

**HB**

**214**

<TARGET><BILL>HB 214</BILL><SUBJECT>HB  
214</SUBJECT><COMM>HJUD28</COMM></TARGET>



# ALASKA STATE LEGISLATURE

**Session:**  
State Capitol Building,  
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Juneau, Alaska 99801-2186  
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## REPRESENTATIVE PETE HIGGINS

April 7, 2014

### CS HB 214( )\Y Sectional Analysis

**Section 1.** Adds a mental health grievance appeals to the jurisdiction of the Office of Administrative Hearings.

**Section 2.** Requires the Office of Administrative Hearings to maintain confidentiality of records in grievance appeals.

**Section 3.** Amends AS47.30.660 defining and limiting the Powers and Duties the Department can delegate.

**Section 4.** Adds rights to the list of rights of a person undergoing mental health evaluation or treatment in the state under specified provisions of state law, including involuntary commitments. The additional rights include the right to file a grievance, the right to have a designated representative of their choosing to act as a patient advocate and to assist in filing a grievance, the right to natural support systems, including family, friends, and help networks after being in an locked evaluation facility over three days; and the right to maintain confidentiality of their records unless they chose to release those records.

**Section 5.** Establishes a grievance procedure, including a call center, departmental review and appeal. Establishes three categories of grievances, and their respective reporting requirements. Defines "grievance", "grievant", and "unit".

**Section 6.** Requires the Department of Health and Social Services to provide a standardized notice of patients' rights, assistance, and grievance procedures to mental health evaluation and treatments facilities in the state. Also requires the person in charge of the facility to provide a written copy of the notice to each patient or their representative.

**Section 7.** Requires the Department to provide for a transition period under AS47.30.660.

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## REPRESENTATIVE PETE HIGGINS

April 7, 2014

### Explanation of changes for CS HB 214 28-LS0869\Y

**Section 1:** Unchanged

**Section 2:** Unchanged

**Section 3:** Page 1 AS 47.30.660(b)(13) Amended to read, “the authority to operate and maintain treatment facilities under (4) of this subsection and to provide for the placement of patients under (5) of this subsection, as necessary to operate a statewide system for the evaluation and treatment of mental health disorders; however, the department may not, under this paragraph, delegate duties involving investigations and oversight of a mental health facility that the department is required to perform in order to comply with federal and state law and with the mental health grievance procedure under AS 47.30.847. Deletes, “Any of the duties and powers imposed upon it by AS.47.30.660 – 47.30.915.

**Section 4:** Page 3 renumbered from Section 3 to Section 4 otherwise no change

**Section 5:** Page 5 renumbered from Section 4 to Section 5. AS 47.30.847(i) added the definition of a “unit” to mean a portion of a health care facility dedicated to the evaluation or treatment on mental health patients under AS 47.30.660 – AS 30.915.

**Section 6:** Page 7 renumbered from Section 5 to Section 6 otherwise no change.

**Section 7:** Page 7 amends the uncodified law adding a new section: “**MENTAL HEALTH DELEGATION; TRANSITION.** The Department of Health and Social Services shall, as soon as feasible, implement the changes made to AS 47.30.660(b)(13), as amended by Sec. 3 of this Act, including amending or terminating agreements made under delegations under that paragraph as it read before the effective date of this Act.”

28-LS0869\Y  
Mischel  
4/4/14

**CS FOR HOUSE BILL NO. 214( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-EIGHTH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVES HIGGINS, TARR, AND GATTIS, Muñoz**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to mental health patient rights, notifications, and grievance**  
2 **procedures; and relating to delegations of duties and powers relating to mental health**  
3 **by the Department of Health and Social Services."**

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

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

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

7 **\* Sec. 2.** AS 44.64.090 is amended by adding a new subsection to read:

8 (c) The office shall maintain the confidentiality of records pertaining to a  
9 mental health grievance appeal filed under AS 47.30.847 except as necessary to  
10 conduct the appeal among the parties to the appeal, unless the office has received the  
11 prior written consent of the person who filed the grievance.

12 **\* Sec. 3.** AS 47.30.660(b) is amended to read:

13 (b) The department, in fulfilling its duties under this section and through its  
14 division responsible for mental health, shall

1 (1) administer a comprehensive program of services for persons with  
2 mental disorders, for the prevention of mental illness, and for the care and treatment of  
3 persons with mental disorders, including inpatient and outpatient care and treatment  
4 and the procurement of services of specialists or other persons on a contractual or  
5 other basis;

6 (2) take the actions and undertake the obligations that are necessary to  
7 participate in federal grants-in-aid programs and accept federal or other financial aid  
8 from whatever sources for the study, prevention, examination, care, and treatment of  
9 persons with mental disorders;

10 (3) administer AS 47.30.660 - 47.30.915;

11 (4) designate, operate, and maintain treatment facilities equipped and  
12 qualified to provide inpatient and outpatient care and treatment for persons with  
13 mental disorders;

14 (5) provide for the placement of patients with mental disorders in  
15 designated treatment facilities;

16 (6) enter into arrangements with governmental agencies for the care or  
17 treatment of persons with mental disorders in facilities of the governmental agencies  
18 in the state or in another state;

19 (7) enter into contracts with treatment facilities for the custody and  
20 care or treatment of persons with mental disorders; contracts under this paragraph are  
21 governed by AS 36.30 (State Procurement Code);

22 (8) enter into contracts, which incorporate safeguards consistent with  
23 AS 47.30.660 - 47.30.915 and the preservation of the civil rights of the patients with  
24 another state for the custody and care or treatment of patients previously committed  
25 from this state under 48 U.S.C. 46 et seq., and P.L. 84-830, 70 Stat. 709;

26 (9) prescribe the form of applications, records, reports, requests for  
27 release, and consents to medical or psychological treatment required by AS 47.30.660  
28 - 47.30.915;

29 (10) require reports from the head of a treatment facility concerning  
30 the care of patients;

31 (11) visit each treatment facility at least annually to review methods of

1 care or treatment for patients;

