

11806 SENATE HEALTH, EDUCATION & SOCIAL SERVICES

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 177
 () Publish Date: _____

Revision Date/Time (Note if correction):
 Title Practice of Psychology

Dept. Affected: Commerce
 RDU Occupational Licensing (117)
 Component Occupational Licensing

Sponsor Health, Education & Social Services
 Requester Senate Health, Education & Social Services

Component No. 2360

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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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						
Other 1156 - Receipt Supported Services						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

SB177 eliminates certain titles or description of services from requiring licensure by the Board of Psychologist and Psychological Associate Examiners. New funds are not required to implement the provisions of this bill.

Prepared by: Jennifer Strickler, Administrative Manager
 Division: Occupational Licensing
 Approved by: Edgar Blatchford, Commissioner
 Agency: Commerce, Community, and Economic Development

Phone (907) 465-2144
 Date/Time 4/19/05 7:30 PM
 Date 4/19/2005

4/19/05

To: Senator Dyson
Chair Senate HSS
Fax: (907) 465-4587

From: Carey S. Edney, Ph.D.
Licensed Psychologist

CC: Phil Baker, Ph.D. (email: pbaker@alaska.net)
John Walsh (Fax: 907-586-9059)
Ginger Morton, Div. Occupational Licensing to disseminate to Psychology
Licensing Board (email: ginger_morton@commerce.state.ak.us)

I am unable to testify at the hearing scheduled for this bill on Wednesday 4/20/05, so I am writing to request that SB 177 be tabled until next legislative session. Although I am Chairperson of the Board of Psychologist and Psychological Associate Examiners, I am not speaking for the Board because we honor the Public Meetings requirements outlined in the Alaska Administrative Code and do not individually act on behalf of the Board, nor do we discuss Board business without appropriate public notice procedures.

It is in this vein of appropriate notice that I am requesting that the bill be tabled. I was only informed of the proposed change last Wednesday, and this is also true for the notice to the Alaska Psychological Association (AK-PA). Our Board has a published goal to work cooperatively with other Boards, but without appropriate notice the Psychology Board is effectively prevented from participating in planning for a statute change to the act governing our profession and which we are charged with administering.

I have spoken with Phil Baker, the Legislative Officer for AK-PA, and he also would like to participate in this discussion. I have heard from several other licensed psychologists who have expressed concern about the bill and who would like to participate in a collaborative process to review the language governing the practice of psychology. It seems a reasonable request to me, that the professionals governed by the act be consulted prior to significant changes to the act.

I intend to add this as an item for discussion at our next Board meeting in June. We typically have an AK-PA representative present during a portion of our meeting and would plan to do so again, specifically to discuss this bill. Again, I would be willing and interested in meeting with other disciplines to discuss the matter. I would hope that mutually acceptable language could be developed through a collaborative effort rather than by changing one discipline's practice act at the request of another discipline.

I would appreciate your bringing this to the hearing and reading it into the record. I will be out of town until May 4, 2005 and will look forward to working further on this project upon my return.

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS
 LABOR & COMMERCE COMMITTEE CHAIRMAN
 COMMUNITY & REG AFFAIRS COMMITTEE MEMBER
 SPECIAL COMMITTEE ON OIL & GAS MEMBER
 ADMINISTRATIVE REGULATION REVIEW COMMITTEE MEMBER

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Representative Tom Anderson

email: Representative_Tom_Anderson@legis.state.ak.us

May 6, 2003

Ann L. Henry, Chair LPC
 David J. Sperbeck, Chair PPA
 Larry Holman, Chair MFT
 Diane DiSanto, Chair MSW

Dear Board Chairs,

During the second half of the 22nd session of the Alaska Legislature, a bill (HB343) to extend the sunset clause of the Licensed Professional Counselors came before the House Labor and Commerce Committee. At the urging of the Division of Legislative Audit, the bill passed the House with inclusion of a Letter of Intent requiring that the boards of the four licensed mental health professions actively engage in the exploration of and formation of an omni board to represent the four disciplines. The Letter of Intent was not passed on in the Senate.

