

**HB**

**318**

# HOUSE COMMITTEE REPORT

(7)

Date Referred: April 21, 1995

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 3/7/96

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 318

HOUSE BILL NO. 318

MENTAL HEALTH TREATMENT DECLARATIONS

"An Act relating to advance directives for mental health treatment."

recommends it be replaced  the same title  
 with the following committee substitute \_\_\_\_\_  a new title

additional referral to \_\_\_\_\_ Committee

attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): \_\_\_\_\_ (Dept)

APPROVES PREVIOUS: \_\_\_\_\_ (Dept/Date)

fiscal note(s) \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note(s) H+SS

zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	<input checked="" type="checkbox"/>			

CHAIR'S SIGNATURE *[Signature]*





Official Business

# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

REPRESENTATIVE CYNTHIA TOOHEY

State Capitol  
Juneau, AK 99801-1182

DISTRICT 13

SPONSOR STATEMENT

HOUSE BILL 318

"An Act relating to advance directives for mental health treatment"

House Bill 318 allows a person to make advance directives regarding his or her mental health treatment in the event that the person's condition makes him or her unable to make treatment decisions. The advance directives would address the use of psychotropic medications, electroconvulsive therapy, and length of short-term admission to a treatment facility.

The declaration containing the advance directives would be made when an individual was of sound mind. That individual could appoint an attorney-in-fact to act on his or her behalf if the individual became incapable. For an attorney-in-fact to act, the individual would need to be considered incapable by a court, by two physicians that include a psychiatrist, or by a physician and a professional mental health clinician. The declaration would become effective only when the individual was determined to be incapable.

The declaration would be effective for three years unless the individual became incapable. In that case, the declaration would remain in effect until the individual was no longer incapable. If an individual is capable, a declaration may be revoked in whole or in part at any time.

The declaration provides the individual the opportunity to make his or her wishes known on the treatments that have worked in the past and that he or she desires in the future as well as treatments that have not worked in the past, or that he or she does not desire in the future. Most importantly, it provides for a substitute decision maker with whom the doctors would consult should the declaration not be specific enough or the doctors are recommending a treatment not specified.

This legislation is based on a similar law in Oregon. They have found that individuals who had fought hospitalization and medication in the past, now were more willing to go to the hospital because they felt their decisions would be heeded.

Among the supporters of House Bill 318 are Charter North, Alaska State Hospital and Nursing Home Association, Southcentral Counseling Center, the Mental Health Association in Alaska, the Mental Health Consumers of Alaska, and the Department of Health and Social Services. Your support would be appreciated.

INTERIM ADDRESS: 716 West 4th Avenue, Suite 330, Anchorage, 99501-2133

SPONSOR STATEMENT

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

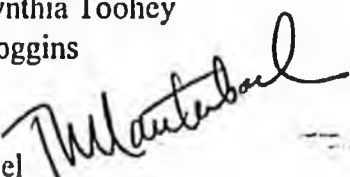
## MEMORANDUM

February 6, 1996

FEB 6 1996

**SUBJECT:** Sectional Summary of HB 318. (An Act relating to advance directives for mental health treatment)

**TO:** Representative Cynthia Toohey  
Attn: Marveen Coggins

**FROM:** Terri Lauterbach   
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

**Section 1.** Enacts a new article in AS 47.30 under which a person, while still competent, may execute a declaration as to the person's preferences for mental health treatment if the person becomes mentally incompetent. The person may also appoint an attorney-in-fact to make mental health decisions for the person if the person becomes incapable of those decisions. The attorney-in-fact must try to implement the declaration if it states the person's preference for mental health treatment. The declaration is not good for longer than three years, except that if the declarant becomes incompetent during those three years, the declaration stays in effect until the declarant again becomes competent to make decisions.

**Section 2.** This section adds language to the statutory form for a general power of attorney so that the relationship between a general power of attorney and the power of attorney given under sec. 1 is clear.

**Section 3.** This section makes the same type of clarification as in sec. 2. It also clarifies that an attorney-in-fact may consent to forms of treatment otherwise not allowed if the attorney-in-fact was appointed under sec. 1 and the declarant under sec. 1 expressed a wish to have those forms of treatment.

**Section 4.** This section allows a person with a power of attorney that includes decisions relating to mental health treatment for a particular person to be part of the group that helps

Representative Cynthia Toohey

February 6, 1996

Page 2

formulate an individualized treatment plan for that person when the person is a patient in a mental health treatment facility.

**Section 5.** This section allows an attorney-in-fact to authorize electroconvulsive therapy or aversive conditioning for a person who has authorized the attorney-in-fact to make that choice for the person.

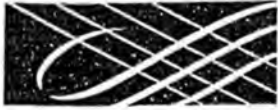
**Section 6.** This section allows an attorney-in-fact to authorize the use of psychotropic medication for a person who has authorized the attorney-in-fact to make that choice for the person.

