

HB

223

House Health and Social Services Committee

Wes Keller, Co-Chair

State Capitol Building, Room 13
Juneau, AK 99801-1182
Phone (907) 465-2186
Fax (907) 465-3918
Rep_Wes_Keller@legis.state.ak.us



Bob Herron, Co-Chair

State Capitol Building, Room 415
Juneau, AK 99801-1182
Phone (907) 465-4942
Fax (907) 465-4589
Rep_Bob_Herron@legis.state.ak.us

Sponsor Statement

This bill has been filed in response to an urgent issue brought forward by four of Alaska's Residential Psychiatric Treatment Centers in Anchorage and Fairbanks. The Legislation intends to advance and accelerate the efforts to bring our most troubled Alaskan children home through the *Bring the Kids Home Project*. Existing DHSS regulations 7 AAC50.815 Qualifications of Caregiver Staff require that a majority of treatment staff in these facilities, namely the caregivers, be held to a higher qualification standard than Federal Medicaid laws and other states' currently housing Alaska's children. The current qualifications are as follows: 1) bachelors degree; 2) an associate degree and two years work experience in a RPTC; or 3) four years work experience in a RPTC. This proposed legislation remedies the current situation by requiring that each facility have at least one staff member with a bachelor degree on each shift to oversee caregivers. Additionally, caregivers will be required to meet strict training standards as authorized or approved by the Department as a condition of employment. The committee urges swift passage of this legislation.

SECTIONAL

CSHB 223(HSS)

“An Act relating to the qualifications for residential psychiatric treatment center caregiver staff; and providing for an effective date.”

Section 1: Title 47.32 Centralized Licensing and Related Administrative Procedures

Adds a new section AS 47.32.055 which expands the acceptable alternative qualifications for caregiver staff in a residential psychiatric treatment center under 7 AAC 50.815 by incorporating the existing standards and adding a fourth alternative. In the fourth alternative a person would be a qualified caregiver if he or she has at least a high school diploma or general educational development diploma, completes a training course provided or approved by the Department of Health and Social Services, and works only during hours when a person with a bachelor’s degree in a human services related field or who satisfies one of the other alternatives is also on duty.

Section 2: Providing that the new section will take effect immediately.



April 6, 2009

Representative Wes Keller, Co-Chair House HESS
Capitol Building
Juneau, Alaska 99811

Re: Qualifications for Caregivers in Residential Treatment Centers

Dear Representative Keller:

Thank you for your service to the State of Alaska and for your support of Alaska's families in need. Southcentral Foundation serves thousands of children and their families in our primary care center, residential treatment home for young men, therapeutic family group homes, and many other programs.

As you may know, Southcentral Foundation is partnering with the State of Alaska, the Denali Commission and the Alaska Mental Health Trust Authority to bring the kids home by building a culturally appropriate 44-bed Residential Psychiatric Treatment Center (RPTC). Our RPTC is a Level V and is in the design phase. We anticipate starting construction in June 2009, with an expected opening date in fall 2010. One of the challenges of this project is ensuring successful recruitment of the more than 80 FTEs necessary to provide quality treatment at this level of care. More specifically, it will be a challenge to recruit and train qualified staff with a bachelor's degree, associate degree with at least two years experience in residential treatment, or a high school diploma and four years experience in residential treatment.

Southcentral Foundation strives to employ Alaska Native and American Indian people as customer/owners of our health care system. We envision being able to train our own employees to work for and with our Alaska Native and American Indian customer/owners. Regulation 47 AAC 50.815 presents challenges to Southcentral Foundation's ability to "train our own" to provide the highest levels of quality and culturally appropriate care to those that need RPTC services. If the language is amended to allow for "department provided or approved training," our people will gain the experience they need to serve their community and Southcentral Foundation will be able to staff its RPTC.

Southcentral Foundation supports the proposed amendments to AS 47.32.030 regarding the qualifications for residential psychiatric treatment center caregiver staff and also supports the retroactive date. Again, thank you for your support.

Sincerely,

SOUTHCENTRAL FOUNDATION



Katherine Gottlieb, MBA
President/CEO



Board of Directors

Judy Binkley

Charlie Boddy, Chair

Cynthia Henry

Meg Nordale

Jeff Olson

David Paulsrud

Mary Sakakibara

Art Silva

Chris Simon

Richard C. Brown, Jr., M.D.
Medical Director

Robert P. Sheehan
President and CEO

MEMBER:
ALASKA BEHAVIORAL
HEALTH ASSOCIATION



A subsidiary of
Boys and Girls Home
and Family Services, Inc.

3101 Lathrop Street
Fairbanks, AK 99701
Telephone 907.459.4700
Facsimile 907.459.4796
www.boysandgirlshome.com

April 2, 2009

Dear Committee,

As Chairman of the Boys and Girls Home of Alaska Board of Directors, I've had firsthand knowledge of the fine work our agency is doing. The services we offer have been absent in our community and are a welcome relief. It is essential that these services continue.

Part of our struggle in Fairbanks is around folks having enough credentials to meet the present Medicaid standards. It is our hope that you will support the proposed Bill before you, in order for us to continue to deliver the services to children and their families while ensuring quality of care. We know that we are not alone in this process and that other Level V organizations around the state would also welcome this relief.

I look forward to meeting with you and I am hopeful that we can move this Bill forward.

Sincerely,

A handwritten signature in cursive script that reads "Boddy".

Charlie Boddy

April 3, 2009

The Honorable Johnny Ellis
Alaska State Senate
Juneau, AK

Re: Qualifications of Caregivers in Residential Treatment Centers

Dear Senator Ellis:

To begin, thank you for your support of mental health related issues that have allowed North Star Behavioral Health System to provide needed services for the children of our state. As a provider in a vast continuum of care, it is essential that we be able to continue to meet the needs of children and adolescents. Our ability to offer appropriate care that improves the lives of youth and families is often impacted by issues decided in the legislative arena.

One such issue is the Regulation 7AAC50.815, related to the qualifications of caregivers in Residential Psychiatric Treatment Centers. This regulation requires that a front line care giver (mental health aide) must either have a Bachelor's degree and/or an Associate's degree with at least two years experience in residential treatment, or a high school diploma and four years experience in residential treatment.

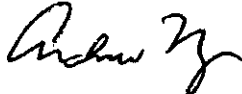
While the intent of the requirement is to ensure that front line caregivers are qualified and trained, this places an undue burden on providers. Clearly, one cannot gain experience without a degree, when the regulations require one have experience in order to be hired. Thus, only employees who could be "grand fathered" or come from state's that do not have such a requirement (out of state residents) would become eligible for hire. Given the rural nature of our state, this limits potential hires and thus can limit needed care in more rural communities. Given the state's push toward "Bringing our Children Home" for care, this appears conflicted with this purpose.

Currently, all facilities train and orient staff in addition to conducting back ground checks for safety. Annual training is required by the state, which acknowledges the need for continued training in addition to orientation curriculum. While I would understand and support reviewing this criteria every few years, until we reach a more qualified training pool, I would ask adjustments to be considered. Alternatives might include an increased amount of training required when hiring non-degreed candidates. In this way there is no

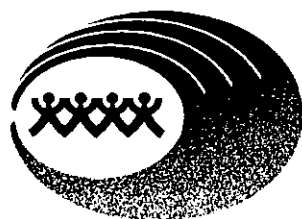
must invest at least that amount of dollars in additional training to meet new training requirements for hiring lesser trained employees. Certainly I would be willing to work with other providers in making such recommendations to the state or the state could decide such issues to ensure continued protection of our children. With that said, all residential facilities are reviewed for compliance by numerous agencies, and I see little danger in non-compliance with such changes.