2 (12) investigate complaints made by a patient or an interested party on  
3 behalf of a patient;

4 (13) delegate upon mutual agreement to another officer or agency of it,  
5 or a political subdivision of the state, or a treatment facility designated, the authority  
6 to operate and maintain treatment facilities under (4) of this subsection and to  
7 provide for the placement of patients under (5) of this subsection, as necessary to  
8 operate a statewide system for the evaluation and treatment of mental health  
9 disorders; however, the department may not, under this paragraph, delegate  
10 duties involving investigation and oversight of a mental health facility that the  
11 department is required to perform in order to comply with federal and state law  
12 and with the mental health grievance procedure under AS 47.30.847 [ANY OF  
13 THE DUTIES AND POWERS IMPOSED UPON IT BY AS 47.30.660 - 47.30.915];

14 (14) after consultation with the Alaska Mental Health Trust Authority,  
15 adopt regulations to implement the provisions of AS 47.30.660 - 47.30.915;

16 (15) provide technical assistance and training to providers of mental  
17 health services; and

18 (16) set standards under which each designated treatment facility shall  
19 provide programs to meet patients' medical, psychological, social, vocational,  
20 educational, and recreational needs.

21 \* Sec. 4. AS 47.30.840(a) is amended to read:

22 (a) A person undergoing evaluation or treatment under AS 47.30.660 -  
23 47.30.915

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

29 (2) at the time of admission to an evaluation or treatment facility, shall  
30 have reasonable precautions taken by the staff to inventory and safeguard the patient's  
31 personal property; a copy of the inventory signed by the staff member making it shall

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be given to the patient and made available to the patient's attorney and any other person authorized by the patient to inspect the document;

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

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

(5) except as provided in (15) of this subsection, shall be allowed to have visitors at reasonable times;

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

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

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

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

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

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

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

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

(14) has the right to select an individual to act as a patient advocate and to assist in the filing of a grievance under AS 47.30.847;

(15) who has been evaluated or treated in a locked evaluation facility or unit or a designated treatment facility or unit for more than three days

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has the right to a reasonable opportunity to maintain natural support systems, including family, friends, and help networks;

(16) has the right to confidentiality of the person's records unless the person has consented in writing to the release of the records.

\* Sec. 5. AS 47.30.847 is repealed and reenacted to read:

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

(1) a telephone call center operated by the department for filing and reviewing a grievance;

(2) a standardized form for filing a grievance;

(3) an appeal procedure that includes an administrative appeal to the office of administrative hearings under AS 44.64;

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

(5) regular monitoring of compliance with the procedure;

(6) timely records review and maintenance by the department;

(7) maintenance of confidentiality of the grievance records, including appeal documents and decisions, unless the grievant provides prior written consent to release some or all of the records; and

(8) a process for designating a grievance by category as follows:

(A) category 1 for a grievance related to the physical or social environment under the control of the facility or unit;

(B) category 2 for a grievance related to patients' rights as provided in AS 47.30.825 and 47.30.830 and regulations of the department;

(C) category 3 for a grievance that alleges a criminal act.

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

1 unless the grievance is withdrawn by the grievant. The facility or unit shall

2 (1) provide a form approved by the department for submission of a  
3 grievance and a secure box for deposit of grievances; the contents of the box must be  
4 reviewed each day a patient is being treated or evaluated; the form must be readily  
5 accessible to the patient and easily understood by the patient or easily explained by a  
6 staff member in a language and method understandable to the patient; the original and  
7 a copy of a completed form submitted to the facility or unit must be kept in the  
8 patient's record of admission or an administrative file for the patient;

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

11 (3) for a category 2 or 3 grievance, deliver to the department within 24  
12 hours an electronic copy of the initial grievance and all documents received under (2)  
13 of this subsection.

14 (c) Unless an extension of time of not more than five business days is agreed  
15 to by a grievant or the grievant's representative, an evaluation facility or unit or a  
16 designated treatment facility or unit shall mail or hand deliver a written response to the  
17 patient and an electronic copy of the response to the department within five calendar  
18 days after receipt by the department of a grievance or request for additional review.  
19 The response must include the reasons for the decision and a description of the appeal  
20 process. The grievant may request review by the commissioner within 30 calendar  
21 days.

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

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

29 (f) An evaluation facility or unit and a designated treatment facility or unit  
30 shall prepare and file an annual report with the department that describes the

31 (1) number of category 1, 2, and 3 grievances submitted;

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

(g) The department shall provide to the governor and to the legislature an annual report of the number, locations, and category of grievances filed under this section and recommendations of the department to improve mental health evaluation, treatment, and procedures in the state. The report must preserve the confidentiality of a person who is the subject of a grievance. The department shall make the report available to the public.

(h) Nothing in this section applies to an evaluation facility or unit or designated treatment facility or unit that only provides outpatient services.

(i) In this section,

(1) "grievance" means a complaint or concern filed by telephone or in writing by a grievant using a form provided by an evaluation facility or unit or a designated treatment facility or unit;

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

(3) "unit" means a portion of a health care facility dedicated to the evaluation or treatment of mental health patients under AS 47.30.660 - 47.30.915.

\* **Sec. 6.** AS 47.30.855 is amended by adding new subsections to read:

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

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

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

\* **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to read:

**MENTAL HEALTH SERVICE DELEGATION; TRANSITION.** The Department of

1 Health and Social Services shall, as soon as feasible, implement the changes made to  
2 AS 47.30.660(b)(13), as amended by sec. 3 of this Act, including amending or terminating  
3 agreements made under delegations under that paragraph as it read before the effective date of  
4 this Act.

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## REPRESENTATIVE PETE HIGGINS Memorandum

**TO:** Representative Keller, Chairman; House Judiciary Committee

**FROM:** Representative Pete Higgins 

**DATE:** March 18, 2014

**SUBJECT:** Hearing Request HB 214, *"An Act relating to mental health patient rights, notifications, and grievance procedures."*

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I respectfully request that the House Judiciary Committee hear HB 214.

