

1 IN THE HOUSE

BY BOYER

2

HOUSE BILL NO. 347

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to mental health; and amending Rule

7

3, Alaska Rules of Civil Procedure."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 47.30.660 is amended by adding a new paragraph to read:

10 (15) set standards under which each designated treatment

11 facility shall provide programs to meet patients' medical, psychologi-

12 cal, social, vocational, educational, and recreational needs.

13 * Sec. 2. AS 47.30.800(b) is amended to read:

14 (b) Upon making the findings specified in (a) of this section,

15 the provisions of AS 47.30.795(c) [AS 47.30.795(b)] relating to notice

16 and AS 47.30.745 relating to hearing apply.

17 * Sec. 3. AS 47.30.825(b) is amended to read:

18 (b) A patient and, if the patient requests, a mental health

19 professional previously engaged in the patient's care or another

20 representative of the patient's choice, are [, OR THE PATIENT'S COUN-

21 SEL, GUARDIAN, OR THE ADULT DESIGNATED IN ACCORDANCE WITH AS 47.30.725

22 IF THE PATIENT IS MENTALLY INCAPABLE OF PARTICIPATION, IS] entitled to

23 participate in formulating the patient's individualized treatment plan

24 and to participate in the evaluation process as much as possible.

25 Participation may include [, AT MINIMUM TO THE EXTENT OF] requesting

26 specific forms of therapy, inquiring why specific therapies are or are

27 not included in the treatment program, and being informed as to the

28 patient's present medical and psychological condition and prognosis.

29 The treating physician may not withhold any of this information from

1 the patient.

2 * Sec. 4. AS 47.30.825(d) is amended to read:

3 (d) A locked quiet room, or other form of physical restraint,
4 may not be used, except as provided in this subsection, unless a
5 patient is likely to physically harm self or others unless restrained.
6 The form of restraint used shall be that which is in the patient's
7 best interest and which constitutes the least restrictive alternative
8 available. During the initial stages of treatment planning [WHEN
9 PRACTICABLE], the patient shall be consulted as to the patient's
10 preference among forms of adequate, medically advisable restraints
11 including medication, and that preference shall be honored [CONSIDER-
12 ED]. Nothing in this section is intended to limit the right of staff
13 to use a quiet room at the patient's request or with the patient's
14 knowing concurrence when considered in the best interests of the
15 patient. Patients placed in a quiet room or other physical restraint
16 shall be checked at least every 15 minutes or more often if good
17 medical practice so indicates. Patients in a quiet room must be visit-
18 ed by a staff member at least once every hour and must be given ade-
19 quate food and drink and access to bathroom facilities. At no time
20 may a patient be kept in a quiet room or other form of physical re-
21 straint against the patient's will longer than necessary to accomplish
22 the purposes set out in this subsection. All uses of a quiet room or
23 other restraint shall be recorded in the patient's medical record, the
24 information including but not limited to the reasons for its use, the
25 duration of use, and the name of the authorizing staff member.

26 * Sec. 5. AS 47.30.825(e) is amended to read:

27 (e) A patient has the right to be free from unnecessary or
28 excessive medication. Psychotropic medication shall be administered
29 only on the order of a licensed physician when the physician

1 determines that this medication is in the best interest of the pa-
2 tient, or will prevent serious harm to the patient or others.

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

4 (a) A person undergoing evaluation or treatment under AS 47.30.-
5 660 - 47.30.915

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

12 (2) at the time of admission to an evaluation or treatment
13 facility, shall have reasonable precautions taken by the staff to
14 inventory and safeguard the patient's personal property; a copy of the
15 inventory signed by the staff member making it shall be given to the
16 patient and made available to the patient's attorney and any other
17 person authorized by the patient to inspect the document;

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

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

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

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

29 (7) shall have reasonable access to a telephone, both to

1 make and receive confidential calls;

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

3 (9) has the right to indoor and outdoor exercise and recre-
4 ation;

5 (10) has the right, at any time, to have a telephone conver-
6 sation with or be visited by an attorney;

7 (11) may not be retaliated against or subjected to any
8 adverse change of conditions or treatment solely because of assertion
9 of rights under this section.

10 * Sec. 7. AS 47.30 is amended by adding new sections to read:

11 Sec. 47.30.847. PATIENTS' GRIEVANCE PROCEDURES. (a) A patient
12 has the right to bring grievances about the patient's treatment, care,
13 or rights to an impartial body within the designated treatment facil-
14 ity.

15 (b) A designated treatment facility shall have a formal griev-
16 ance procedure for patient grievances brought under (a) of this sec-
17 tion. The facility shall inform each patient of the existence and
18 contents of the grievance procedure.

19 (c) A designated treatment facility that has an average patient
20 population over 35 shall have on staff a consumer advocate to assist
21 patients in bringing grievances or pursuing other redress for com-
22 plaints concerning care, treatment, and rights.

23 Sec. 47.30.848. JUDICIAL REMEDIES FOR PATIENTS. (a) After
24 completing the grievance procedure established under AS 47.30.847, a
25 patient or the patient's representative has the right to file a peti-
26 tion in the superior court that is nearest to where the facility is
27 located alleging that the patient is being unjustly denied a right or
28 privilege granted under this chapter or that a procedure authorized by
29 this chapter is being abused. This remedy is in addition to any other

1 remedy provided by law.

2 (b) When acting upon a petition filed under this section, the
3 court may conduct a judicial inquiry and issue appropriate orders to
4 correct an abuse under this chapter.

5 * Sec. 8. AS 47.30.850 is amended to read:

6 Sec. 47.30.850. EXPUNGEMENT OF RECORDS. Following the discharge
7 of a respondent from a treatment facility or the issuance of a court
8 order denying a petition for commitment, the respondent may at any
9 time move to have all court records pertaining to the proceedings
10 expunged on condition that the respondent file a full release of all
11 claims of whatever nature arising out of the proceedings and the
12 statements and actions of persons and facilities in connection with
13 the proceedings. Upon the filing of the motion and full release, the
14 court shall order the court records expunged.

15 * Sec. 9. AS 47.30.848, enacted by sec. 7 of this Act, has the effect
16 of amending Rule 3, Alaska Rules of Civil Procedure, by limiting where
17 particular types of actions can be commenced.