Since the passage of the bill, the boards and their professional associations have been in discussion about the proposed formation of an omni board. Three of the four boards and their associations adamantly oppose the notion of the omni board, citing reasonable justifications for remaining separate – for the good of the public and the licensees.

It is the position of the Chairs of the Labor and Commerce Committees of the House and the Senate to relieve the boards of the burden of pursuing the efforts outlined in the Letter of Intent. This will free the boards to engage more fully in the work for which they were created.

Sincerely,

Senator Con Bunde, Chair Senate
 Senate Labor & Commerce

Representative Tom Anderson, Chair
 House Labor and Commerce

Jason Hooley

From: Anne L. Henry [alhenry@alaska.net]
Sent: Tuesday, January 17, 2006 6:47 PM
To: Jason Hooley
Subject: RE: separate subject

We have been fighting this for years now. Tom Anderson and Con Bunde both wrote letters saying that they were not interested in pushing this issue when the board does not support it. This was after the letter of intent that came out of then Rep. Murkowski's L&C Committee. The next year I drafted another letter that was signed saying that they wanted to drop the issue.

Here is why. The Leg audit folks want to save themselves some time by combining boards. They imply that there is a cost savings to the boards by doing this, but I have surveyed combined boards around the country and found that they actually cost the licensees more money because the business of the boards must be divided into subcommittees that deal with the specific disciplines. So instead of the LPC board meeting face to face twice a year, the combined board meets twice a year and depending on the amount of work to be done on LPC regs writing etc, they may have to meet separately another two times. So, it does not save the licensees money. It also does not promote increased public protection.

The leg auditors surveyed the boards and used a slanted set of questions to see how licensees felt about combining boards—a sample question said something like, "If combining boards would reduce license fees would you support it?" Since we know from research that combining does not reduce fees, and your average licensee does not know this fact, it appears that a lot of people support combining boards.

Each time the Legislative Auditors bring up this issue as a recommendation in a sunset audit, I spend hours and hours explaining why it is the wrong approach to reducing government and saving money. Again, if you want a workable recommendation to take back to the legislators who want to save some money for Pat, have them look at the boards that are doing their jobs and have a history of doing so—based on legislative audits, and extend their sunsets.

Extending the sunset periods from 4 to 10 years would cut the number of by more than half. They could then hold a special audit if there is a complaint that the board is not doing its job. I have communicated with Pat Davidson about this on a couple of occasions and she continues to recommend combining the boards.

I will close saying that the LPC board will fight combining these two. My term ends in March and I will take up a more active roll with the LPC association where I will continue to muster opposition to this proposal.

Thanks for asking.
 Anne

-----Original Message-----

From: Jason Hooley [mailto:Jason_Hooley@legis.state.ak.us]
Sent: Tuesday, January 17, 2006 5:06 PM
To: Anne L. Henry
Subject: separate subject

Hi Anne--

You may have heard that the Division of Legislative Audit, at the most recent periodic sunset audit of the LMFT board, recommended they be combined with the LPC board. There is a fair amount of legislative support for this idea. What do you think and why?

Jason M. Hooley

Jason Hooley

From: Anne L. Henry [alhenry@alaska.net]
Sent: Wednesday, January 25, 2006 3:10 PM
To: Jason Hooley
Subject: RE: sb 177

I am home now. Unfortunately I didn't get your email before the meeting. But I will send you more information about the investigation process, insurance pooling, extending the sunset period, public safety issues, cost increases and I will include copies of two letters -- one from each the chairs of the Senate and House Labor and Commerce Committees clarifying their desires not to pursue combining the MFT and LPC boards. There were actually two letters signed by L&C chairs in the past few years. The first was one dismissing the 4 boards need to spend board time looking into combining boards. Then when there was more push by the Legislative Auditor, the second letter was drafted and signed. The board members thought that was the end of the issue. Now, we are spending more time battling this issue that will only cause more problems and cost us more money as a class of licensees. The public will not be helped by this in any way. License fees will go up, standards may have to go down—which will also hurt LPCs who will have difficulty getting licensed if they move, and the public will not receive better service.

