

**SENATE BILL NO. 66**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SIXTH LEGISLATURE - FIRST SESSION

**BY SENATOR DAVIS**

**Introduced: 1/21/09**

**Referred: Health 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 (41) AS 47.30.847(b)(4)(C) (mental health patient 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5 \* **Sec. 2.** AS 47.30.847 is repealed and reenacted to read: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 to an  
9 impartial body as a formal grievance suggestions about, complaints about, and appeals  
10 related to the person's treatment, care, or rights at the evaluation facility or unit or  
11 designated treatment facility or unit. The person may designate a representative to  
12 bring and appeal a grievance on the person's behalf.

13 (b) An evaluation facility or unit and a designated treatment facility or unit  
14 shall provide a formal grievance procedure that includes due process for all patient  
15 grievances on any subject brought under (a) of this section, regardless of the

1 availability of a less formal procedure for comments and suggestions and regardless of  
 2 the outcome of the less formal procedure. Once filed, all formal grievances shall be  
 3 processed on a single form and completed to resolution. The grievance procedure must  
 4 include

5 (1) a form for submission of a grievance and a secure box for deposit  
 6 of grievances; the contents of the box must be reviewed each day patients are being  
 7 treated or evaluated; the form must be readily accessible to the patient and easily  
 8 understood by the patient or easily explained by a staff member in a language and  
 9 method understandable to the patient; the original and a copy of a completed form  
 10 submitted to the facility must be kept in the patient's record; the form must contain the  
 11 heading "Alaska Department of Health and Social Services, Division of Mental  
 12 Health, Grievance Reporting Form," and include

13 (A) the name of the grievant and the grievant's contact  
 14 information, including the grievant's address and telephone number;

15 (B) the date and time of the completion of the grievance form;

16 (C) the name and physical location of the service provider;

17 (D) the date on which the event giving rise to the grievance  
 18 took place;

19 (E) the names of persons involved in the event giving rise to  
 20 the grievance;

21 (F) a narrative description of the event giving rise to the  
 22 grievance;

23 (G) the specific issue to be addressed;

24 (H) the grievant's suggested resolution of the grievance;

25 (I) the investigative steps taken to formulate the facility's or  
 26 unit's response;

27 (J) the response and date of response by the facility or unit;

28 (K) the signature of the grievant at each level, including the  
 29 initial grievance;

30 (L) the signature of the reviewer and date of review for each  
 31 level of review; and

1 (M) options for the grievant to check following each response  
2 by the facility or unit, as follows:

3 (i) I agree;

4 (ii) I do not agree;

5 (iii) submit to level two review;

6 (iv) submit to level three review, a formal hearing  
7 before the office of administrative hearings;

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

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

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

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

18 (B) if a resolution is not agreed upon or implemented under a  
19 level-one review, level two, review by a chief executive officer of a private  
20 facility or by the commissioner's designee for a public facility initiated by a  
21 grievant within 20 days after the determination made under level one; if the  
22 level-two review results in a finding of no adverse effect, no additional review  
23 is necessary, but the decision may be appealed under (C) of this paragraph by a  
24 grievant;

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

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

31 (6) immediate delivery of a copy of all documents maintained under

1 (5) of this subsection to

2 (A) the division of the department that is responsible for  
3 behavioral health;

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

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

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

10 (A) sexual abuse;

11 (B) physical abuse; or

12 (C) denial of

13 (i) lifesaving treatment or procedures;

14 (ii) lifesaving medications; or

15 (iii) basic care or human rights, as defined by the  
16 commissioner; and

17 (8) a written response to the grievant on the form required by (1) of  
18 this subsection within five days after receipt of the grievance.

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

26 (d) An evaluation facility or unit and a designated treatment facility or unit  
27 shall have a designated staff member who is trained in mental health consumer  
28 advocacy who shall, on a patient's request, serve as an advocate to assist the patient in  
29 bringing grievances or pursuing other redress for complaints concerning care,  
30 treatment, and rights.

31 (e) A grievant may file a grievance at any time, except that a grievant may not

1 file a grievance or an appeal later than one year after being discharged from the  
2 facility or unit.

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

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

8 (h) A public or private mental health treatment facility or unit shall prepare  
9 and file a quarterly report with the department that describes the

10 (1) number of grievances submitted;

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

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

13 (i) Nothing in this section shall be interpreted to prohibit informal dispute  
14 resolution or mediation by the written agreement of the grievant, the facility or unit,  
15 and the department at any time during the grievance process but before a lawsuit  
16 concerning the subject of the grievance is filed by a grievant.

17 (j) In this section,

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

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