In closing, I appreciate your consideration of this request and would be happy to answer any questions related to my comments.

Sincerely,



Dr. Andrew Mayo, CEO
North Star Behavioral Health System



Alaska Children's Services

March 31, 2009

The Honorable Johnny Ellis
Alaska State Senate
Juneau, AK

RE: Qualifications for Caregivers in Residential Treatment Centers

Dear Senator Ellis:

First, I want to thank you for your long-standing support of Alaska Children's Services and for Alaska's families in need. Thousands of Alaska children are enjoying a much more positive life because of your service to the state.

I want to call your attention to a serious issue that is impacting the ability of Alaska Children's Services and other intensive treatment programs to provide the quality of treatment that is necessary to assist children to become successful. Specifically, I am referring to Regulation 7AAC50.815 – "Qualifications of Caregivers in Residential Psychiatric Treatment Centers." This regulation requires that a caregiver in a program such as ACS must either have a Bachelor's degree, and Associate's degree with at least two years experience in residential treatment, or a high school diploma and four years experience in residential treatment.

While this regulation is intended to ensure that only the most qualified caregivers provide care and treatment to the most fragile and disturbed youth, it falls far short of that. First, the degree requirement is generic; therefore, a person with an accounting degree and no childcare experience is eligible for employment while a much more qualified person without a degree is not. Furthermore, the regulation establishes a classic "Catch 22" in that a non-degreed person with requisite experience can be hired, but the regulation does not allow any provision for a person to gain that experience.

For many years Alaska has been experiencing serious workforce issues and there are myriad workforce development projects currently sponsored by both state and private entities. Over five years ago, Alaska Children's Services, with the support of a federal Administration for Children and Families grant, developed a *Competency-Based Program for Training Childcare Workers*. It is both rural and urban appropriate and has been used by dozens of agencies. I am not advocating for our specific program; however, I am asking for support as the three Level 5 RTC's – ACS, North Star, and Boys and Girls Home of Alaska – work with the Department in efforts to change this regulation.

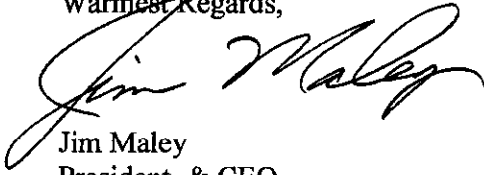


4600 Abbott Road, Anchorage, Alaska 99507-4314 • (907) 346-2101 • Fax (907) 348-9230
email: akchild@ak.net • www.acs.ak.org

A Christian mission of American Baptist Churches USA, Evangelical Lutheran Church in America, and the United Methodist Church. A United Way agency, ACS is accredited by the Joint Commission on Accreditation of Healthcare Organizations.

Again, thanks so much for your support and please advise if there is any way we can assist you in your efforts.

Warmest Regards,

A handwritten signature in cursive script that reads "Jim Maley". The signature is written in black ink and is positioned above the printed name and title.

Jim Maley
President & CEO
Alaska Children's Services, Inc.

House H&SS Committee
Senate H&SS Committee
Sponsor Statement

This bill has been filed in response to an urgent issue brought forward by four of Alaska's Residential Psychiatric Treatment Centers in Anchorage and Fairbanks. The Legislation intends to advance and accelerate the efforts to bring our most troubled Alaskan children home through the *Bring the Kids Home Project*.

Existing DHSS regulations 7 AAC50.815 Qualifications of Caregiver Staff require that a majority of treatment staff in these facilities, namely the caregivers, be held to a higher qualification standard than Federal Medicaid laws and other states' currently housing Alaska's children.

The current qualifications are as follows: 1) bachelors degree; 2) an associates degree and two years work experience in a RPTC; or 3) four years work experience in a RPTC.

This proposed legislation remedies the current situation by requiring that each facility have at least one staff member with a bachelors degree on each shift to oversee caregivers. Additionally, caregivers will be required to meet strict training standards as authorized or approved by the Department as a condition of employment.

The committee urges swift passage of this legislation.

Matthew Johnson

From: Laughlin, Wilda J (HSS) [wilda.laughlin@alaska.gov]
Sent: Tuesday, April 07, 2009 1:28 PM
To: Sen. Bettye Davis; Rep. Bob Herron; Rep. Wes Keller
Cc: Matthew Johnson; Marianna Carpeneti; Kim, Anna C (GOV); Hogan, William H (HSS); Hefley, Patrick B (HSS)
Subject: Boys & Girls Home follow up
Importance: High

I wanted to follow up on our meetings with you regarding the Alaska Boys & Girls Home with a few more points that have come to light since we met. The Department of Law has raised additional concerns because the legislation appears to be an attempt to alter existing law that is at the center of the on-going licensing investigation into practices at the Boys & Girls Home. As such, the legislation is an indirect attempt to resolve an adverse licensing action. We have also heard that it has been represented to you that the department plans to shut down the home. That is not our intent, we are actively working with the home to bring it into compliance and continue providing an important service to emotionally disturbed youth of Alaska.

We are available to meet with you at any time if you would like further explanation. Please do not hesitate to call.
w.

Wilda Laughlin, DHSS Legislative Liaison
Juneau: 907-465-1613
Cell: 907-723-3802

Matthew Johnson

From: Laughlin, Wilda J (HSS) [wilda.laughlin@alaska.gov]
Sent: Thursday, April 02, 2009 5:08 PM
To: Matthew Johnson; Thomas Obermeyer
Cc: Kim, Anna C (GOV); Stone, Melissa W (HSS); Hogan, William H (HSS); Hefley, Patrick B (HSS); Sherwood, Jon (HSS)
Subject: FW: Boy's and Girls Home bill
Importance: High
Follow Up Flag: Follow up
Flag Status: Red

Tom and Matt, I believe the legislation that you are interested in introducing is identical to a bill that was provided to us this morning by Sen. Paskvan. Below see our very quick analysis of the legislation. We do not believe this is in the best interest of the children in residential care in the state. Please let me know if I can arrange a meeting with Rep. Keller or Sen. Davis to go over our concerns. Thank you very much for the heads up. We appreciate the chance to provide feedback.

Jake,

Commissioner Hogan sent me a copy of the bill that came from the Boy's and Girl's Home agency. We have not had time for the more appropriate comprehensive review of this bill by LAW and our Licensing section as well as by many of the affected Divisions. Given the limits of the timeframe however, I would like to offer you these constructs:

-We must comply with Federal requirements for Residential Psychiatric Facilities and we have not been able to review these proposed changes in light of those requirements. It is entirely possible that they would not meet these requirements

-We have questions as to why the bill is to be put into statutes. Specifically, AS 47.32.030 pertains to 16 entities (such as hospitals, ambulatory surgical centers) and I believe that placing it in this section of the statutes is not meant to affect all 16 entities. The more appropriate place to modify the qualifications of staff who work in residential psychiatric treatment centers would be in regulation or administrative code.

