



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

Department of Health  
and Social Services

OFFICE OF THE COMMISSIONER

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March 17, 2022

The Honorable Liz Snyder  
The Honorable Tiffany Zulkosky  
Co-Chairs, House Health and Social Services Committee  
Alaska State House of Representatives  
Alaska State Capitol  
Juneau, AK 99801

Dear Representatives:

This letter presents responses to the House Health and Social Services Committee member questions received by the Department of Health and Social Services (DHSS) at the Tuesday, March 15, 2022 hearing on HB 172 Mental Health Facilities & Meds.

**Question Rep. Kurka:**

What are the rights of minors in this bill and in the current system?

**DHSS Response:**

The rights of minors in this bill are in Section 13. The paragraph begins at page 7, line 28, and then carries over to page 8, line 1. The rights identified are the rights identified in "AS 47.30.700 – 815." Those statutes are the current Article 9, Involuntary Admission for Treatment.

The reason the bill states "the rights identified in AS 47.30.700 – AS 47.30.815" is that it mirrors current law. Current law, AS 47.30.775, Commitment of Minors, states "The provisions of AS 47.30.700 – 47.30.815 apply to minors."

The bill places all new statutes within the numerical range of 700-815, so any right identified in the new bill would apply to minors.

The rights of minors as to the current system, with regard to medical treatment, are found in current law and this bill does not change those rights. AS 25.20.025 provides:

**Sec. 25.20.025. Examination and treatment of minors.**

- (a) Except as prohibited under AS 18.16.010(a)(3),
- (1) a minor who is living apart from the minor's parents or legal guardian and who is managing the minor's own financial affairs, regardless of the source

or extent of income, may give consent for medical and dental services for the minor;

(2) a minor may give consent for medical and dental services if the parent or legal guardian of the minor cannot be contacted or, if contacted, is unwilling either to grant or withhold consent; however, where the parent or legal guardian cannot be contacted or, if contacted, is unwilling either to grant or to withhold consent, the provider of medical or dental services shall counsel the minor keeping in mind not only the valid interests of the minor but also the valid interests of the parent or guardian and the family unit as best the provider presumes them;

(3) a minor who is the parent of a child may give consent to medical and dental services for the minor or the child;

(4) a minor may give consent for diagnosis, prevention or treatment of pregnancy, and for diagnosis and treatment of venereal disease;

(5) the parent or guardian of the minor is relieved of all financial obligation to the provider of the service under this section.

(b) The consent of a minor who represents that the minor may give consent under this section is considered valid if the person rendering the medical or dental service relied in good faith upon the representations of the minor.

(c) Nothing in this section may be construed to remove liability of the person performing the examination or treatment for failure to meet the standards of care common throughout the health professions in the state or for intentional misconduct.

In general, however, unless the specific situations described in AS 25.20.025 applies, parents have a constitutional right to direct the medical care and treatment of their child. *Huffman v. State*, 204 P.3d 339, 346 (Alaska 2009).

**Question Rep. Prax:**

What happens if a parent gets care under a Title 47 involuntary commitment and has a minor child? What happens to the child?

**DHSS Response:**

In most cases the Office of Children’s Services would not be involved when an adult is the subject of a Title 47 involuntary commitment. In many cases, there is usually an adult who is already providing care for the child should one parent find themselves being involuntarily committed. In the instances where a parent is being involuntarily committed and there are concerns of child maltreatment noted (ie: no other adult present/available who can provide care for the child) the Office of Children’s Services will be notified through our centralized intake. From there the Office of Children’s Services would follow our regular investigative protocols.

**Question Rep. Kurka:**

Can you provide the HIPAA protections for information sharing in a crisis?

**DHSS Response:**

HIPAA’s Privacy Rule addresses information sharing when a patient is incapacitated.

**§ 164.510 Uses and disclosures requiring an opportunity for the individual to agree or to object.**

- (a) (3) *Emergency circumstances.* (i) If the opportunity to object to uses or disclosures required by paragraph (a)(2) of this section cannot practicably be provided because of the **individual's incapacity** or an emergency treatment circumstance, a covered health care provider may use or disclose some or all of the protected health information permitted by paragraph (a)(1) of this section for the facility's directory, if such disclosure is: (A) Consistent with a prior expressed preference of the individual, if any, that is known to the covered health care provider; and (B) In the individual's best interest as determined by the covered health care provider, in the exercise of professional judgment.

Also, however, it is important to remember that information can be shared for “treatment operations,” even in non-crisis situations.

*§ 164.502 Uses and disclosures of protected health information: General rules.*

(a) Standard. A covered entity or business associate may not use or disclose protected health information, except as permitted or required by this subpart or by subpart C of part 160 of this subchapter.

(1) Covered entities: Permitted uses and disclosures. A covered entity is permitted to use or disclose protected health information as follows:

(i) To the individual;

(ii) For treatment, payment, or health care operations, as permitted by and in compliance with § 164.506;

“Treatment” is therefore a critical term and is defined broadly:

Treatment means the provision, coordination, or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; **consultation between health care providers relating to a patient**; or the referral of a patient for health care from one health care provider to another.

**Question Rep. Fields:**

Can the department provide a list of providers who have department approval for crisis stabilization and crisis residential services under the 1115?

**DHSS Response:**

Under the 1115 Behavioral Health Medicaid Waiver (1115 Waiver), providers can offer crisis stabilization services in different settings. The Division of Behavioral Health continues to promote the 1115 Waiver to service providers, including working closely with the provider community and agency partners to promote crisis services.

As of March 17, 2022, eight agencies have received department approval to provide 23-hour crisis observation and stabilization services (COS) and for crisis residential stabilization services (CSS), and two agencies have received department approval to provide CSS only. Each agency may have multiple locations that have been department approved to provide these services.

**Department Approval for COS & CSS:**

- ACMHS/FCMHS DBA: Alaska Behavioral Health (3 locations)
- Bartlett Regional Hospital (2 locations)
- Central Peninsula General Hospital Inc. (1 location)
- Maniilaq (1 location)
- Providence Crisis Recovery Center (1 location)
- Residential Youth Care, Inc. (6 locations)
- Restore (1 location)
- Yukon Kuskokwim Health Corporation (2 locations)

**Department Approval for CSS**

- Volunteers of America (1 location)
- Southcentral Foundation (1 location)

Department approval means that an agency submitted an application that included crisis services, but not all agencies that are approved are currently implementing crisis services.

Thank you for the opportunity for the department to provide this information.

Sincerely,



Adam Crum  
Commissioner

CC: The Honorable Ivy Spohnholz  
The Honorable Zack Fields

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March 17, 2022

The Honorable Ken McCarty

The Honorable Mike Prax

The Honorable Christopher Kurka

Mr. Al Wall, Deputy Commissioner, DHSS

Ms. Gennifer Moreau-Johnson, Division of Behavioral Health, DHSS

Mr. Vasilios Gialopsos, Legislative Director, Office of Governor Mike Dunleavy