

CS FOR HOUSE BILL NO. 220(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 4/4/05

Referred: Finance

Sponsor(s): REPRESENTATIVES GARA, Berkowitz, Gruenberg, Croft, Ramras, McGuire, Lynn, Kott, Cissna, Kerttula

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. Mental health patient's right to staff selection.** (a) Except
6 as provided under (c) of this section, a patient 18 years of age or older who is
7 receiving mental health treatment and is being provided intimate care at a hospital
8 when the hospital has on duty more than 10 staff members to provide direct care to
9 mental health patients shall have a right, upon request, to care by a staff member who
10 is the sex that the patient requests.

11 (b) A supervisor or manager employed by a hospital shall

12 (1) post a notice of the right provided under (a) of this section in a
13 conspicuous place;

14 (2) if, after reasonable and good faith efforts to comply, the hospital is

1 unable to comply with a patient request under (a) of this section,

2 (A) document in the patient record that intimate care was
3 provided by a licensed staff member of the sex opposite to that requested by
4 the patient under (a) of this section; or

5 (B) because a licensed staff member is not on duty at the time
6 of the patient's request under (a) of this section, document in the patient record
7 that the intimate care was provided by an unlicensed staff member of the sex
8 opposite to that requested under (a) of this section for that reason;

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

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

13 (c) A hospital is exempt from the requirements under (a) of this section if
14 compliance would adversely affect patient treatment.

15 (d) In this section,

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

20 (2) "licensed staff member" means a person licensed or certified in the
21 state under AS 08.64 (physicians and physician assistants), AS 08.65 (midwives),
22 AS 08.68 (nurses, nurse practitioners, and nurse aides), or AS 08.84 (physical
23 therapists);

24 (3) "mental health treatment" means admission to a hospital primarily
25 for electroconvulsive treatment or treatment with psychotropic medication, or
26 admission to and retention in a health care institution for other mental health
27 treatment;

28 (4) "staff member" means a person employed by a hospital to provide
29 direct patient care.