

HOUSE BILL NO. 220

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES GARA, Berkowitz, Gruenberg, Croft, Ramras, McGuire, Lynn, Kott, Cissna, Kerttula

Introduced: 3/16/05

Referred: Health, Education and Social Services, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to mental health patient rights and to a hospital's duty to provide**
2 **choice of the sex of staff providing intimate care to a mental health patient."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 18.20 is amended by adding a new section to read:

5 **Sec. 18.20.095. Patient right to staff selection.** (a) A patient who is
6 receiving mental health treatment and who is provided intimate care at a hospital that
7 employs more than 10 staff members to attend patients has the right to request that the
8 care be given by a licensed staff member who is the sex that the patient requests.

9 (b) If a patient who is receiving mental health treatment and who is provided
10 intimate care is incapacitated and unable to make a request under (a) of this section,
11 intimate care shall be provided by a staff member who is the same sex as the patient
12 except as provided in (c)(2) of this section.

13 (c) A supervisor or manager employed by a hospital shall

14 (1) post a notice of the right provided under (a) and (b) of this section

1 in a conspicuous place in patient rooms;

2 (2) if, after reasonable and good faith efforts to comply, the hospital is
3 unable to comply with a patient request under (a) of this section or with the
4 requirement under (b) of this section, document in the patient record that intimate care
5 was provided by a staff member of the sex opposite to that requested by the patient
6 under (a) of this section or opposite to that of the patient under (b) of this section
7 because of an inability to comply;

8 (3) adopt a policy to provide intimate care as required under this
9 section; and

10 (4) distribute the policy adopted under (3) of this subsection to relevant
11 staff members before the provision of intimate care to a patient.

12 (d) In this section,

13 (1) "intimate care" means hygienic care, including bathing and
14 toileting, that involves a patient's perineal area and, for a female patient, the patient's
15 breasts; "intimate care" does not include activities done in preparation for medical
16 procedures;

17 (2) "licensed staff member" means a person licensed or certified in the
18 state under AS 08.65 (midwives), AS 08.64 (physicians and physician assistants),
19 AS 08.45 (naturopaths), or AS 08.68 (nurses and nurse aides);

20 (3) "mental health treatment" means electroconvulsive treatment,
21 treatment with psychotropic medication, or admission to and retention in a health care
22 institution for mental health treatment.