-the use of the words "caregiver staff", to which the proposed changes are meant to apply, is not definitive. Does this apply to medical, professional or paraprofessional staff?

-the training leading to certification reference in (d)(1) is problematic. We do not currently know if there is an adequate amount of this training available to provide all statewide staff who may need this training. This training and certification may also need to be expanded if it is meant to be the "ticket" that would allow a person to work in an RPTC. Again, we have not had time today to review this matter.

-Section (d) (2) (a) notes that a "caregiver staff" would be supervised by someone with a bachelors degree. There is no definition of the type of bachelors degree or the type of experience that this staff would need to have to oversee the "caregiver" staff. Clearly a person who has a bachelor's degree in public accounting would not be suitable for this responsibility. A degree in and of itself is not an adequate qualifying criteria for oversight of staff.

-Lines 15 and 16 which reference that DHSS would somehow review the education and experience of individuals for their "education or experience" of staff to be hired is problematic. We should not be reviewing each and every applicant for positions in these provider agencies who may not meet the bachelor's requirement as this would be an administrative burden that is inappropriate for DHSS.

Again, I regret that we have simply not had time to thoroughly review this bill. It would affect the Behavioral Health Division, The Office of Children's Services, and the Office of Juvenile. As noted above we have NOT had time for LAW, Licensing or our Medicaid office to review it for its' implications.

I can say that we do not support this proposed bill in its current form. We would also be willing to meet with you to discuss the bill. Thanks for the opportunity to provide you with a hurried review. Patrick Hefley, Deputy Commissioner, DHSS

HOUSE BILL NO.

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

BY REPRESENTATIVE KELLER

**Introduced:
Referred:**

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the qualifications for residential psychiatric treatment center**
2 **caregiver staff; and providing for an effective date."**

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

4 *** Section 1.** AS 47.32 is amended by adding a new section to read:

5 **Sec. 47.32.055. Residential psychiatric treatment caregiver qualifications**
6 **and training.** (a) In addition to the other requirements of this chapter, an applicant for
7 a license or renewal of a license to operate a residential psychiatric treatment center
8 must comply with the standards set out in this section relating to training and
9 scheduling of caregivers.

10 (b) A caregiver employed by a residential psychiatric treatment center must
11 have

12 (1) a bachelor's degree;

13 (2) completed not less than two years of work experience in the
14 treatment of severely emotionally disturbed children and

1 (A) an associate's degree; or

2 (B) not less than two years of full-time course work toward a
3 bachelor's degree; or

4 (3) completed not less than four years of work experience as a
5 caregiver of severely emotionally disturbed children and

6 (A) a high school diploma or general educational development
7 diploma; and

8 (B) is assigned to work at the center only during hours in which
9 an individual is on duty at the center who has a bachelor's degree in a human
10 services-related field or who meets the requirement of (b)(1) or (2) of this
11 section.

12 (c) The department shall provide or approve mandatory training for caregivers
13 employed by a residential psychiatric treatment center in the state.

14 (d) In this section, "caregiver" means an individual employed by a residential
15 psychiatric treatment center to provide direct care and supervision of children admitted
16 to the center and who is not a physician, registered nurse, or mental health
17 professional.

18 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
19 read:

20 **TRANSITION.** Applications approved or renewed by the Department of Health and
21 Social Services for licensing of a residential psychiatric treatment center before the effective
22 date of this Act shall be reviewed for compliance with this Act, and a notice shall be mailed to
23 licensees notifying the licensees of the requirements under AS 47.32.055.

24 * **Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).

26-LS0842\A
Mischel
4/6/09

HOUSE BILL NO.
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE KELLER

Introduced:
Referred:

A BILL
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7 a license or renewal of a license to operate a residential psychiatric treatment center
8 must comply with the standards set forth in this section relating to training and
9 scheduling of caregivers.

10 (b) A caregiver employed by a residential psychiatric treatment center must
11 complete the training required under (c) of this section and be assigned to work at the
12 center only during hours in which an individual is on duty at the center who has

- 13 (1) a bachelor's degree in a mental health-related field; or
14 (2) education or experience that the department has determined is

1 equivalent to a bachelor's degree in a mental health-related field.

2 (c) The department shall provide or approve mandatory training for caregivers
3 employed by a residential psychiatric treatment center in the state.

4 (d) The department may not require a residential psychiatric caregiver to
5 obtain a postsecondary degree.

6 (e) In this section, "caregiver" means an individual employed by a residential
7 psychiatric treatment center who provides care to patients admitted to the center.

8 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 **TRANSITION.** Applications approved or renewed by the Department of Health and
11 Social Services for licensing of a residential psychiatric treatment center before the effective
12 date of this Act shall be reviewed for compliance with this Act and a notice shall be mailed to
13 licensees notifying the licensees of the requirements under AS 47.32.055.

14 * **Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).

CS FOR HOUSE BILL NO. 223(HSS)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH AND SOCIAL SERVICES COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE HEALTH AND SOCIAL SERVICES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the qualifications for residential psychiatric treatment center**
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7 a license or renewal of a license to operate a residential psychiatric treatment center
8 must comply with the standards set out in this section relating to training and
9 scheduling of caregivers.

10 (b) A caregiver employed by a residential psychiatric treatment center must

11 (1) have a bachelor's degree;

12 (2) have

13 (A) completed not less than two years of work experience in
14 the treatment of

- 1 (i) severely emotionally disturbed children;
2 (ii) children in a residential child care facility; or
3 (iii) children in a long-term inpatient facility; and
4 (B) completed
5 (i) an associate degree; or
6 (ii) not less than two years of full-time course work
7 toward a bachelor's degree;
8 (3) have
9 (A) completed not less than four years of work experience as a
10 caregiver of
11 (i) severely emotionally disturbed children;
12 (ii) children in a residential child care facility; or
13 (iii) children in a long-term inpatient facility; and
14 (B) satisfied one of the following:
15 (i) earned a high school diploma or a general
16 educational development diploma; or
17 (ii) completed the training provided or approved under
18 (c) of this section; or
19 (4) satisfy or comply with all of the following:
20 (A) have earned a high school diploma or a general educational
21 development diploma;
22 (B) have completed the training provided or approved under (c)
23 of this section; and
24 (C) be assigned to work at the center only during hours in
25 which an individual is on duty at the center who has a bachelor's degree in a
26 human-services-related field or who meets the requirements of (1), (2), or (3)
27 of this subsection.
28 (c) The department shall provide or approve training for caregivers employed
29 by a residential psychiatric treatment center in the state.
30 (d) In this section, "caregiver" means an individual employed by a residential
31 psychiatric treatment center to provide direct care and supervision of children admitted

1 to the center and who is not a physician, registered nurse, or mental health
2 professional.

3 * **Sec. 2.** This Act takes effect immediately under AS 01.10.070(c).

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE CISSNA

TO: CSHB 223(HSS), Draft Version "C"

1 Page 2, line 28, following "shall":

2 Insert

3 "(1) adopt regulations that may include additional standards for a
4 caregiver employed by a residential psychiatric treatment center needed for the
5 safe care of children and security of employees at the center;

6 (2) work with interested persons in establishing the standards and
7 training for caregivers under this subsection; and

8 (3)"

9

10 Page 3, line 3:

11 Delete all material and insert:

12 "* Sec. 2. The uncodified law of the State of Alaska is amended by adding a new
13 section to read:

14 TRANSITIONAL PROVISIONS; REGULATIONS. The Department of Health
15 and Social Services may proceed to adopt regulations necessary to implement the
16 changes made by this Act. The regulations take effect under AS 44.62 (Administrative
17 Procedure Act), but not before the effective date of the law implemented by the
18 regulations.

