins

Senator Hollis French,

January 13, 2012

We read your letter 1/13/2012 in the Anchorage Daily News. The questions you raise have a large scope—We would like to add a small piece to the puzzle. Writing new laws is important, but just as important “society must change how it deals with individuals who need help.”

One Society needs to change how money, support and spare time is given to any individual with a drug or alcohol problem, i.e.—payee, oversight, work or school program, etc.

Two A large number of individuals in prison have a severe mental illness. The assessment is they cannot receive proper treatment that promotes recovery in a prison setting. Detained individuals should be given at least a small amount of time in a forensic unit in a psychiatric hospital so they have a better chance for recovery. Forty years ago, state-run Alaska Psychiatric Institute (API) had a 10 bed forensic unit. API still has a 10 bed forensic unit in 2012.

Three Thousands of individuals who have not broken any laws are transported to locked psychiatric units each year for forced evaluation or commitment, many in handcuffs. Too often, individuals who may not have broken any laws are treated like criminals, both when they are transported to a psychiatric unit, or when they are in a psychiatric unit. When society treats an honest person like a criminal, sometimes they become a criminal.

Four Too often individuals with psychiatric disorders who may not have broken any laws are held in jails and hospital ER's while waiting for space at state-run API. Disability Law Center filed a law suit against DHSS concerning that issue.

Five Almost without exception, when society improves the quality of psychiatric patient rights, the quality of patient care improves and the opportunity for recovery. Sen. Bill 55 when passed will improve the psychiatric patient grievance procedures and needs to be supported and passed by the Senators.

We would be willing to testify telephonically to your committee on these issues.

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*Faith Myers
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Cc: Open Letter

Testimony to the HESS Committee

January 1, 2012

Chairperson, Committee members,

My name is Faith Myers. I volunteer as a psychiatric patient advocate. I support the passage of Senate Bill 55.

Psychiatric patients are complaining about the current grievance procedure laws. In 2009 I performed a survey of 30 former psychiatric patients. In 2011, Disability Law Center produced a 9-page report which showed 3 patients at state-run Alaska Psychiatric Institute (API) were unsatisfied with the grievance procedure process. Also, I have personally reviewed the grievance procedures from numerous hospitals with psychiatric units from Fairbanks, to Juneau, to Kodiak. The reviewed grievance procedures are inadequate to protect an individual detained in a psychiatric unit.

In 2003, I spent 4 months in Alaska Psychiatric Institute (API) which is run by the Department of Health and Social Services (DHSS). I was never allowed to file a grievance. A grievance must be answered in writing. I never could receive a written response to my complaints or file an appeal.

In 2006 as an advocate I received records from API which showed no patient in the middle of 2005/2006 was allowed to file a grievance and receive a written response. (And possibly for years.)

The current psychiatric patient grievance procedure law (AS47.30.847) is poorly written and does not properly protect detained psychiatric patients that file a complaint. Also, the current law does not cover all detained psychiatric patients according to DHSS.

Currently the only due process rules for a detained patient's complaint come from the Joint Commission for the Accreditation of Hospital Organizations (JCAHO) and hospital policy. JCAHO gives psychiatric hospitals and units 14 days to resolve a patient's complaint and there is no appeal process mandated. Most psychiatric patients are detained less than 14 days. There is nothing in state law and very little in state regulations concerning due process for a patient's complaint or appeals.

If Sen. Bill 55 does not pass, then psychiatric institutions can go back to business as usual. When psychiatric institutions have a right to say when psychiatric patients can file a grievance and set due process rights, eventually institutions will say that no patient has a right to file a grievance.

In closing, I am asking you to pass Sen. Bill 55 which will improve in law a psychiatric patient's right to file a grievance.

Faith Myers
(907) 929-0532

Cc: Open Letter

Faith Myers

Testimony to the Senate HESS Committee

January 1, 2012

Chairperson, Committee members,

My name is Dorrance Collins. I volunteer as a psychiatric patient advocate. I support the passage of Sen. Bill 55.

