

HOUSE BILL NO. 214

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES HIGGINS, TARR, AND GATTIS, Muñoz

Introduced: 1/21/14

Referred: Health and Social Services, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to mental health patient rights, notifications, and grievance
2 procedures."

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

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

5 (51) AS 47.30.847(a)(3) (mental health patient grievance appeals).

6 * **Sec. 2.** AS 47.30.840(a) is amended to read:

7 (a) A person undergoing evaluation or treatment under AS 47.30.660 -
8 47.30.915

9 (1) may not be photographed without the person's consent and that of
10 the person's guardian if a minor, except that the person may be photographed upon
11 admission to a facility for identification and for administrative purposes of the facility;
12 all photographs shall be confidential and may only be released by the facility to the
13 patient or the patient's designee unless a court orders otherwise;

14 (2) at the time of admission to an evaluation or treatment facility, shall

1 have reasonable precautions taken by the staff to inventory and safeguard the patient's
2 personal property; a copy of the inventory signed by the staff member making it shall
3 be given to the patient and made available to the patient's attorney and any other
4 person authorized by the patient to inspect the document;

5 (3) shall have access to an individual storage space for the patient's
6 private use while undergoing evaluation or treatment;

7 (4) shall be permitted to wear personal clothing, to keep and use
8 personal possessions including toilet articles if they are not considered unsafe for the
9 patient or other patients who might have access to them, and to keep and be allowed to
10 spend a reasonable sum of the patient's own money for the patient's needs and
11 comfort;

12 (5) shall be allowed to have visitors at reasonable times;

13 (6) shall have ready access to letter writing materials, including
14 stamps, and have the right to send and receive unopened mail;

15 (7) shall have reasonable access to a telephone, both to make and
16 receive confidential calls;

17 (8) has the right to be free of corporal punishment;

18 (9) has the right to reasonable opportunity for indoor and outdoor
19 exercise and recreation;

20 (10) has the right, at any time, to have a telephone conversation with or
21 be visited by an attorney;

22 (11) may not be retaliated against or subjected to any adverse change
23 of conditions or treatment solely because of assertion of rights under this section;

24 **(12) has the right to file a grievance under AS 47.30.847;**

25 **(13) has the right to a designated representative employed and**
26 **clearly identified by an evaluation facility or unit or a designated treatment**
27 **facility or unit to act as a patient advocate and to assist in the filing of a grievance**
28 **under AS 47.30.847;**

29 **(14) who has been evaluated or treated in a locked evaluation**
30 **facility or unit or a designated treatment facility or unit for more than three days**
31 **has the right to a reasonable opportunity to maintain natural support systems,**

1 **including family, friends, and help networks.**

2 * **Sec. 3.** AS 47.30.847 is repealed and reenacted to read:

3 **Sec. 47.30.847. Patient grievance procedure.** (a) The department shall
4 establish a standardized statewide mental health patient grievance procedure for the
5 benefit of any person who is undergoing evaluation or treatment at an evaluation
6 facility or unit or designated treatment facility or unit under AS 47.30.660 - 47.30.915.
7 The grievance procedure must include

8 (1) a 24-hour crisis telephone line operated by the department for filing
9 and reviewing a grievance;

10 (2) a standardized form for filing a grievance;

11 (3) an appeal procedure that includes an administrative appeal to an
12 impartial body designated by the department;

13 (4) a standardized notice of the grievance and appeal procedure;

14 (5) regular monitoring of compliance with the procedure; and

15 (6) timely records review and maintenance.

16 (b) An evaluation facility or unit and a designated treatment facility or unit
17 shall comply with the grievance procedure established in (a) of this section, regardless
18 of the availability of a less formal procedure for comments and suggestions. Once
19 filed, all grievances shall be processed on a single form and completed to resolution.
20 The facility or unit shall

21 (1) provide a form approved by the department for submission of a
22 grievance and a secure box for deposit of grievances; the contents of the box must be
23 reviewed each day a patient is being treated or evaluated; the form must be readily
24 accessible to the patient and easily understood by the patient or easily explained by a
25 staff member in a language and method understandable to the patient; the original and
26 a copy of a completed form submitted to the facility or unit must be kept in the
27 patient's record;

28 (2) maintain a complete record of all documents, including the
29 grievance and appeals and responses to the grievance and appeals;

30 (3) deliver to the department within 24 hours an electronic copy of the
31 initial grievance and all documents received under (2) of this subsection; and

1 (4) conduct an urgent level of review and provide to the grievant a
2 decision within 24 hours after receipt of a grievance that alleges

3 (A) sexual abuse;

4 (B) physical abuse; or

5 (C) denial of

6 (i) lifesaving treatment or procedures;

7 (ii) lifesaving medications; or

8 (iii) basic care or human rights, as defined by the
9 commissioner.

10 (c) Unless an extension of time of not more than five business days is agreed
11 to by a patient or the patient's representative, an evaluation facility or unit or a
12 designated treatment facility or unit shall mail or hand deliver a written response to the
13 patient and an electronic copy of the response to the department within five days after
14 receipt of a grievance or request for additional review. The response must include the
15 reasons for the decision and a description of the appeal process. The grievant may
16 request review by the commissioner within five business days if a written response is
17 not consistent with this section or AS 47.30.840.

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

23 (e) A grievant may not file a grievance or an appeal later than one year after
24 being discharged from an evaluation facility or unit or a designated treatment facility
25 or unit. The facility or unit shall make a good faith effort to mail a response to a
26 grievant who has been discharged from the facility.

27 (f) The department shall review all grievances and responses to grievances for
28 compliance with this section and intervene when necessary to protect rights under
29 AS 47.30.840.

30 (g) An evaluation facility or unit and a designated treatment facility or unit
31 shall prepare and file a quarterly report with the department that describes the

- 1 (1) number of grievances submitted;
- 2 (2) general issue raised in each grievance; and
- 3 (3) resolution, including litigation, of all grievances submitted.

4 (h) The department shall provide to the governor and to the legislature a
 5 biennial report of the number, locations, and types of grievances filed under this
 6 section and recommendations of the department to improve mental health evaluation,
 7 treatment, and procedures in the state. The report must preserve the confidentiality of a
 8 person who is the subject of a grievance. The department shall make the report
 9 available to the public.

10 (i) In this section,

11 (1) "grievance" means a complaint or concern filed by a grievant on a
 12 form provided by an evaluation facility or unit or a designated treatment facility or
 13 unit;

14 (2) "grievant" means a patient of an evaluation facility or unit or a
 15 designated treatment facility or unit, or the patient's representative;

16 (3) "unit" means a portion of a health care facility dedicated to the
 17 evaluation or treatment of mental health patients.

18 * **Sec. 4.** AS 47.30.855 is amended by adding new subsections to read:

19 (b) The department shall provide to an evaluation facility or unit or designated
 20 treatment facility or unit for posting and distribution a standardized notice that is
 21 designed to be easily understood and that separately describes patient rights, available
 22 assistance, and the grievance procedure described in AS 47.30.847.

23 (c) A person in charge of an evaluation facility or unit or designated treatment
 24 facility or unit shall ensure that each patient or patient's representative receives a
 25 written copy of the standardized notice provided by the department under (b) of this
 26 section and of the grievance procedure described in AS 47.30.847.

27 (d) In this section, "unit" has the meaning given in AS 47.30.847.