19 * Sec. 3. This Act takes effect January 15, 2010."

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

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

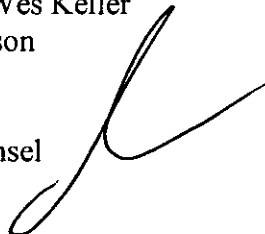
MEMORANDUM

April 14, 2009

SUBJECT: Drafting Issues (CSHB 223(HSS), Draft Version "T")
(Work Order No. 26-LS0842\T)

TO: Representative Wes Keller
Attn: Matt Johnson

FROM: Jean M. Mischel
Legislative Counsel



I have done what I can logically and structurally with the new changes suggested. This version, as requested, repeals all of the statutory changes within three years so that the entire bill is now in uncodified law. The assistant revisor correctly pointed out that since those changes take effect immediately, the transitional section allowing rulemaking to occur immediately, even if inconsistent with the temporary law, is unnecessary. The department has existing and very broad authority to adopt regulations. That authority has been relied upon in the past to adopt regulations in the area the bill covers. The proposed transition section does nothing to otherwise encourage a regulation change or to delay implementation of regulations that are either consistent or inconsistent with the temporary law as proposed. Regulations that are inconsistent with statutory authority cannot be adopted until the repeal of that authority. For these reasons, the transitional section is not included as requested in this version.

In addition, the rewrite requested two of the qualification categories to be restructured. The first of two subheadings cannot include three options in one subparagraph that must also accommodate another qualification requirement for that same category. Those have been organized as subparagraphs for structural reasons so that they make sense in the context used, as optional experience levels, added to required educational backgrounds. Lumping the options in one paragraph both confuses the structure and loses the ability to add another mandate. Instead, I have added the word "treatment" to two of the three optional experience levels which appeared to me to be the only substantive difference in the proposed draft and the bill draft. I do not know why the request otherwise includes a structural change since the problems related to that have been previously discussed. The change should, as previously advised, include definitions, rather than focus on non-substantive organizational issues. I do not know, for example, what "long-term inpatient treatment" means.

The addition of a ratio and supervision of mentorship under qualification category four also creates some confusion. I don't know how the ratio will be evaluated at the point of license application review or how it will be enforced. I also don't know from this request what "supervision or mentorship" means.

JMM:plm
09-278.plm
Enclosure

26-LS0842\T
Mischel
4/14/09

CS FOR HOUSE BILL NO. 223(HSS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH AND SOCIAL SERVICES COMMITTEE

**Offered:
Referred:**

Sponsor(s): HOUSE HEALTH AND SOCIAL SERVICES COMMITTEE

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5 to read:

6 **RESIDENTIAL PSYCHIATRIC TREATMENT CAREGIVER QUALIFICATIONS**
7 **AND TRAINING.** (a) In addition to the other requirements of AS 47.32, an applicant for a
8 license or renewal of a license to operate a residential psychiatric treatment center must
9 comply with the standards set out in this section relating to training and scheduling of
10 caregivers.

11 (b) A caregiver employed by a residential psychiatric treatment center must
12 (1) have a bachelor's degree;
13 (2) have
14 (A) completed not less than two years of work experience in the

1 treatment of

- 2 (i) severely emotionally disturbed children;
3 (ii) children in a residential treatment facility; or
4 (iii) children in a long-term inpatient treatment facility; and

5 (B) completed

- 6 (i) an associate degree; or
7 (ii) not less than two years of full-time course work toward a
8 bachelor's degree;

9 (3) have

10 (A) completed not less than four years of work experience as a
11 caregiver of

- 12 (i) severely emotionally disturbed children;
13 (ii) children in a residential treatment facility; or
14 (iii) children in a long-term inpatient treatment facility; and

15 (B) satisfied one of the following:

- 16 (i) earned a high school diploma or a general educational
17 development diploma; or
18 (ii) completed the training provided or approved under (c) of
19 this section; or

20 (4) satisfy or comply with all of the following:

21 (A) have earned a high school diploma or a general educational
22 development diploma;

23 (B) have completed the training provided or approved under (c) of this
24 section; and

25 (C) be assigned to work at the center only during hours in which one
26 individual who has a bachelor's degree in a human-services-related field or who meets
27 the requirements of (2) or (3) of this subsection is on duty to provide supervision or
28 mentorship for not more than six caregivers at the center who are qualified only under
29 this paragraph.

30 (c) The department shall provide or approve training in residential child care for
31 caregivers employed by a residential psychiatric treatment center in the state.

1 (d) In this section, "caregiver" means an individual employed by a residential
2 psychiatric treatment center to provide direct care and supervision of children admitted to the
3 center and who is not a physician, registered nurse, or mental health professional.

4 * **Sec. 2.** Section 1 of this Act is repealed.

5 * **Sec. 3.** Section 1 of this Act takes effect immediately under AS 01.10.070(c).

6 * **Sec. 4.** Section 2 of this Act takes effect April 15, 2010.

ALASKA**AND FAMILY NETWORK**

P.O. Box 23-3142	Anchorage, Alaska 99523-3142
located in Anchorage at 401 E. Northern Lights Suite 100	

The National Alaska Chapter of the Federation of Families for Children's Mental Health
 (907) 770-4979 e-mail ayfn@ayfn.org www.ayfn.org fax (907) 770-4997

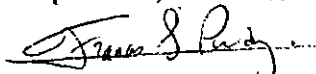
Members of the Health and Social Services Committee:

After reviewing HB 223 with 14 parents whose children have been admitted at least one time into residential treatment, these are their experiences:

1. There is a high turnover in staff in residential psychiatric treatment facilities and the better workers are not always those who have Bachelor degrees in the field.
2. Many workers with no degrees, no work experience but similar personal experience establish positive rehabilitative relationships with children and youth in the treatment setting.
3. The best workers are those individuals that are non-judgmental, able to not create "Power plays" with children and family members and able to facilitate positive dialogue. These workers would be more likely to remain in their jobs if they could earn more than a barely livable wage.

These are their recommendations:

1. This legislation allows more flexibility in the type and amount of formal education workers hold; however, it equates formal education and "approved training" with competence. Such pairing is not necessarily reasonable when professional competencies are a more viable measure for the outcomes needed.
2. This legislation does not set any standard about the level of knowledge or competence to positively engage with children and youth and their families. Among issues it does not address: understanding of resiliency or wellness, de-escalation or feeling management without restraint, positive communication, cultural competence, minimizing of stigma associated with mental illness, understanding of the interplay between physical and mental health and positive engagement of family members in a family/youth driven manner.
3. This bill is premature because there are workforce development committees working with the Alaska Mental Health Trust, the Department of Health and Social Services, the University of Alaska, behavioral health providers and family members currently developing standards of care and learning objectives for psychiatric treatment staff. It makes more sense to complete the committee work this year with the input of providers, consumers and educators before enacting a law that is likely to need different provisions.