The following documents are provided and will be sent via email.

- HB 214/A
- HB 214 Sponsors Statement
- CS HB 214 ver O
- CS HB 214 Explanation of Changes ver O
- HB 214 Sectional Analysis
- CS HB 214 Sectional Analysis
- LAA Legal Opinion
- Fiscal Note Department of Law
- Fiscal Note Department of Administration
- Fiscal Note Department of Health and Social Services ver O
- Fiscal Note Department of Health and Social Services ver A

There are numerous letters of support, facility procedures, and testimony contained on BASIS for review and inclusion as determined appropriate by the Committee.

Thank you,

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## REPRESENTATIVE PETE HIGGINS

### SPONSOR STATEMENT

**HB 214 "An Act relating to a mental health patient rights, notifications, and grievance procedures"**

---

HB 214 amends the mental health grievance procedure provided under AS 47.30.847. This bill governs due process and grievance procedures in all state and private mental health hospitals, clinics, and units which receive public funds. Prompted by the 8,000 to 10,000 admissions to mental health facilities and units in Alaska each year, this bill requires:

1. Adequate notice
2. Standardized forms
3. Advocate assistance
4. Rapid written administrative response
5. Right to appeal
6. Telephonic access to a state monitored call center to lodge a complaint immediately.

Mental health patients are among the most vulnerable in Alaska. There are a number of patient assaults and staff injuries each year. There are also thousands of children who are committed each year.

Current statutes and regulations do little to protect psychiatric patients. State and Federal courts have consistently ruled that individuals who have not committed a crime and are locked up for psychiatric evaluation and treatment should not be treated like criminals and their rights are to remain intact to the greatest extent possible. Ironically, prisoners in Alaska's correctional system are afforded a much more comprehensive grievance procedure with due process rights and protections under the law than mental health patients.

HB 214 provides for three critical rights; the right to file a grievance, the right to have an advocate, and the right to a timely response to a grievance.

Passage of HB 214 will improve mental health treatment, grievance reporting, and state oversight.

28-LS0392\A

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## REPRESENTATIVE PETE HIGGINS

March 19, 2014

### Explanation of changes for CS HB 214 28-LS0869\P

**Section 1:** Unchanged

**Section 2:** Unchanged

**Section 3:** Page 1 AS 47.30.660(b)(13) Amended to read, “the authority to operate and maintain treatment facilities under (4) of this subsection and to provide for the placement of patients under (5) of this subsection, as necessary to operate a statewide system for the evaluation and treatment of mental health disorders; however, the department may not, under this paragraph, delegate duties involving investigations and oversight of a mental health facility that the department is required to perform in order to comply with federal and state law and with the mental health grievance procedure under AS 47.30.847. Deletes, “Any of the duties and powers imposed upon it by AS.47.30.660 – 47.30.915.

**Section 4:** Page 3 renumbered from Section 3 to Section 4 otherwise no change

**Section 5:** Page 5 renumbered from Section 4 to Section 5 otherwise no change.

**Section 6:** Page 7 renumbered from Section 5 to Section 6 otherwise no change.

**Section 7:** Page 7 amends the uncodified law adding a new section: “**MENTAL HEALTH DELEGATION; TRANSITION.** The Department of Health and Social Services shall, as soon as feasible, implement the changes made to AS 47.30.660(b)(13), as amended by Sec. 3 of this Act, including amending or terminating agreements made under delegations under that paragraph as it read before the effective date of this Act.”

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## REPRESENTATIVE PETE HIGGINS

March 7, 2014

### CS HB 214( )\P Sectional Analysis

**Section 1.** Adds a mental health grievance appeals to the jurisdiction of the Office of Administrative Hearings.

**Section 2.** Requires the Office of Administrative Hearings to maintain confidentiality of records in grievance appeals.

**Section 3.** Amends AS47.30.660 defining and limiting the Powers and Duties the Department can delegate.

**Section 4.** Adds rights to the list of rights of a person undergoing mental health evaluation or treatment in the state under specified provisions of state law, including involuntary commitments. The additional rights include the right to file a grievance, the right to have a designated representative of their choosing to act as a patient advocate and to assist in filing a grievance, the right to natural support systems, including family, friends, and help networks after being in an locked evaluation facility over three days; and the right to maintain confidentiality of their records unless they chose to release those records.

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**Section 6.** Requires the Department of Health and Social Services to provide a standardized notice of patients' rights, assistance, and grievance procedures to mental health evaluation and treatments facilities in the state. Also requires the person in charge of the facility to provide a written copy of the notice to each patient or their representative.

**Section 7.** Requires the Department to provide for a transition period under AS47.30.660.

28-LS0869P  
Mischel  
3/18/14

**CS FOR HOUSE BILL NO. 214( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-EIGHTH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): REPRESENTATIVES HIGGINS, TARR, AND GATTIS, Muñoz**

**A BILL**  
**FOR AN ACT ENTITLED**

1 **"An Act relating to mental health patient rights, notifications, and grievance**  
2 **procedures; and relating to delegations of duties and powers relating to mental health**  
3 **by the Department of Health and Social Services."**

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

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8 (c) The office shall maintain the confidentiality of records pertaining to a  
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11 prior written consent of the person who filed the grievance.