Unless you advise against it, I will also contact a few other LPCs and ask them to contact the members of the HESS Committee with their views on the wisdom of combining boards.

I will get this airtel to you by early Friday latest. I was not expecting this and it will take some time from my busy schedule.

Thanks, Anne

-----Original Message-----

From: Jason Hooley [mailto:Jason_Hooley@legis.state.ak.us]
Sent: Wednesday, January 25, 2006 12:54 PM
To: Anne L. Henry
Subject: sb 177

SB 177 is ready to go in HESS today. I just spoke with Fred, and he told me he is inclined to combine the 2 boards, LPC and LMFT. I know that will frustrate you, and I will continue to make sure he is aware of your perspective.

Jason M. Hooley
Office of Senator Fred Dyson
Alaska State Legislature
Juneau, AK 99801
907.465.3762 phone
907.465.4587 fax

Jason Hooley

From: Anne L. Henry [alhenry@alaska.net]
Sent: Thursday, January 26, 2006 2:58 PM
To: Pat Davidson
Cc: Sen. Fred Dyson; Jason Hooley
Subject: Combining LMFT and LPC Boards Letters

Dear Pat:

As I am sure you know we are dealing again with the issue of combining LMFT and LPC boards. Senator Dyson has asked for information regarding this issue before the HESS Committee hearing on Monday. I am sure that in your records you must still have copies of the letters sent to you by Senator Bundy and Representative Anderson, chairs of the Senate and House Labor and Commerce Committees regarding this issue.

If you recall the first letter was sent dismissing the original Letter of Intent which required all boards to pursue combining boards. The second letter was one clarifying that the first letter was meant to indicate that the L&C Committees were not interested in pursuing the issue of combining boards.

Because I mistakenly thought the issue was dead and buried with these letters, I did not keep copies of the letters. I am therefore asking if you can please send me copies of the letters which I will fax on to Senator Dyson's office with my other materials.

Thank you for your assistance,
Anne L. Henry, LPC Board Chair

November 29, 2004

Mr. Jim Griffin
Audit Manager
Division of Legislative Audit
P.O. Box 113300
Juneau, AK 99811-3300

Dear Mr. Griffin:

RE: Management Letter No. 1
Board of Professional Counselors

As chair of the Board of Professional Counselors (BPC), it is my responsibility to respond to your management letter of November 2, 2004. Let me begin by saying that although I have given my new address to the Governor's Office on Boards and Commissions, the letter from your office was sent to my old home address in Juneau. I did not receive the letter until the response was already due in your office. As a result, I phoned your office and spoke with Director, Pat Davidson, who approved an extension of the due date, allowing me to respond by the end of the month of November.

Your letter addresses the issues regarding the sunset review for the board, the background information on the letter of intent from the House and Senate Labor and Commerce Committees, the discharge of that letter of intent, conclusions and your Findings and Recommendation that this board be combined with the Board of Marital and Family Therapists. This letter of response will address these and other issues.

It is my understanding of the history of the notion of combining of licensing boards was initiated during the last sunset review of this board. The bill to extend the sunset date for the Board of Professional Counselors was introduced in both the House and Senate Labor and Commerce Committees. In the House Labor and Commerce Committee, then-Chair Representative Lisa Murkowski passed out of committee the sunset extension bill with the Letter of Intent. As you have included a copy of the Letter of Intent in your Management Letter, I will not repeat the content. The Senate sunset extension bill was passed in the Senate with the only difference being that the Senate did not support the inclusion of the Letter of Intent. One must conclude that not all legislators were invested in combining boards.

As you have stated in your letter, the chairs of the House and Senate Labor and Commerce Committees then co-signed a letter discharging the boards from planning and reporting on their progress toward combining boards. This is of critical importance as it clearly implies that the topic

of combining boards was no longer under legislative consideration. Furthermore, this letter discharging the boards from planning and reporting on their progress toward combining boards was addressed to all for mental health professional boards. In speaking with staff to the committee chairs, the chairs of two other licensing boards we all believed that the matter of combining boards was over and that we would no longer need to spend unpaid personal and unpaid board time responding to an effort that was so unpopular among at least three of the boards.