Frances Purdy MEd JD and parent
 Executive Director of AYFN

Advocating for effective children's mental health through the use of Peer Navigators who teach and assist each family member to be an equal partner with professionals in a youth and family-driven educational, social and health system of care.

VARIANCE APPLICATION
AS 47.32 and 7AAC 10.9500

Facility Type:	
<input type="checkbox"/> Residential Child Care Facility	<input type="checkbox"/> Residential Psychiatric Treatment Center
<input type="checkbox"/> Maternity Home	
Specialization:	
<input type="checkbox"/> Emergency shelter care	<input type="checkbox"/> Emergency shelter care for runaway children
<input type="checkbox"/> Wilderness and Adventure experience	<input type="checkbox"/> Boarding school
<input type="checkbox"/> Supervised transition living	<input type="checkbox"/> Pregnant and parenting adolescents
<input type="checkbox"/> Substance use treatment	
Name of Facility: _____	Facility Phone: _____
License Age Range: _____ Capacity: _____ Current license dates: _____ License number: _____	
Administrator, Associate or Designee: _____	
Facility Physical Address: _____	
Facility Mailing Address: _____	
7 AAC 10.9510. Request for a general variance. A request must contain the following: (see page 2)	
(1) Regulation or Statute that cannot be met:	
(2) Description of why the entity is unable to meet the requirement:	
(3) Period of time variance requested:	
(4) Proposed alternative ways to meet the requirement:	
(5) Statement as to how the health, safety and welfare of the residents will be protected:	
(6) Plan to achieve compliance before variance expires:	
(7) Assurance that conditions don't present imminent danger:	
(8) Attached evidence of Fire safety or another state or municipal requirement has been reviewed:	
(9) Attached list of affected recipients and representatives names and addresses:	
(11) Additional information requested by the department:	
Please print name and title of person submitting request: _____	Date: _____
Signature: _____	
Division of Public Health Licensing Only below this line:	
Variance Committee:	
1. _____	DATE: _____
2. _____	DATE: _____
3. _____	DATE: _____

APPROVED DISAPPROVED

Dates Variance Effective: _____ to _____.

COMMENTS OR CONDITIONS:

PURPOSE: 7 AAC 10.9500. Purpose and applicability

PROCEDURE:

7 AAC 10.9510. Request for a general variance. An entity seeking a general variance under 7 AAC 10.9500 – 7 AAC 10.9535 must submit to the department, on a form supplied by the department, a request for a general variance as required by this section. A request must contain the following:

- (1) the requirement from which the variance is sought;
- (2) the reasons why the entity is unable to comply with the requirement, a description of how the entity is not in compliance, and the extent to which compliance with the requirement will impose any substantial economic, technological, programmatic, legal, or medical hardship on the entity or recipients of services;
- (3) the period of time for which the variance is requested;
- (4) the proposed alternative means of satisfying the purpose of the requirement for which the variance is sought;
- (5) a statement as to how the health, safety, and welfare of recipients of services will be protected during the period of the variance;
- (6) the plan for achieving compliance before the variance expires;
- (7) assurance that the conditions at the entity do not present an imminent danger to the health, safety, or welfare of recipients of services;
- (8) if the request for a variance involves fire safety or another state or municipal requirement, evidence that the request has been reviewed by the appropriate authority;
- (9) for a licensed entity, the names of the recipients of services who would be affected by the variance, and the names and addresses of any representatives of those recipients of services; the requirements of this paragraph do not apply to a child care facility subject to 7 AAC 57 unless this information is requested by the department;
- (10) for an assisted living home, assurance that the notice requirements of 7 AAC 10.9515 will be met;
- (11) any additional information requested by the department to determine the effect of a variance on the health, safety, and welfare of recipients of services. (Eff. 6/23/2006, Register 178)

7 AAC 10.9520. Evaluation of a request for a general variance

7 AAC 10.9525. Grant or denial of a general variance. (a) The department's decision to grant or deny a request for a general variance will be issued in writing and will be delivered to the person who made the request.

7 AAC 10.9530. Posting of a general variance. (a) If the department grants a request for a general variance, the entity shall post a copy of the general variance decision in a conspicuous place, with the entity's license as required by AS 47.32.080, during the period the variance is in effect, and shall make it available to any person who wishes to review it. A general variance remains in effect for the duration stated, unless the department revokes the variance

STATE OF ALASKA

DEPARTMENT OF HEALTH & SOCIAL SERVICES

DIVISION OF BEHAVIORAL HEALTH

SARAH PALIN, GOVERNOR

3601 C Street, Suite 878
ANCHORAGE, ALASKA 99503

PHONE: (907) 269-3600
FAX: (907) 269-3623

March 31, 2009

Robert Sheehan, CEO
Boys and Girls Home of Alaska, Inc.
3101 Lathrop
Fairbanks, AK 99701-7426

Dear Mr. Sheehan,

The State of Alaska's Department of Health and Social Services conducted an integrated site review of the Boys and Girls Home of Alaska (BGHA) on the dates of January 12-14, 2009. As part of this review, Behavioral Health conducted a compliance review of Medicaid regulations governing Residential Psychiatric Treatment Centers. A copy of these regulations (7AAC 43.550 - 7 AAC 43.580) is attached for your review.

The January 12-14, 2009 site review identified the following deficiencies:

1. BGHA did not have the qualified staff required to participate as members of the Inpatient Interdisciplinary Team (IIT) (7AAC 43.552(f)) including a licensed psychological associate, a licensed occupational therapist, or a licensed clinical social worker. The resulting Plan of Improvement outlined in the Site Review Report directed BGHA to verify the employment status of the required staff no later than March 1, 2009. The department did not receive documented proof the BGHA had employed or contracted with the appropriate staff until March 25, 2009.
2. The medical necessity chart review conducted on Jan. 12-14, 2009, identified that the clinical documentation did not consistently meet the regulatory requirements specified in 7 AAC 43.552 and 7 AAC 43.555 or the criteria described in the State of Alaska's Inpatient Psychiatric Review Provider Manual.¹ The Medical Necessity Clinical Chart Review Plan of Improvement (POI) requires clinical documentation to be in compliance with regulatory and policy standards by May 1, 2009.

¹ <http://www.qualishealth.org/crm/alaska-medicareid/behavioral-health/upload/April-28-2008-Inpatient-Psychiatric-Alaska-Medicareid-Provid.pdf>

3/31/2009

Page 2

Failing to correct deficiencies in provider operations after receiving written notice of these deficiencies from either the division of public assistance, the division of public health, or the division of mental health (7AAC 43.950 (18)) is a breach of the terms of the Medicaid provider agreement and provider certification on the Medicaid claims form (7AAC 43.950 (7)). As a result of the above deficiencies, the following sanction is invoked:

1. Attendance in provider education classes under 7 AAC 43.955(6). Behavioral Health staff will contact you to schedule the Education classes. Despite now having qualified staff, this training must be completed by May 15, 2009. Additionally, Behavioral Health staff will be conducting periodic follow-up reviews through December 2009. At that time the need for on-going reviews will be reassessed. Additionally, BGHA is required to inform Behavioral Health staff, no later than the next business day, if staffing levels fall below the minimum requirements set forth in 7 AAC 43.755.