I would like to establish who will be protected by Sen. Bill 55.—thousands of individuals civilly committed or brought into locked hospital psychiatric units for forced evaluations each year, sometimes in handcuffs, shackles or strapped to a gurney and individuals court-ordered to receive or continue psychiatric treatment in private or non-profit psychiatric clinics.

Over the last 20 years, the state of Alaska has authorized private hospitals and units to detain psychiatric patients, but the state has never established a sufficient grievance procedure law or regulation for detained patients in those private hospitals.

As of now, Alaska may be the only state that does not give by law or state regulations appeal process rights and due process rights to detained psychiatric patients when they file a complaint. And that needs to change.

Several state agencies are required by law to investigate psychiatric patient complaints. Psychiatric patients are not given their number and there is now no requirement to do so.

Psychiatric patients are one of the most vulnerable groups in our society and need a grievance procedure law that will provide protection. Patients need to be given appeal process rights, due process rights and an appeal process to the state.

In closing, I am asking that you pass Sen. Bill 55.

Thank you,

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Cc: Open Letter

Tom Obermeyer,
Sen. Bettye Davis's Office,

December 15, 2011

Re: Concerning current draft of Sen. Bill 55

Our concern is to close the loopholes in the proposed bill—loopholes that are all too often used to deny patients a reasonable opportunity to file a grievance.

We have underlined our suggested additions:

Page 2, line 31—it should be stated “patients have a right to file a grievance at any time.”

Page 2, line 32—Add have the right to due process with regard to grievances.

Page 3, line 4—“Patient has a right any day to consult with a patient advocate or representative of a patient’s choosing during reasonable hours.”

Page 3, line 9—“has a right anytime to bring a grievance.”

Page 3, line 25—“formal grievance procedure and appeal process.”

Add to page 6, line 6—“review, such grievances must be reviewed by the chief administrative officer, the Director or designee, who shall either arrange to hear the grievance within one working day or immediately refer the grievance to Level 1 for response.”

Dorrance Collins / Faith Myers
929-0532

Dorrance Collins
Faith Myers

Cc: Open Letter

**David Fleurant,
Exe. Dir.—Disability Law Center,**

September 28, 2011

It was not that long ago when not a single patient at state-run Alaska Psychiatric Institute could file a formal grievance or appeal and receive a written response. A written response to a patient's grievance in a timely manner is a Federal / JCAHO requirement, but the requirement is not in state law.

Approximately 250 detained (locked-up) patients voice a complaint about treatment or care each year at API. In 2005 we found out patients could not file a grievance or appeal at API in a fair way. We pushed API management to improve their one page patient grievance procedure and they did in 2007.

Several months later we asked API's patient advocate how the new 6 page patient grievance procedure was working. We were told API management in practice had not changed in any significant way how patient complaints or appeals were handled.

A recent 9 page report by your organization, at least by inductive reasoning, also shows API has not improved how patient grievances and appeals are resolved.

Numerous psychiatric facilities and units in Alaska detain psychiatric patients. (Approximately 10) After reviewing their grievance procedures and appeal process it is easy to conclude they are not doing any better than API at letting psychiatric patients file a grievance or appeal in a fair way.

Psychiatric institutions and units tend to operate in self-interest so much so it can present a clear danger to patients. The Alaska Supreme Court reminded all of us of that fact in '06. But as a state, we are still giving the job of writing the psychiatric patient appeal process to the institutions, time frame for completion, etc.

AS47.30.847, psychiatric patient grievance procedure law needs to be revised: a patient appeal process needs to be added, time frame for completion of grievance and appeals, reasonable oversight, all necessary to protect psychiatric patients and currently not in state law.

We are asking Disability Law Center to help improve the grievance procedure law and also to provide a report outlining why the law needs to be improved. Please contact us.

Cc: Sen. Betty Davis
James Gottstein, Esq.
Jeff Jesse, Trust Authority
William Streur, DHSS
Gov. Sean Parnell
Open Letter

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