12 **\* Sec. 3.** AS 47.30.660(b) is amended to read:

13 (b) The department, in fulfilling its duties under this section and through its  
14 division responsible for mental health, shall

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2 mental disorders, for the prevention of mental illness, and for the care and treatment of  
3 persons with mental disorders, including inpatient and outpatient care and treatment  
4 and the procurement of services of specialists or other persons on a contractual or  
5 other basis;

6 (2) take the actions and undertake the obligations that are necessary to  
7 participate in federal grants-in-aid programs and accept federal or other financial aid  
8 from whatever sources for the study, prevention, examination, care, and treatment of  
9 persons with mental disorders;

10 (3) administer AS 47.30.660 - 47.30.915;

11 (4) designate, operate, and maintain treatment facilities equipped and  
12 qualified to provide inpatient and outpatient care and treatment for persons with  
13 mental disorders;

14 (5) provide for the placement of patients with mental disorders in  
15 designated treatment facilities;

16 (6) enter into arrangements with governmental agencies for the care or  
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18 in the state or in another state;

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21 governed by AS 36.30 (State Procurement Code);

22 (8) enter into contracts, which incorporate safeguards consistent with  
23 AS 47.30.660 - 47.30.915 and the preservation of the civil rights of the patients with  
24 another state for the custody and care or treatment of patients previously committed  
25 from this state under 48 U.S.C. 46 et seq., and P.L. 84-830, 70 Stat. 709;

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4 (13) delegate upon mutual agreement to another officer or agency of it,  
5 or a political subdivision of the state, or a treatment facility designated, the authority  
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13 THE DUTIES AND POWERS IMPOSED UPON IT BY AS 47.30.660 - 47.30.915];

14 (14) after consultation with the Alaska Mental Health Trust Authority,  
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28 patient or the patient's designee unless a court orders otherwise;

29 (2) at the time of admission to an evaluation or treatment facility, shall  
30 have reasonable precautions taken by the staff to inventory and safeguard the patient's  
31 personal property; a copy of the inventory signed by the staff member making it shall

1 be given to the patient and made available to the patient's attorney and any other  
2 person authorized by the patient to inspect the document;

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

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

10 (5) except as provided in (15) of this subsection, shall be allowed to  
11 have visitors at reasonable times;

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

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

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

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

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

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

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

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

28 (14) has the right to select an individual to act as a patient  
29 advocate and to assist in the filing of a grievance under AS 47.30.847;

30 (15) who has been evaluated or treated in a locked evaluation  
31 facility or unit or a designated treatment facility or unit for more than three days

1 has the right to a reasonable opportunity to maintain natural support systems,  
2 including family, friends, and help networks;

3 (16) has the right to confidentiality of the person's records unless  
4 the person has consented in writing to the release of the records.

5 \* Sec. 5. AS 47.30.847 is repealed and reenacted to read:

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

11 (1) a telephone call center operated by the department for filing and  
12 reviewing a grievance;

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

14 (3) an appeal procedure that includes an administrative appeal to the  
15 office of administrative hearings under AS 44.64;

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

17 (5) regular monitoring of compliance with the procedure;

18 (6) timely records review and maintenance by the department;

19 (7) maintenance of confidentiality of the grievance records, including  
20 appeal documents and decisions, unless the grievant provides prior written consent to  
21 release some or all of the records; and

22 (8) a process for designating a grievance by category as follows:

23 (A) category 1 for a grievance related to the physical or social  
24 environment under the control of the facility or unit;

25 (B) category 2 for a grievance related to patients' rights as  
26 provided in AS 47.30.825 and 47.30.830 and regulations of the department;

27 (C) category 3 for a grievance that alleges a criminal act.

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

1 unless the grievance is withdrawn by the grievant. The facility or unit shall

2 (1) provide a form approved by the department for submission of a  
3 grievance and a secure box for deposit of grievances; the contents of the box must be  
4 reviewed each day a patient is being treated or evaluated; the form must be readily  
5 accessible to the patient and easily understood by the patient or easily explained by a  
6 staff member in a language and method understandable to the patient; the original and  
7 a copy of a completed form submitted to the facility or unit must be kept in the  
8 patient's record of admission or an administrative file for the patient;

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

11 (3) for a category 2 or 3 grievance, deliver to the department within 24  
12 hours an electronic copy of the initial grievance and all documents received under (2)  
13 of this subsection.

14 (c) Unless an extension of time of not more than five business days is agreed  
15 to by a grievant or the grievant's representative, an evaluation facility or unit or a  
16 designated treatment facility or unit shall mail or hand deliver a written response to the  
17 patient and an electronic copy of the response to the department within five calendar  
18 days after receipt by the department of a grievance or request for additional review.  
19 The response must include the reasons for the decision and a description of the appeal  
20 process. The grievant may request review by the commissioner within 30 calendar  
21 days.

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

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

29 (f) An evaluation facility or unit and a designated treatment facility or unit  
30 shall prepare and file an annual report with the department that describes the

31 (1) number of category 1, 2, and 3 grievances submitted;

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(2) general issue raised in each grievance; and

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

(g) The department shall provide to the governor and to the legislature an annual report of the number, locations, and category of grievances filed under this section and recommendations of the department to improve mental health evaluation, treatment, and procedures in the state. The report must preserve the confidentiality of a person who is the subject of a grievance. The department shall make the report available to the public.

(h) Nothing in this section applies to a facility or unit or designated treatment facility that only provides outpatient services.

(i) In this section,

(1) "grievance" means a complaint or concern filed by telephone or in writing by a grievant using a form provided by an evaluation facility or unit or a designated treatment facility or unit;

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

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

\* **Sec. 6.** AS 47.30.855 is amended by adding new subsections to read:

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

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

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

\* **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to read:

**MENTAL HEALTH SERVICE DELEGATION; TRANSITION.** The Department of

1 Health and Social Services shall, as soon as feasible, implement the changes made to  
2 AS 47.30.660(b)(13), as amended by sec. 3 of this Act, including amending or terminating  
3 agreements made under delegations under that paragraph as it read before the effective date of  
4 this Act.

# ALASKA STATE LEGISLATURE

**Session:**  
State Capitol Building,  
Room 424  
Juneau, Alaska 99801-2186  
Phone (907) 465-4230  
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**Interim:**  
1292 Sadler Way  
Fairbanks, Alaska 99701  
Phone: (907) 452-6084  
Fax: (907) 452-6096

## REPRESENTATIVE PETE HIGGINS

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March 13, 2014

### Explanation of changes for CS HB 214 28-LS0869\O

**Section 1:** Unchanged

**Section 2:** Unchanged

**Section 3:** Page 3 AS 47.30.840(a)(13) Amended by adding, "has the right to a designated representative employed and clearly identified by the evaluation facility or unit or a designated treatment facility or unit to act as a patient advocate and to assist in the filing of a grievance under AS 47.30.847".