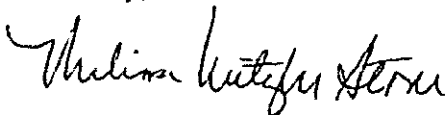
You should be fully aware that failure to comply with this sanction or to correct the documentation deficiencies noted in #2 above may result in further sanctions including but not limited to withholding of Medicaid payments, or suspension or termination from the Medicaid program.

The sanctions noted herein are effective 30 days after the date of this notice. If you choose to appeal these sanctions you may do so by submitting a notice within in 30 days of the date of this notice by submitting in writing a statement or statements that outline your appeal and all supporting documentation which shows you are in compliance with the Medicaid regulations to:

Commissioner Bill Hogan
Department of Health and Social Services
PO Box 110601
Juneau, AK 99811-1061

If you have questions or require further clarification in regards to this letter, please contact Teri Keklak or Pam Miller, Behavioral Health Program Administrators, at 269-3600.

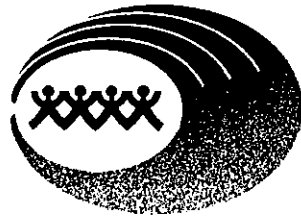
Sincerely,



Melissa Witzler-Stone
Director

Cc: Melissa Stone, Director
Pat Hefley, Deputy Commissioner, DHSS
Charlie Boddy, Chair - Board of Directors BGHA

Encl: Alaska Administrative Code Title 7 Health & Social Services Part 3 Chapter 43 Medical Assistance Title 10



Alaska Children's Services

March 31, 2009

The Honorable Johnny Ellis
Alaska State Senate
Juneau, AK

RE: Qualifications for Caregivers in Residential Treatment Centers

Dear Senator Ellis:

First, I want to thank you for your long-standing support of Alaska Children's Services and for Alaska's families in need. Thousands of Alaska children are enjoying a much more positive life because of your service to the state.

I want to call your attention to a serious issue that is impacting the ability of Alaska Children's Services and other intensive treatment programs to provide the quality of treatment that is necessary to assist children to become successful. Specifically, I am referring to Regulation 7AAC50.815 – "Qualifications of Caregivers in Residential Psychiatric Treatment Centers." This regulation requires that a caregiver in a program such as ACS must either have a Bachelor's degree, and Associate's degree with at least two years experience in residential treatment, or a high school diploma and four years experience in residential treatment.

While this regulation is intended to ensure that only the most qualified caregivers provide care and treatment to the most fragile and disturbed youth, it falls far short of that. First, the degree requirement is generic; therefore, a person with an accounting degree and no childcare experience is eligible for employment while a much more qualified person without a degree is not. Furthermore, the regulation establishes a classic "Catch 22" in that a non-degreed person with requisite experience can be hired, but the regulation does not allow any provision for a person to gain that experience.

For many years Alaska has been experiencing serious workforce issues and there are myriad workforce development projects currently sponsored by both state and private entities. Over five years ago, Alaska Children's Services, with the support of a federal Administration for Children and Families grant, developed a *Competency-Based Program for Training Childcare Workers*. It is both rural and urban appropriate and has been used by dozens of agencies. I am not advocating for our specific program; however, I am asking for support as the three Level 5 RTC's – ACS, North Star, and Boys and Girls Home of Alaska – work with the Department in efforts to change this regulation.

4600 Abbott Road, Anchorage, Alaska 99507-4314 • (907) 346-2101 • Fax (907) 348-9230

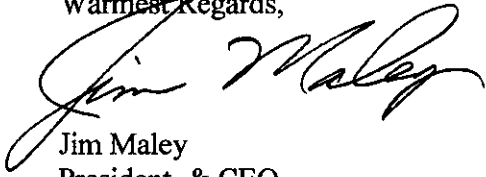
email: akchild@ak.net • www.acs.ak.org



A Christian mission of American Baptist Churches USA, Evangelical Lutheran Church in America, and the United Methodist Church. A United Way agency, ACS is accredited by the Joint Commission on Accreditation of Healthcare Organizations.

Again, thanks so much for your support and please advise if there is any way we can assist you in your efforts.

Warmest Regards,

A handwritten signature in black ink, appearing to read "Jim Maley". The signature is fluid and cursive, with the first name "Jim" written in a larger, more prominent script than the last name "Maley".

Jim Maley
President & CEO
Alaska Children's Services, Inc.

Justification for Rejecting the Fiscal Note to CSHB 223

The new section regarding qualifications of residential psychiatric treatment center caregivers will sunset in only one year. The Department already provides training so it would not need to develop a new training curriculum. The bill permits the Department to approve training, rather than provide it itself. The CEO of Alaska Children's Services, one of Alaska's oldest and most highly regarded providers of child residential care services, including RPTC services, testified before this Committee that it has developed comprehensive training for residential caregivers and will make that training available for free.

COMPARISON OF DIRECT CARE GIVER STANDARDS IN RESIDENTIAL PSYCHIATRIC TREATMENT CENTERS

Standard	ALASKA 7 AAC	COLORADO	OREGON	UTAH R501-	MONTANA 37.97
What Called	RPTC 50.800-890	PRTC 7.718.1	PRTF 309.032	-19 Resi. Tx Program -16 Interned Secure Tx Pr.	RTC 37.97.250-259
Qualifications	50.815. Caregiver must have completed: (1) bachelor's level college; (2) 2yr exp in residential or inpatient tx for children or other tx of SED children + 2 years college or AA; OR (3) 4yr increasing responsible caregiver experience in residential or inpatient tx of children or tx of SED children + high school, GED or certification of completion of DHSS-provided residential child care training	7.705.44 Child care worker must have completed: (1) 2 yrs of college; OR (2) high school or GED + 1 yr. exp in human services field Child care staff aides must work directly under supervision of child care worker (no reqts other than must be 18 yrs old and have approval of director)	309.032-1150(3)(c) & (7)(a). None specified.	-19-5.3.e. Reference to "other staff" requires only that they be trained to work w/ emotionally & behaviorally disturbed, or conduct disordered children & youth -16-4.F. Reference to "unlicensed staff" requires only that they be trained to work w/ youth who are chemically dependant or emotionally disturbed or behaviorally disturbed or conduct disorder. Both req. licensed clinical professional supervision	97.250. Child care staff: (1) bachelor's level degree; OR (2) 3 yrs experience in group child care; OR (3) any equivalent combination of education and experience
Orientation/ Initial Training	50.820: If exp working w/ emotionally disturbed persons in resid. setting is: < 6 mon, then 40 hrs + 40 hrs experience working under supervision; OR > 6 mon, then 20 hrs + 20 hrs supervised work	7.714.92. Req. intro training and orientation; no time requirement. (20 hrs/yr thereafter)		-19-5. <i>see above</i> -16-4.I. Unlicensed staff must receive 20 hrs of pre-service training and orientation.	97.501(4). gen trg reqt re: provider policies & status of residents. 97.206(4) in-svc trg: 15hr/yr
Direct Supervision	50.240. req. inexperienced caregiver to be monitored by experienced caregiver + monthly conferences re: needs of specific children		≥ 1 qualified mental health associate (QMHA), who must have completed: (1) BA in beh sci field OR (2) ≥ 3 yrs. work, educ, training or experience. 309.032.1110(71) 309.032.1150 No ratio for caregivers/kids.		
Staffing Ratio	50.865 staff/kids ≥ 2 [1awake] Awake: <10 kids: 1/3 Awake: ≥ 10 kids: 1/5 Sleep: 1/6 if kids <10 yrs old Sleep: 1/10 if kids >10 yrs + available on-call staff & on-call MH Professional	7.705.45 Awake 1/6 if kids 3-6 yrs Awake 1/8 if kids 7-12 Awake 1/10 if kids 13-16 Sleep: 1/12 if kids 3-6 Sleep: 1/16 if kids 7-12 Sleep: 1/20 if kids 13-16	# prof 1 staff per # kids: Awake: 1 of each 3 staff must be QMHA or 1 of Sleep: 1 of each 6 staff must be QMHA	-19-5.3.f. minimum of 2 staff (unspecified) w/ staff ratio of 1/4 awake; reduced at night (no minimum) -16-4G. ≥ 1/5 w/ > 2 on duty at all times Sleep: 2/25; 3/50; 4/75; 5/100; 6/>100	97.250(c): Awake: 1/6 + 1 on call Sleep: 1/12 + 1 on call