**Section 7.** Technical amendment related to the next section.

**Section 8.** This section is like sec. 6, but applies in a slightly different statutory context.

TML:klb

96-067.klb



Charter North  
Behavioral Health System

2530 DeBarr Road  
Anchorage, Alaska 99508  
(907) 258-7575 • Fax (907) 277-7844

February 10, 1996

FEB 15 1996

Representative Cynthia Toohey  
State Capitol, Room 104  
Juneau, Alaska 99801-1182

Dear Representative Toohey:

I am writing in response to your letter regarding House Bill 318. I have reviewed the bill and am in support of the proposed legislation regarding advance directives for mental health treatment.

Please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Kathleen M. Cronen".

Kathleen M. Cronen  
Chief Executive Officer

ALASKA STATE

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# HOSPITAL & NURSING HOME

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ASSOCIATION

March 5, 1996

Representative Cynthia Toohey  
State Capitol Building  
Juneau, Ak 99801-1182

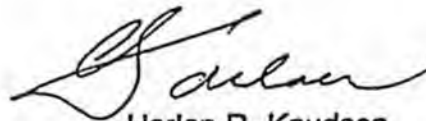
Re: HB 318, Advanced directives for  
Mental Health

Dear Representative Toohey:

ASHNHA, representing community hospital and nursing homes from across the state endorses and supports HB 318, advanced directives for mental health treatment.

We support consumer decisions concerning appropriate treatment choices which would carry over when an individual has suffered a decompensation and is no longer of a sound mind. Advanced directives would provide opportunity for communication concerning treatment choices and increase personal responsibility among mentally ill individuals.

Sincerely,



Harlan R. Knudson  
President/CEO



# Southcentral

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## COUNSELING CENTER

4020 Folker Street · Anchorage, Alaska 99508

(907) 563-1000  
FAX 563-2045

DEC 4 1995

November 29, 1995

Representative Cynthia Toohey  
Room 104  
State Capitol  
Juneau, Ak 99801-1182

Dear Representative Toohey:

This letter is in support of House Bill 318, Declaration for Mental Health Treatment. Mental Health Consumers of Alaska used declaration models from other states to work towards developing legislation that would allow Alaskans to establish a document stipulating the consumer's mental health treatment preferences, much like a living will. The consumer would have this document prepared in the event they are declared mentally incompetent.

The management and staff at Anchorage Community Mental Health Services, Inc., support House Bill 318, and feel that the declaration process would help to empower the consumer. The ACMHS Board of Directors adopted a recommendation in support of the Declaration for Mental Health Treatment at their October 20, 1994, Board meeting.

The Board, management, and staff of Anchorage Community Mental Health Services appreciated your introduction of House Bill 318, and the mental health community applauds your continued support of this bill.

Sincerely,

Ken Taylor  
Executive Director

cc: Dorothy Peavey  
Mental Health Consumers of Alaska





Working for  
Alaska's  
Mental  
Health

NOV. 27 1995

DEC 1 1995

## Mental Health Association in Alaska

4050 Lake Otis Parkway, Suite 202 • Anchorage, Alaska 99508-5221 • (907) 563-0880 • Fax (907) 563-0881

November 24, 1995

Dorothy Peavey, M.S.W.  
Executive Director  
Mental Health Consumers of Alaska  
101 East 9th Avenue, Suite 3-A  
Anchorage, Alaska 99501

Re: "An Act Relating to Advance Directives for Mental Health Treatment"  
House Bill 318 - Senate Bill 159

Dear Ms. Peavey:

The governing Board of Directors supports the legislation the Mental Health Consumers of Alaska has brought to the attention of Alaskan lawmakers, i.e. House Bill 318 and Senate Bill 159. It is our strong belief that this method of self-advocacy and self-empowerment process in allowing consumers of mental health treatment services the right to pre-plan and direct their caregivers is a matter of basic human rights.

We compliment you personally on the hard work you have invested in this issue. We will stand by you and the Mental Health Consumers of Alaska in assuring this legislation is brought to the attention of the public and those for whom we advocate. Please do not hesitate in listing the Mental Health Association in Alaska as a strong supporter of the Advanced Directives for Mental Health Treatment.

Sincerely;

Janet McGillivray, M.Ed.  
CEO/President

Serving Alaska Since 1953

Home of D/ART. Depression/Awareness-Recognition-Treatment Program

FEB 06 1996<sup>me</sup>

AD

Box 1107

Palmer, Alaska 99645

24 Jan 96

Dear Rep. Toohay,

I am writing in regard to HB 318.

I would like to see HB 318 passed.

This would give me some control over periods of illness when I may not be capable of decision making at the time.

I appreciate your efforts on our behalf.

Sincerely  
Mary P. Piccolo

me  
FEB 06 1996

Dear Rep Dooney

I am Bi-polar, and very much  
in support of HB 318. I've come  
along way with the help of mental  
health services. My goal is to  
remain out of hospitals, but with  
this bill, I could make the  
choices ahead of time. Getting  
out as soon as possible is  
very important with a one year  
old and a single parent.  
She needs me, I need to make  
the choices HB 318 will offer.

Thank you

Jaymie Murphy

Jaymie Murphy  
2181 Chickaloon  
Wasilla AK 99654  
907-376-4019