(14) was amended "has the right to select an individual to act as a patient advocate and to assist in the filing of a grievance under AS 47.30.847."

(15) number change only

(16) number change only

**Section 4:** Page 5 AS 47.30.847(h) was amended adding, "Nothing in this section applies to a facility or unit or designated treatment facility that only provides outpatient services."

Sec. 5 Unchanged.

Sec.6 Unchanged

# ALASKA STATE LEGISLATURE

**Session:**  
State Capitol Building,  
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## REPRESENTATIVE PETE HIGGINS

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March 17, 2014

### CS HB 214(HSS)\O Sectional Analysis

**Section 1.** Adds a mental health grievance appeals to the jurisdiction of the Office of Administrative Hearings.

**Section2.** Requires the Office of Administrative Hearings to maintain confidentiality of records in grievance appeals.

**Section 3.** Adds rights to the list of rights of a person undergoing mental health evaluation or treatment in the state under specified provisions of state law, including involuntary commitments. The additional rights include the right to file a grievance, the right to have a designated representative of their choosing to act as a patient advocate and to assist in filing a grievance, the right to natural support systems, including family, friends, and help networks after being in an locked evaluation facility over three days; and the right to maintain confidentiality of their records unless they chose to release those records.

**Section 4.** Establishes a grievance procedure, including a call center, departmental review and appeal. Establishes three categories of grievances, and their respective reporting requirements. Defines "grievance", "grievant", and "unit".

**Section 5.** Requires the Department of Health and Social Services to provide a standardized notice of patients' rights, assistance, and grievance procedures to mental health evaluation and treatments facilities in the state. Also requires the person in charge of the facility to provide a written copy of the notice to each patient or their representative.

**Section 6.** Repeals AS47.30.660(b)(13). Cancels the department's ability to delegate their powers and duties to another organization, or treatment facility.

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version: CSHB 214(HSS)  
Fiscal Note Number: 1  
(H) Publish Date: 3/18/14

Identifier: HB214CS(HSS)-DHSS-BHA-03-18-14  
Title: MENTAL HEALTH PATIENT RIGHTS & GRIEVANCES  
Sponsor: \*\* HIGGINS, TARR  
Requester: House Health & Social Services Committee

Department: Department of Health and Social Services  
Appropriation: Behavioral Health  
Allocation: Behavioral Health Administration  
OMB Component Number: 2665

### Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates					
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
<b>OPERATING EXPENDITURES</b>	***	0.0	***	***	***	***	***	***
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
<b>Total Operating</b>	***	0.0	***	***	***	***	***	***

### Fund Source (Operating Only)

None								
<b>Total</b>	***	0.0	***	***	***	***	***	***

### Positions

Full-time								
Part-time								
Temporary								

<b>Change in Revenues</b>								
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**Estimated SUPPLEMENTAL (FY2014) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2015) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

### ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? **Yes**  
If yes, by what date are the regulations to be adopted, amended or repealed? **03/01/15**

### Why this fiscal note differs from previous version:

This CS eliminates "facilities that only provide outpatient services" from coverage by this legislation. This action will significantly reduce the projected cost to the Department, but we are not able to estimate the number of grievances likely to be received by the Department at this time. Therefore we are submitting an indeterminate fiscal note.

Prepared By:	Barbara Henjum, Acting Director	Phone:	(907)269-3410
Division:	Behavioral Health	Date:	03/17/2014 05:00 PM
Approved By:	Sarah Woods, Deputy Director, Finance & Management Services	Date:	03/18/14
Agency:	Health & Social Services		

## FISCAL NOTE ANALYSIS #1

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. CSHB 214(HSS)

### Analysis

This legislation directly impacts DHSS by substantially expanding mental health patient grievance procedures at evaluation facilities or units or designated treatment facilities or units under AS 47.30.660 – 47.30.915. Specifically this includes the Alaska Psychiatric Institute (API); any designated evaluation and treatment (DET) facility, which currently means Bartlett Regional Hospital (BRH) in Juneau and Fairbanks Memorial Hospital (FMS) in Fairbanks; and any of more than thirty five private, not-for-profit behavioral health residential facilities in the state. This legislation excludes facilities that only provide out-patient services from coverage.

#### Summary of Legislation

Section 1. Adds a new paragraph that requires adjudicative administrative hearings for mental health patient grievance appeals through the Office of Administrative Hearing. Undetermined fiscal impact.

Section 2. Requires confidentiality of records pertaining to grievances and would have no fiscal impact.

Section 3: Establishes patient rights. No fiscal impact.

Section 4. Requires the department to establish a standardized statewide mental health patient grievance procedure including 3 categories of grievances; requires the development of a state grievance form and procedure; requires the department to establish a telephone call center for filing and reviewing grievances; requires the department to receive, review and intervene when necessary in level 2 and 3 grievances; requires the department to provide the Governor and legislature an annual report of the number, locations and categories of grievances and to provide recommendations for improving mental health evaluation, treatment and procedures in the state. This section states that facilities providing only outpatient services are not covered by the legislation. Undetermined fiscal impact.

Section 5. Requires the department to provide a standardized notice to all evaluation and treatment facilities regarding patient rights, grievances procedures and available assistance. Nominal fiscal impact.

Section 6. Repeals 47.30.660(b)(13), which would eliminate the department's ability to operate Designated Evaluation and Treatment (DET) and Designated Evaluation and Stabilization (DES) programs in non-state-owned hospitals, leaving the Alaska Psychiatric Institute as the only acute care facility for psychiatric emergencies and in-patient treatment. Undetermined fiscal impact.

#### Assumptions:

It will take approximately 8 months following passage to implement the program revisions.

Administrative staff within the Division of Behavioral Health would be responsible for reviewing every grievance and monitoring compliance with the established grievance procedures.