Standard	ALASKA 7 AAC	FLORIDA 65E-9			
What Called	RPTC 50.800-890	RTC 65E-9.001-014			
Qualifications	50.815. Caregiver must have completed: (1) bachelor's level college; (2) 2yr exp in residential or inpatient tx for children or other tx of SED children + 2 years college or AA; OR (3) 4yr increasing responsible caregiver experience in residential or inpatient tx of children or tx of SED children + high school, GED or certification of completion of DHSS-provided residential child care training	9.002(11) def. "direct care staff" 9:007(4)(f): direct care staff: (1) high school; OR (2) GED			
Orientation/ Initial Training	50.820. If exp working w/ emotionally disturbed persons in resid. setting is: < 6 mon, then 40 hrs + 40 hrs experience working under supervision; OR ≥ 6 mon, then 20 hrs + 20 hrs supervised work	9.007(5). req. orientation during first 2 mon + 40 hrs training annually for direct care staff			
Direct Supervision	50.240. req. inexperienced caregiver to be monitored by experienced caregiver + monthly conferences re: needs of specific children	9.007(c). An RN must be on duty at all times. See ratio below.			
Staffing Ratio	50.865. staff/kids Awake: <10 kids: 1/3 Awake: >10 kids: 1/5 Sleep: 1/6 if kids <10 yrs old Sleep: 1/10 if kids >10 yrs	9.007(e). direct care staff: min: ≥2 awake at all times; Awake: 1/4 Sleep: 1/6 (c) RN Awake: 1/30 Sleep: 1/40			

Matthew Johnson

From: Myra Munson [myra@sonoskyjuneau.com]
Sent: Thursday, April 09, 2009 7:26 AM
To: lindaa@gci.net; Matthew Johnson
Subject: FW: Caregiver standards in RCCF & Fed standards

FYI. Info sent to DHSS Deputy Commissioner Pat Hefley.

Myra M. Munson

Sonosky, Chambers, Sachse, Miller & Munson LLP
 302 Gold Street, Suite 201
 Juneau, AK 99801
 907-586-5880
 907-586-5883 (fax)
 907-250-4737 (mobile)
 Email: myra@sonoskyjuneau.com

From: Myra Munson
Sent: Thursday, April 09, 2009 7:25 AM
To: 'patrick.hefley@alaska.gov'
Subject: Caregiver standards in RCCF & Fed standards

Pat,

As I mentioned yesterday, I have researched both of these questions. Here are my findings. If you discover I have missed something or you think my conclusions are incorrect or misleading, please let me know.

What are the qualifications for caregiver staff in a RCCF?

7 AAC 50.210(i) A caregiver in a RCCF must have a high school diploma or GED.

7 AAC 50.230. An "associate administrator" must have 30 semester hours of college credit in a human services field.

7 AAC 50.240. Supervision requirements:

(a) A facility with one or more employees must ensure that an inexperienced caregiver is monitored by an experienced caregiver until the inexperienced caregiver is able to safeguard the health and safety of the children in care.

(b) An RCCF must have at least monthly conferences between supervisor and caregiver re: needs and treatment plans of specific children.

7 AAC 50.250. Orientation and training.

(a) Orientation: must begin at onset of employment, be completed within 8 weeks and include employer policies & procedures, including caregiver responsibilities; satisfying special needs of specific children, where appropriate; and emergency procedures and health and safety measures.

(d) Training. Each caregiver must receive a minimum of 15 hours of training a year exclusive of orientation.

7 AAC 50.410. Caregiver ratio. Awake: 1/6 and Sleep: 1/12

Is the newly proposed RPTC caregiver qualification lower than the standards for RCCF?

No.

Does the newly proposed caregiver qualification satisfy Federal requirements?

Yes. Psychiatric residential treatment facilities must satisfy the requirements of 42 C.F.R. Subpart D—Inpatient Psychiatric Services for Individuals Under Age 21 in Psychiatric Facilities or Programs (42 C.F.R. §§ 441.151 through 441.182) and Subpart G—Condition of Participation for the Use of Restraint or Seclusion in Psychiatric Residential Treatment Facilities Providing Inpatient Psychiatric Services for Individuals Under Age 21 (42 C.F.R. §§ 483.350 through 483.376). These set out no specific requirements for caregiver staff. With regard to staffing qualifications, they focus only on professional staff and training regarding restraints.

More on other matters later, perhaps.

Please call if talking will help us address the underlying issues driving this legislation and achieve better results for children.

Myra

Myra M. Munson

Sonosky, Chambers, Sachse, Miller & Munson LLP

302 Gold Street, Suite 201

Juneau, AK 99801

907-586-5880

907-586-5883 (fax)

907-250-4737 (mobile)

Email: myra@sonoskyjuneau.com

Deputy Director Pat Hefley: April 3, 2009

Response to Munson draft bill (citations will differ from introduced versions, however, issues raised by DHSS may remain)

Commissioner Hogan sent me a copy of the bill that came from the Boy's and Girl's Home agency. We have not had time for the more appropriate comprehensive review of this bill by LAW and our Licensing section as well as by many of the affected Divisions. Given the limits of the timeframe however, I would like to offer you these constructs:

-We must comply with Federal requirements for Residential Psychiatric Facilities and we have not been able to review these proposed changes in light of those requirements. It is entirely possible that they would not meet these requirements

Response: Attorney Myra Munson has researched this issue thoroughly. An RPTC must satisfy the requirements of 42 CFR Subpart D –Inpatient Psychiatric Services for Individuals Under Age 21 in Psychiatric Facilities or Programs (42 C.F.R. §§ 441.151 through 441.182) and Subpart G–Condition of Participation for the Use of Restraint or Seclusion in Psychiatric Residential Treatment Facilities Providing Inpatient Psychiatric Services for Individuals Under Age 21 (42 C.F.R. §§ 483.350 through 483.376). There are no specific requirements for caregiver staff. The requirements focus only on professional staff.

-We have questions as to why the bill is to be put into statutes. Specifically, AS 47.32.030 pertains to 16 entities (such as hospitals, ambulatory surgical centers) and I believe that placing it in this section of the statutes is not meant to affect all 16 entities. The more appropriate place to modify the qualifications of staff who work in residential psychiatric treatment centers would be in regulation or administrative code.

