



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

Department of
Health and Social Services

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August 22, 2013

Mental Health Advocates
Faith Myers / Dorrance Collins
3240 Penland Pkwy, Sp. 35
Anchorage, AK 99508

Dear Ms. Myers and Mr. Collins,

It is regretful that you found my letter dated July 16 not responsive to your request for answers to eight questions regarding the rights of disabled psychiatric patients and the duties of the Department of Health and Social Services, Division of Behavioral Health (DHSS/DBH). Your August 9 letter states that you want to know DHSS's/DBH policies and regulations rather than the law. However, DHSS/DBH's policies are based on the law and DHSS regulations have the force of law. The protection of mental health consumer rights is accomplished through federal law, state statutes, and DHSS regulations.

Alaska's mental health system encompasses a broad spectrum of community providers, services provided by general acute care hospitals, designated treatment and evaluation facilities, and a state-operated hospital. The rights of mental health consumers in these various settings are protected by statutes as well as regulations adopted by DHSS. While it is difficult to answer fully all of your questions without additional information, I offer the following general supplemental responses to your questions:

1. Question: *Do disabled psychiatric patients have a legal right by state law or regulations to assistance in the protection of their rights?*

Answer: Under federal law, The Disability Law Center of Alaska is designated as the protection and advocacy system for Alaska. The Disability Law Center assists individual mental health consumers in the protection of their rights. This assistance varies according to the individual circumstances and may include coaching for self-advocacy or even the filing of lawsuits to enforce or protect mental health consumers' rights. Alaska Statute 47.30.847(c) requires a designated staff member within the facility to assist mental health consumers who may be receiving inpatient treatment at the Alaska

** Does not apply to psychiatric units in hospitals.*

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Psychiatric Institute or any of the designated treatment and evaluation facilities, to advocate and assist the patient with grievances or protection of the patient's rights. Alaska Statute 47.30.700(a) requires the appointment of a lawyer to represent and assist mental health consumers who are subject to an order for involuntary evaluation and treatment.

2. Question: *Do psychiatric patients have a legal right by state law or regulations to file an appeal concerning their complaints within a psychiatric facility or unit and to a state agency?*

Answer: Alaska Statute 47.30.847, and DHSS regulations adopted by reference in 7 AAC 72.012, and found at 7 AAC 12.890, explain the grievance procedures for these mental health consumers. When consumers are subject to involuntary evaluation and treatment, they may have additional means of appealing the outcome of certain complaints within the context of court proceedings.

3. Question: *Is DHSS/DBH required by state law or state regulations to investigate disabled psychiatric patient complaints?*

Answer: Yes, see Alaska Statute 47.30.660(b)(12).

4. Question: *Is DHSS/DBH required by state law or state regulations to keep statistics of psychiatric patient complaints in psychiatric facilities, unit, and clinics?*

Answer: No. However, Alaska Statute 47.30.660(b)(10) requires reports from treatment facilities concerning the care of patients.

5. Question: *Is DHSS/DBH required by state law or state regulations to advocate for the advancement of better rights for psychiatric patients?*

Answer: No. However, Alaska Statute 47.30.550 charges the department with adopting regulations to assure patient rights and to safeguard the confidential nature of their records and information when receiving services provided under Title 47, Chapter 30. The Alaska Mental Health Board is required to advocate for the needs of mental health consumers under Alaska Statute 47.30.666(4).

6. Question: *Is DHSS/DBH required by state law or state regulations to make reports to the Alaska legislature and the general public concerning the number and type of complaints from psychiatric patients while receiving treatment and what needs to be done to improve the rights for psychiatric patients?*

Answer: No.

7. Question: *Is DHSS/DBH required by state law or state regulations to inform disabled psychiatric patients of their rights?*

Answer: Mental health consumers have the right to be informed of their rights in various settings. Sometimes notice of these rights is required by state law or regulation to be delivered orally, in writing, and/or by posting the list of rights.

8. Question: *Are psychiatric facilities, units, clinics required by state law or state regulations to post the phone number of the state agencies that will assist psychiatric patients with their complaints?*

Answer: Designated evaluation and treatment facilities are required by regulation to post a notice of patients' rights. Community mental health centers are required by regulation to post a bill of client rights.

Thank you for your diligence in championing for the rights of Alaska's psychiatric patients.

Sincerely,



William J. Streur
Commissioner

cc: Governor Sean Parnell
Senator Johnny Ellis
Representative Geran Tarr
Mike Lesmann, Special Assistant
State Ombudsman's Office