- 252 grievances at the Alaska Psychiatric Institute are anticipated based on the number of grievances reports in FY2013 (15% of admissions);

- 52 grievances from the two Designated Evaluation and Treatment hospitals based on 347 admissions in FY2013 and using the same rate for those hospitals as API (15%); however

- the number of grievances from community programs is undetermined without further evaluation of the impact of eliminating the outpatient programs. We know that approximately 52% of our community behavioral health programs are providers of outpatient services only, but we would expect them to account for considerably less than 52% of the grievances with a significant number of grievances coming from residential facilities covered under this legislation.

Therefore we are submitting an indeterminate fiscal note. We anticipate costs associated with personal services, travel, and contractual with Department of Law and Department of Administration Office of Administrative Hearings.

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version: CSHB 214(HSS)  
Fiscal Note Number: 2  
(H) Publish Date: 3/18/14

Identifier: HB214-DOA-OAH-02-14-14  
Title: MENTAL HEALTH PATIENT RIGHTS & GRIEVANCES  
Sponsor: \*\* HIGGINS, TARR  
Requester: House Health & Social Services

Department: Department of Administration  
Appropriation: Centralized Administrative Services  
Allocation: Office of Administrative Hearings  
OMB Component Number: 2771

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates					
			FY 2015	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
<b>OPERATING EXPENDITURES</b>								
Personal Services			49.3	49.3	49.3	49.3	49.3	49.3
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>49.3</b>	<b>49.3</b>	<b>49.3</b>	<b>49.3</b>	<b>49.3</b>	<b>49.3</b>

**Fund Source (Operating Only)**

1007 I/A Rcpts			49.3	49.3	49.3	49.3	49.3	49.3
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>49.3</b>	<b>49.3</b>	<b>49.3</b>	<b>49.3</b>	<b>49.3</b>	<b>49.3</b>

**Positions**

Full-time								
Part-time			1.0	1.0	1.0	1.0	1.0	1.0
Temporary								

<b>Change in Revenues</b>								
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**Estimated SUPPLEMENTAL (FY2014) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2015) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version:**

Not applicable, initial version.

Prepared By: Terry L. Thurbon, Chief Administrative Law Judge	Phone: (907)465-1886
Division: Office of Administrative Hearings	Date: 02/14/2014 12:27 PM
Approved By: Curtis Thayer, Commissioner	Date: 02/14/14
Agency: Department of Administration	

## FISCAL NOTE ANALYSIS #2

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. CSHB 214(HSS)

### Analysis

If enacted, section 1 of the bill would place the section 3 (AS 47.30.847(a)(3)) grievance appeal under OAH's mandatory jurisdiction in AS 44.64.030(a), adding a new case category to OAH's caseload. Addition of the estimated caseload from the new category could drive the need to add a part time administrative law judge position.

#### Assumptions:

Assume 2% appeal rate, so 46 total cases, but half of those settle with minimal case management/ADR by OAH. Of the 23 that go all the way to hearing and decision, assume about 45% are simple one-issue cases with one witness and a relatively straightforward answer, similar to our typical public benefits eligibility appeals; another 45% involve two or three witnesses and moderate complexity, similar to our typical public benefits level of care appeal; and 10% involve legal or factual complexity (such as sexual abuse cases), perhaps with attorney representation on both sides.

23 x 1 hour for case mgmt/settlement = 23

10 x 1 hour hearing, 1 hr prep, 5 hr decision/post decision = 70

10 x 2 hour hearing, 1 hr prep, 8 hr decision/post decision = 110

3 x 8 hour hearing, 4 hr prep, 20 hr decision/post decision = 96

299 hrs x \$165 per hour rate = \$49,335 (estimated cost to DHSS for reimbursement).

#### Fiscal Impact:

OAH would receive interagency receipts reimbursement from DHSS based on the actual number of hours devoted to the appeals in a given fiscal year. Thus, the estimated \$49,335 impact to OAH would be covered through interagency receipts billing.

If OAH's capacity to absorb additional case work is insufficient at the time the appeals hit (FY16), it would be necessary to increase capacity by adding an administrative law judge. OAH does not currently have a vacant position to fill. If the bill were to be enacted, in FY16 OAH would need authorization to expend and collect for another administrative law judge position, 25 percent of which would be attributable to this bill, as well as the addition of a range 24, PX administrative law judge position.

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version: CSHB 214(HSS)  
Fiscal Note Number: 3  
(H) Publish Date: 3/18/14

Identifier: HB214-LAW-CIV-02-21-14  
Title: MENTAL HEALTH PATIENT RIGHTS & GRIEVANCES  
Sponsor: \*\* HIGGINS, TARR  
Requester: (H) HSS

Department: Department of Law  
Appropriation: Civil Division  
Allocation: Human Services  
OMB Component Number: 2962

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates				
			FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
<b>OPERATING EXPENDITURES</b>	<b>FY 2015</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>FY 2020</b>
Personal Services			7.7	7.7	7.7	7.7	7.7
Travel							
Services			1.1	1.1	1.1	1.1	1.1
Commodities			0.2	0.2	0.2	0.2	0.2
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>9.0</b>	<b>9.0</b>	<b>9.0</b>	<b>9.0</b>	<b>9.0</b>

**Fund Source (Operating Only)**

1007 I/A Rcpts			9.0	9.0	9.0	9.0	9.0
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>9.0</b>	<b>9.0</b>	<b>9.0</b>	<b>9.0</b>	<b>9.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

<b>Change in Revenues</b>							
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**Estimated SUPPLEMENTAL (FY2014) cost:** 0.0 (separate supplemental appropriation required)  
(discuss reasons and fund source(s) in analysis section)

**Estimated CAPITAL (FY2015) cost:** 0.0 (separate capital appropriation required)  
(discuss reasons and fund source(s) in analysis section)

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version:**

Initial version, not applicable.
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Prepared By: <u>Loretta Withington, Division Operations Manager</u>	Phone: <u>(907)465-5427</u>
Division: <u>Department of Law</u>	Date: <u>02/21/2014 12:00 AM</u>
Approved By: <u>Michael C. Geraghty, Attorney General</u>	Date: <u>02/22/14</u>
Agency: <u>Department of Law</u>	

### FISCAL NOTE ANALYSIS #3

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. CSHB 214(HSS)

#### Analysis

If enacted, House Bill 214 would directly impact the Department of Law due to the increase in legal advice and administrative hearings that would be generated by this statutorily required grievance procedure. This bill expands mental health patient grievance procedures at evaluation facilities or units or designated treatment facilities or units under AS 47.30.660 – 47.30.915, including the Alaska Psychiatric Institute (API), any designated evaluation and treatment (DET) facility, which currently means Bartlett Regional Hospital (BRH) in Juneau and Fairbanks Memorial Hospital (FMS) in Fairbanks and any of over sixty private, not-for-profit behavioral health centers in the state.