Response: DHSS responded that they could pursue emergency regulations. It has been determined that legal limitations exist that will not allow justification for DHSS to pursue emergency regulations. Further, the standard regulation process will require months of non-compliance for those RPTC's who cannot now meet their standards. A Statutory remedy is the most expeditious and efficient way to keep the RPTC's in compliance and fully operational.

-the use of the words "caregiver staff", to which the proposed changes are meant to apply, is not definitive. Does this apply to medical, professional or paraprofessional staff?

Response: "Caregiver staff" is a term taken directly out of current regulations (7 AAC 50.990(4)). This legislation includes a definition of this term for clarification. This definition excludes professional staff.

-the training leading to certification reference in (d)(1) is problematic. We do not currently know if there is an adequate amount of this training available to provide all statewide staff who may need this training. This training and certification may also need to be expanded if it is meant to be the "ticket" that would allow a person to work in an RPTC. Again, we have not had time today to review this matter.

Response: Currently, RPTC's are required to implement the training. The legislation proposes that the DHSS MAY provide a training program or APPROVE a training program to be implemented by the provider. Currently, providers implement approved training programs for levels 1-3 as well as the more intensive Level 4 care. The legislation proposes the similar implementation for Level 5 care.

-Section (d) (2) (a) notes that a "caregiver staff" would be supervised by someone with a bachelors degree. There is no definition of the type of bachelors degree or the type of experience that this staff would need to have to oversee the "caregiver" staff. Clearly a person who has a bachelor's degree in public accounting would not be suitable for this responsibility. A degree in and of itself is not an adequate qualifying criteria for oversight of staff.

Response: Current DHSS regs do not define bachelors degree and therefore allow an individual with a public accounting degree to meet qualifications. The bill adds language to provide that an individual with a bachelor degree in human services related field be scheduled on every shift rather than require that all caregivers hold a bachelor degree in any field.

-Lines 15 and 16 which reference that DHSS would somehow review the education and experience of individuals for their "education or experience" of staff to be hired is problematic. We should not be reviewing each and every applicant for positions in these provider agencies who may not meet the bachelor's requirement as this would be an administrative burden that is inappropriate for DHSS.

Response: Again, current regulations and this legislation require the RPTC's to guarantee education and experience of individual staff, not the Department. DHSS retains the authority to review for compliance. There is no change from current practice and no additional burden to DHSS.

Again, I regret that we have simply not had time to thoroughly review this bill. It would affect the Behavioral Health Division, The Office of Children's Services, and the Office of Juvenile. As noted above we have NOT had time for LAW, Licensing or our Medicaid office to review it for its' implications.

I can say that we do not support this proposed bill in its current form. – DHSS Deputy Commissioner Pat Hefley

Since the April 3 communication, the Department has also raised other concerns, which are addressed below:

1) Is this bill being proposed to interfere with adverse licensing actions?

No. It will have prospective application only. It will provide a means for RPTCs to achieve full compliance with caregiver staffing.

2) Do the proposed caregiver qualifications for level V RPTC fall below those required for lower level residential child care facilities (RCCF).

No. The only educational requirement for a caregiver in an RCCF (other than in an RPTC) is a high school diploma or GED. 7 AAC 50.210(i). The supervision requirements for the caregivers are only that inexperienced caregivers must be monitored by an experienced caregiver until the inexperienced one is able to safeguard the health and safety of children in care and that there be at least monthly conferences between the supervisor and caregiver. 7 AAC 50.240(a) and (b). Orientation is allowed to occur within the first 8 weeks of employment and there are no specific hour requirements. Otherwise the caregiver is required to have only 15 hours of additional training a year. 7 AAC 50.250(a) and (d). The caregiver to child ratio is 1/6 during awake hours and 1/12 during sleep hours. 7 AAC 50.410. These are all lower than the requirements provided for in the bill.

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 223(HSS)

Page 1, line 14 - page 2, line 3:

Delete all material and insert:

“residential treatment for children, inpatient long-term treatment for children, or other treatment of severely emotionally disturbed children; and”

Page 2, lines 9 -13:

Delete all material and insert:

“(A) at least four years of increasingly responsible caregiver experience in residential treatment for children, inpatient long-term treatment of children, or treatment of severely emotionally disturbed children; and”

Page 2, line 26:

Following “of”:

Delete “(1),”

Following “(2)”:

Delete “,”

Page 2, line 28

Following “training”

Insert “in residential child care

Explanation:

Page 1, line 14 - page 2, line 3:

This amendment will make the statute conform exactly to current standards under 7 AAC 50.815(2).

Page 2, lines 9 -13:

This amendment will make the statute conform exactly to current standards under 7 AAC 50.815(3).

Page 2, line 26:

This amendment will ensure that caregivers who are qualified under the new standard in subsection (c) can only work when someone is on-duty who has at least a bachelor's degree in a human-service-related field or has experience in treatment of children.

Page 2, line 28:

This amendment will ensure that the training described in the statute will be the equivalent of that currently provided for by regulation at 7 AAC 50.815(3)(C).

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CS HB 223 (HSS)
() Publish Date: _____

Identifier (file name): HB223CS(HSS)-DHSS-BHA-04-09-09 Dept. Affected: Health and Social Services
Title Residential Psychiatric Treatment Centers RDU Behavioral Health
Component Behavioral Health Administration
Sponsor House Health & Social Services
Requester House HSS Component Number 2665

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation	Information					
	Required	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES							
Personal Services	157.0		157.0	157.0	157.0	157.0	157.0
Travel							
Contractual	400.0		400.0	400.0	400.0	400.0	400.0
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	557.0	0.0	557.0	557.0	557.0	557.0	557.0

CAPITAL EXPENDITURES							
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CHANGE IN REVENUES (
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health	557.0		557.0	557.0	557.0	557.0	557.0
Other Interagency Receipts							
TOTAL	557.0	0.0	557.0	557.0	557.0	557.0	557.0

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time	2		2	2	2	2	2
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

The proposed legislation would amend AS 47.32 staff qualifications related to licensing and operation of residential psychiatric treatment centers (RPTC). Recommended changes would require a "department-provided training in residential child care" instead of the current regulation that provides this training in lieu of an academic diploma. This becomes a new state responsibility, requiring additional resources. Currently the division has a contract for behavioral rehabilitation certification within residential youth facilities that is a lower level of care. Based on the existing contract, the projected costs for certification of residential psychiatric treatment centers would be \$400,000 annually.

The proposed legislation would also require that Department of Health and Social Services (DHSS) provide

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Division Behavioral Health Date/Time 4/9/09 12:00 AM

Approved by: Alison Elgee, Assistant Commissioner Date 4/9/2009
DHSS Finance & Management Services

FISCAL NOTE

STATE OF ALASKA

BILL NO. CS HB 233 (HSS)

2009 LEGISLATIVE SESSION

ANALYSIS CONTINUATION

and/or approve training for RPTC staff and review the "education or experience" of RPTC applications to be hired. To develop and conduct training, certify other training as approved, and review the applications of RPTC staff to assure that caregivers meet the education/experience and training requirements, a Mental Health Clinician III would be required as well as an Administrative Clerk III to coordinate the paperwork and track staff trainings.