The conclusion of your report suggests extending the termination date of the board and consolidation of the BPC and BMFT. I agree with the extension of the termination date to at least June 30, 2009, but find very little in Recommendation No. 1 to support the Auditor's recommendation of combining the two boards. The Management Letter lists 8 items of "factors and analysis" which are addressed below.

1. Decline in number of BMFT licensees.

The fact that the number of BMFT licensees has declined is not an issue relating to the BPC. Combining boards would not increase the number of licensees. Nor would it decrease the cost of BMFT licenses-see item Number 5.

2. Cross-licensing.

Some MFT licensees also hold BPC licenses. Some licensees also hold LMSW and Psychological Associate licenses. Some licensees also hold licenses in other states. The reasons for holding and paying for multiple licenses and professional certifications in this and other states are many. For those individuals who currently hold multiple licenses, combining boards would not mean that they would then only want to hold one license. National standards do not support this in any of the fields represented by the four licensing boards under discussion. The number of licenses would not decrease as a result of consolidation, nor would the administrative burden of managing the four licensing programs.

3. Practice similarities and differences between therapists and counselors.

Your letter referred to "similarities" between therapists and counselors. There are a variety of differences that are not contemplated in your letter. The most prominent difference I believe is that most MFT practitioners will identify marital and family therapy as being based on a systems approach to therapy, where the BPC licenses people utilize a variety of differing approaches to therapy. In addition, LPC practitioners provide a much broader range of therapeutic services than MFT licensees, whose range of practice is a more narrowly defined specialty.

If you use the "similarity" argument for defining what the two licensee groups do in their practices, you should use this same argument for requiring that the psychologists and social workers combine. In your letter you state, "Both professions are charged with the diagnosis and treatment of mental and emotional disorders, whether the disorders can be categorized as cognitive, affective, or behavioral." If the words are not exactly the same in the statutes regarding licensed psychologists and social workers, it is widely understood and presumed that that is what they do.

Having stated that, there are fundamental differences among each of those licensed

professionals that are recognized by their professions and by national organizations. The few "similarities" or these differences do not justify combining boards.

4. Educational Requirements for the two licenses.

When the legislation creating licensure for professional counselors was drafted, it was clear to us that in order to have a license that accepted a broad range of degree types and guarantee a high level of skills and knowledge, we needed to require more than normal hours and more experience of our licensees. The statutory requirements for an LPC license has a higher education standard than the MFT:

License	Degree hours	Post-graduate Experience
LPC	60 hours	3,000 hours
MFT	48 hours	1,500 hours

Further, the type of education hours required are different from each other. MFT licensure requires that a good portion of the graduate course work be specific to marriage and family classes. BPC licensure requires coursework in eight of ten disciplinary areas that are national professional counselor standards.

5. The cost of the BMFT chronic deficit should not and cannot be borne by other licensed occupations.

BPC members are quite concerned that there is a misconception the deficit of the BMFT will somehow be reduced or eliminated by combining boards. I am informed that this could not be done legally. In addition, when the LPC Board was initially formed it was the legislature's intent that its "start-up" costs be solely borne by professional counselors so as not to unfairly burdened other professional licensees (i.e., MFT licensees) with these expenses. To ignore the precedence that each professional board is responsible for its own costs would raise questions of financial fairness. It also presents a challenge to the principles of justice under the legal concept of equity.

BMFT licensees will still be legally required to pay down their deficit over the next several renewal periods. The BPC licensees have consistently grown in numbers and have experienced reduced renewal fees at every renewal period including the last reduction to \$500. The board anticipates another reduction in licensee fees during the upcoming renewal period.

Again, there is no justification here for combining boards. If the BPC licensees pay the fees for their licensure and for their board costs, and the board attends to statutory and regulatory requirements in an effort to meet public safety needs, then the chronic deficit of another board should have nothing to do with the BPC.

