

SENATE BILL NO. 186

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY SENATOR DAVIS

Introduced: 1/16/08

Referred: Health, Education and Social Services, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to a mental health patient grievance procedure."**

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

3 * **Section 1.** AS 44.64.030(a) is amended by adding a new paragraph to read:

4 (40) AS 47.30.847(b)(4)(C) (mental health grievance appeals).

5 * **Sec. 2.** AS 47.30.847 is repealed and reenacted to read:

6 **Sec. 47.30.847. Patient grievance procedure.** (a) A person undergoing
7 evaluation or treatment at a public or private evaluation facility or unit or designated
8 treatment facility or unit under AS 47.30.660 - 47.30.915 has the right to bring a
9 grievance about the person's treatment, care, or rights at the evaluation facility or unit
10 or designated treatment facility or unit.

11 (b) An evaluation facility or unit and a designated treatment facility or unit
12 shall have a formal grievance procedure for all patient grievances brought under (a) of
13 this section regardless of the availability of a less formal procedure for comments and
14 suggestions and regardless of the outcome of the less formal procedure. The grievance
15 procedure must include

1 (1) a form for submission of a grievance and a secure box for deposit
 2 of grievances; the contents of the box must be reviewed each day patients are being
 3 treated or evaluated; the form must be readily accessible to the patient and easily
 4 understood by the patient or easily explained by a staff member in a language and
 5 method understandable to the patient; the original and a copy of a completed form
 6 submitted to the facility must be kept in the patient's record; the form must include the

7 (A) name of the grievant and the grievant's contact information;

8 (B) name and location of the service provider;

9 (C) date on which the event giving rise to the grievance took
 10 place;

11 (D) name of people involved in the event giving rise to the
 12 grievance;

13 (E) description of the event giving rise to the grievance;

14 (F) specific issue to be addressed; and

15 (G) suggested resolution of the grievance;

16 (2) notice of the availability and content of the grievance procedure
 17 and the associated policies provided to each patient or the patient's representative in
 18 writing;

19 (3) signed verification of the information provided under (1) and (2) of
 20 this subsection;

21 (4) three levels of review, as follows:

22 (A) level one, an initial review by a supervisory staff member
 23 to determine whether a grievant's treatment, care, or rights have been adversely
 24 affected and, if so, implementation of a mutually agreed upon resolution of the
 25 grievance;

26 (B) if a resolution is not agreed upon or implemented under a
 27 level-one review, level two, review by a chief executive officer of a private
 28 facility or by the commissioner's designee for a public facility initiated by a
 29 grievant within 20 days after the determination made under level one; if the
 30 level-two review results in a finding of no adverse effect, no additional review
 31 is necessary, but the decision may be appealed by a grievant;

1 (C) level three, a grievant may appeal the final written decision
 2 made under level two of this section to the office of administrative hearings
 3 (AS 44.64.010) under AS 44.62.330 - 44.62.630 within 20 days after receipt of
 4 the findings of the level-two review;

5 (5) maintenance of a complete record of all documents, including the
 6 grievance and responses to the grievance;

7 (6) immediate delivery of a copy of all documents maintained under
 8 (5) of this subsection to

9 (A) the division of the department that is responsible for
 10 behavioral health;

11 (B) the person responsible for the next level of review; and

12 (C) the person in charge of the facility or unit; and

13 (7) in addition to the three levels of review provided under (4) of this
 14 subsection, an urgent level of review to be conducted by the chief executive officer of
 15 a private facility or unit or by the commissioner for a public facility within 24 hours
 16 after receipt of a grievance that alleges

17 (A) sexual abuse;

18 (B) physical abuse; or

19 (C) denial of

20 (i) lifesaving treatment or procedures;

21 (ii) lifesaving medications; or

22 (iii) basic care or human rights, as defined by the
 23 commissioner.

24 (c) Unless an extension of time is agreed upon by a patient or the patient's
 25 representative, an evaluation facility or unit or a designated treatment facility or unit
 26 shall mail or hand deliver a written response to the patient within five days after
 27 receipt of a grievance or request for additional review. The response must include the
 28 reasons for the decision and a description of the appeal process. The grievant may
 29 request review at the next level if a written response is not timely.

30 (d) An evaluation facility and a designated treatment facility shall have a
 31 designated staff member who is trained in mental health consumer advocacy who shall

1 serve as an advocate, upon a patient's request, to assist the patient in bringing
2 grievances or pursuing other redress for complaints concerning care, treatment, and
3 rights.

4 (e) A grievant may not file a grievance or an appeal later than one year after
5 being discharged from the facility or unit.

6 (f) The burden of proof required for all grievance reviews shall be on the
7 facility or unit against which a grievance is filed to prove compliance or remedial
8 action sufficient to comply with applicable laws and procedures.

9 (g) The department shall review all grievances and responses to grievances for
10 compliance with this section.

11 (h) A public or private mental health treatment facility or unit shall prepare
12 and file an annual report with the department that describes the

13 (1) number of grievances submitted;

14 (2) general issue raised in each grievance; and

15 (3) resolution, including litigation, of all grievances submitted.

16 (i) Nothing in this section shall be interpreted to prohibit informal dispute
17 resolution or mediation by the department at any time during the grievance process but
18 before a lawsuit concerning the subject of the grievance is filed by a grievant.

19 (j) In this section,

20 (1) "grievance" means a complaint, concern, or suggestion made by a
21 grievant on a form provided by a public or private mental health treatment or
22 evaluation facility or unit;

23 (2) "grievant" means a patient of a public or private mental health
24 treatment or evaluation facility or unit or the patient's representative.