#### Summary of Legislation

Section 1. Adds a new paragraph that requires adjudicative administrative hearings for mental health patient grievance appeals through the Office of Administrative Hearing.

Section 2. Requires each evaluation facility to employ a designated representative to act as a patient advocate to assist in filing a grievance.

Section 3. Gives DHSS the authority to establish a standardized statewide grievance procedure to include standardized forms; 24/7 crisis line operated by DHSS for filing and reviewing a grievance; a requirement that facilities deliver to DHSS an electronic copy of all grievances received within 24-hours; a requirement that every grievance filed with DHSS be reviewed within 24 hours; a requirement that the facility provide a written response to the patient and an electronic copy to DHSS within 5 days of the receipt of the grievance; a provision for a response within 24-hours for urgent level reviews; a requirement that each facility have a designated staff member who is specially trained in mental health consumer advocacy to become patient advocate for the grievant and assist the grievant throughout the grievance and/or appeal process(es); an allowance for the grievant to file a grievance or an appeal for up to one year after being discharged; a requirement that each facility report on grievance activity to DHSS quarterly; and a requirement that DHSS report on grievance activity to the Governor and Legislature biennially.

Section 4. Requires DHSS to provide facilities with a standardized notice regarding patient rights, grievance procedures and available assistance; and requires each facility to provide a copy of the notice to every patient or patient representative.

#### Assumptions

It is anticipated by DHSS that 3,705 grievances will be filed per year, and less than 1%, or approximately 23 hearings per year will involve the Department of Law. Estimated billings for legal services provided by the Department of Law for preparation and representation at hearing would be \$8,970 per year (\$156/hour x 23 grievances x 2.5 hours per hearing). This cost is itemized in the DHSS fiscal note, and is reflected in the Law fiscal note as interagency receipts.

## 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

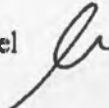
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

### MEMORANDUM

March 12, 2014

**SUBJECT:** Delegation of executive branch authority  
(CSHB 214(HSS) (Work Order No. 28-LS0869\C))

**TO:** Representative Pete Higgins  
Attn: Thomas Studler

**FROM:** Jean M. Mischel  
Legislative Counsel 

You have asked whether AS 47.30.660(b)(13), repealed in the above referenced bill, constitutes an excessive delegation of authority. That section provides that the Department of Health and Social Services shall:

(13) delegate upon mutual agreement to another officer or agency of it, or a political subdivision of the state, or a treatment facility designated, any of the duties and powers imposed upon it by AS 47.30.660 - 47.30.915;

This provision requires a delegation to the various entities described, on mutual agreement, of the general powers and duties of the department under AS 47.30.660, and more specific authority pertaining to, for example, voluntary commitments for mental illness under AS 47.30.670, involuntary commitments for mental illness under AS 47.30.700, mental health patient rights under AS 47.30.825, grievance procedures under AS 47.30.847, and diligent inquiry after departure of a patient from a mental health facility or death in a facility under AS 47.30.900. The delegation provides no specific standard under which a nongovernmental organization would exercise departmental authority, other than the express duties applicable to the department. A delegation may result in the authority of a mental health treatment facility to essentially regulate itself, for departmental purposes, in the care and treatment of mental health patients. Aside from the policy implications of such a broad delegation, the delegation may be unlawful due to its breadth. The Alaska Supreme Court has stated:

The constitutionality of a delegation is determined on the basis of the scope of the power delegated and the specificity of the standards to govern its exercise. "When the scope increases to immense proportions . . . the standards must be correspondingly more precise." The essential inquiry is whether the specified guidance 'sufficiently marks the field within which

Representative Pete Higgins  
March 12, 2014  
Page 2

the administrator is to act so that it may be known whether he has kept within it in compliance with the legislative will.'

*State v. Fairbanks North Star Borough*, 736 P.2d 1140, 1143 (Alaska 1987) (internal quotes and citations omitted).

While the delegation in AS 47.30.660(b)(13) has not been challenged to my knowledge, the provision may be interpreted as an unconstitutional excessive delegation of executive branch functions to nongovernmental and regulated entities.

If you have questions, please do not hesitate to contact me.

JMM:lem  
14-132.lem

Enclosure



*"We help adults with mental  
illness live their own best lives"*

Quality Community Behavioral Health Services Since 1985

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March 20, 2014

Representative Wes Keller  
Alaska State Legislature  
State Capitol Room 118  
Juneau, Alaska 99801

Dear Rep. Keller,

In reference to CS for HB 214, I would like to offer an amendment to more clearly state the application of the legislation to mental health facilities that hold persons who have been involuntarily committed under state statute. The current CS states, under Sec.4 AS47.30.847, (8)(C)(3)(h),

**"Nothing in this section applies to a facility or unit or designated treatment facility that only provides outpatient services."**

We would like to suggest this be re-worded as follows:

**"This section applies only to a hospital, inpatient facility, or designated evaluation and/or treatment facility."**

JAMHI, Juneau's state-designated Community Behavioral Health Center and numerous other providers of outpatient services, also provide group home, supported living, and similar housing and services for persons with serious mental illness. Individuals are not involuntarily committed or otherwise locked or held in these facilities. They are community-based programs that enable people to live in the community as opposed to being hospitalized or held in a locked unit.

