

SENATE BILL NO. 8

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY SENATORS DAVIS, Ellis, Elton

Introduced: 1/16/07

Referred: Health, Education and Social Services, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to a mental health patient's right to choose the gender of hospital staff**
2 **providing intimate care to the mental health patient and to the duties of hospital staff in**
3 **caring for patients receiving mental health treatment."**

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

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

6 **Sec. 18.20.095. Mental health patient's right to select staff; duties of**
7 **hospital staff.** (a) Except as provided in (d) of this section, a patient 18 years of age or
8 older who is receiving mental health treatment and being provided intimate care at a
9 hospital shall have a right to have care provided by a staff member who is the gender
10 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; and

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

1 unable to comply with the requirement 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 gender opposite to the gender
4 requested by the patient under (a) of this section; or

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

9 (c) Staff members employed by a hospital shall, in regard to patients receiving
10 mental health treatment,

11 (1) provide privacy for each patient, especially for patients who are the
12 opposite gender and especially when patient care involves intimate bodily functions,
13 unavoidable intimate touching, or nudity;

14 (2) except when necessitated by a medical emergency that is
15 documented in the patient's record, avoid entering patient care areas for a person of the
16 opposite gender and areas specified for persons of the opposite gender; and

17 (3) only conduct routine safety checks and rounds of bedrooms,
18 bathrooms, and shower areas of a patient who is the same gender as the staff member.

19 (d) A hospital is exempt from the requirements of (a) of this section if the
20 treating psychiatrist for the patient at the hospital determines that compliance would
21 adversely affect patient treatment and the psychiatrist documents the determination in
22 the patient's record.

23 (e) In this section,

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

28 (2) "licensed staff member" means a person who is employed by the
29 hospital to provide direct patient care and who is licensed or certified in the state as a
30 physician or physician assistant under AS 08.64, direct-entry midwife under AS 08.65,
31 nurse or nurse aide under AS 08.68, or physical therapist or occupational therapist

1 under AS 08.84;

2 (3) "mental health treatment" means admission to a hospital primarily
3 for electroconvulsive treatment or treatment with psychotropic medication, or
4 admission to and retention in a health care institution for other mental health
5 treatment;

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