If the current CS is interpreted to include such facilities that provide residential care as well as outpatient services, it would impose an unnecessary administrative burden, beyond which is already in place governing client access to filing complaints and grievances if they are unhappy with the services they receive.

We would appreciate consideration of our proposed amendment, which we believe supports the intent of this legislation, while clarifying how it is to be applied.

Thank you for your support and work on this important issue.

Respectfully,

Pamela L. Watts  
Executive Director  
Juneau Alliance for Mental Health, Inc.

**Governor Sean Parnell,**

**3/29/2014**

The Department of Health and Social Services is required by law (AS47.30.590 Comprehensive Services) to adopt regulations that will assure the rights of psychiatric patients.

Ask DHSS to show you the regulations they have written or adopted concerning protection of a psychiatric patient in crisis wanting to file a grievance or appeal in a psychiatric facility or unit; or because of denial of service, and for good measure ask DHSS about the due process rights they have written concerning the patient grievance/ appeal process.

**(DHSS is failing.)**

DHSS at this time may not even have the legal authority to write patient grievance regulations, due process, etc. that will cover all psychiatric patients locked in units, even though DHSS has the legal obligation to do so—if so, the law needs to be revised.

Please ask DHSS about those issues.

DHSS can impose patient grievance rules on units that receive grant money, but that does not protect the most vulnerable psychiatric patients, the very individuals DHSS has been charged with protecting.

Please support improving grievance rights for **all** psychiatric patients and House Bill 214.

Thank you in advance for your help,

Cc: Rep. Pete Higgins  
William J. Streur, Commissioner—DHSS  
Rep. Geran Tarr  
Sen. Johnny Ellis  
Rep. Wes Keller  
Open Letter

Mental Health Advocates, Faith Myers/ Dorrance Collins, 3240 Penland Pkwy, Sp. 35  
Anchorage, AK.99508 (907) 929-0532

*Faith Myers Dorrance Collins*

**Testimony to the House Judiciary Committee  
For the passage of HB 214 CS**

**3/29/14**

Mr. Chair, Committee members, My name is Faith Myers. I volunteer as a psychiatric patient advocate.

Around 2002, I received psychiatric treatment from state-run Alaska Psychiatric Institute, Providence's Psychiatric Emergency Room and Anchorage Community Mental Health Services.

I did have reason to file complaints. They ranged from denial of service, physically assaulted (given a black eye by staff) and denial of basic rights guaranteed in law.

In all cases, I was never able to obtain a written copy of the grievance procedure and appeal process, could not file an appeal and I could not even get a written answer in two cases.

The severely mentally ill come in all shapes and sizes. As a group they will be mistreated in a broad spectrum of settings far more often than the average person.

We are asking for the passage of HB214CS so that psychiatric patients will have more equitable grievance rights in law and rights that are fair to psychiatric patients.

Thank you

*Faith Myers*

Mental Health Advocates, Faith Myers, 3240 Penland Pkwy, Sp. 35  
Anchorage, AK. 99508 (907) 929-0532

**Reference Information:**

Approximately 10,000 individuals each year are considered acute care psychiatric patients—court ordered to receive treatment, forced evaluations and/or civil commitments.

**Support letter for HB 214  
Testimony to House Judiciary Committee**

**3/29/2014**

Mr. Chair, Committee members, My name is Dorrance Collins. I volunteer as a mental health patient advocate.

Congress passed public law 830 July 28<sup>th</sup>, 1956 granting the territory of Alaska authority over its mental health laws.

In the 1950's, psychiatric patients basically only had whatever rights that each psychiatric facility wanted to give to them.

The current psychiatric patient grievance procedure law AS47.30.847 in its construction is a throwback to the 1950's. Each psychiatric facility chooses the grievance procedure, due process, appeal process rights for their psychiatric patients. (Including choosing the impartial body that hears a patient's complaint.)

HB 214 needs to be passed to provide fair, uniform grievance procedure rules for all psychiatric patients in Alaska.

Thank you,

Mental Health Advocates, Dorrance Collins, 3240 Penland Pkwy, Space 35,  
Anchorage, AK. 99508 (907) 929-0532

*Dorrance Collins*

**Reference Information:**

2013—DHSS in an email stated each psychiatric facility will develop its own patient grievance procedure which is approved by the certification organization that the facility hires.—There are approximately 27,000 individuals who receive some form of psychiatric treatment each year.

SARAH PALIN, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES  
OFFICE OF THE COMMISSIONER

P.O. BOX 110601  
JUNEAU, ALASKA 99811-0601  
PHONE: (907) 465-3030  
FAX: (907) 465-3068

January 3, 2008

Ms. Faith Meyers and Mr. Dorrance Collins  
3240 Penland Pkwy, Sp. 35  
Anchorage, AK 99508

Dear Ms. Meyers and Mr. Collins:

A number of staff internal and external to the Department of Health and Social Services has reviewed your request for information. Providence Hospital does not have to conform to AS 47.30.847.

Providence Hospital is accredited by the Joint Commission and CMS and must meet specific standards relative to the resolution of a patient grievance.

Additional information on the accreditation standards for hospitals may be found at the respective websites for the Joint Commission and CMS located at [www.JointCommission.org](http://www.JointCommission.org) and <http://www.cms.hhs.gov>.

Sincerely,

*Bill H. Hogan for  
Karleen K. Jackson*  
Karleen K. Jackson, Ph.D.  
Commissioner

cc: Bill Hogan, Deputy Commissioner  
Bill Streur, Deputy Commissioner  
Melissa Stone, Director, Division of Behavioral Health  
Ron Adler, CEO, Alaska Psychiatric Hospital

Current grievance law also may not cover units in hospitals that do civil commitments / forced evaluations.

HB 214 ver. P Conceptual Amendment #1

*adopted*

Delete page 12, line 3 through page 13, line 1.

HB 214 ver. P Conceptual Amendment #2

*adopted*

Delete Sections 1, 2, 3, and 17.