6. There is mixed support for some type of consolidation.

While your letter states that about one-third of LPC licensees (respondents to the survey) "favored some sort of consolidation", the members of the board believe that these respondents are less aware of the consequences of combining boards. Board members have queried

licensees to ascertain their understanding and opinions on this topic. None of us have spoken with any licensee who favored combining boards, although it is obvious that many did not respond to the survey. While we do not doubt your numbers, the board would like to see the detailed results of the survey, if not the actual response sheets, to better understand and to better communicate with licensees about the workings of the board and its rationale for opposing combining boards. Because the board thought the issue was dead, there was no effort to do education about the findings about the negative impact of combining boards.

Initially some members of the BPC thought that combining boards was a sound idea. However, upon investigation, board members determined that there would be virtually no benefit to Professional Counselors, and that there was a high likelihood that there would be increased costs and potential for problems arising from conflicts between disciplines.

Consolidation would benefit the MFTs financially if their chronic deficit were shared by the LPCs. LPCs who understand this misperception are far less likely to be interested in consolidating the boards. Furthermore, we are of the opinion that if LPC licensees were to understand that it was even a possibility they would adamantly oppose any such legislative action.

MFTs, in contrast, would be highly motivated to promote consolidation if their Board's debt were to be shared across disciplines. Again, in conversation with Pat Davidson, cost sharing of the deficit would not be possible given current law.

7. Similar professions on a board do not enhance public representation.

Your argument contradicts the opinion pressed in the Management Letter that the professions are "virtually identical". In the Analysis of Public Need portion of the document, you essentially state that the board has been doing a good job. There is no apparent justification for changing because of public need for better service. Public representation is a high priority for the BPC, of course, and the BPC always seeks ways to include the public in its activities.

8. Combination of professions under a single board is not the most efficient regulatory model.

The majority of states that combine boards do combine MFTs and LPCs. However, in conversations with other board chairs from around the country, and from research done by the board, the pairing of any boards does not mean greater efficiencies.

Generally these combined boards have greater numbers of members. There are currently 5 BPC members (4 LPCs and 1 public) and 5 BMFT members (4 MFTs and 1 public).

To keep representation from around the state and to keep an odd number of board members, the combined board would have to either add a public member or cut two or more licensees and add a public member. In the board's opinion, there would be better representation and fewer problems with raising a quorum by adding a public member in this instance if the BPC were forced to combine with the BMFT.

This would mean a larger single board. There would of necessity be one or two combined board meetings per year and two to four subcommittee meetings each year to manage the

business that is specific to each discipline. At this point, the younger BPC is far from developing all of the regulations and doing other board duties that it feels are necessary to manage licensees where public interest is concerned. Thus, the cost of doing business would increase because of more meetings, not fewer meetings. Members of both disciplines would be required to take more time out of their already busy work schedules and home lives to travel and handle more paperwork in their volunteer positions. One must ask how this better serves the public interest.

9. There are no cost-savings to combining boards.

When operating under the instructions of the Letter of Intent, the BPC members researched combining boards. They found several discouraging facts: one is that there are no financial savings where similar boards are combined. As discussed in item 8., we discovered that combined boards are bigger, have more and longer meetings and that the separate disciplines (which in this case would be the two old board groups) meet in "subcommittee" meetings. Thus creating more, not less, cost to the licensees and more meetings for Occupational Licensing staff.

Conclusion

In summation, the BPC and its members have already spent much board time discussing the issue of combining boards and thought it was a dead issue. The board strongly opposes combining boards. The board sees virtually no justification for combining boards, and sees that in fact combining boards would increase the licensure fee cost to licensees and would have no impact on improving public safety.

If the legislature is seeking to improve communication among mental health professionals, then encouraging the yearly gathering of the boards that used to take place to be reinstated would be beneficial. However, mandating combining only two boards will not accomplish this if it is a goal.

If the effort is aimed at decreasing costs, there is an alternate measure that could be taken that would accomplish this goal. The Division of Legislative Audit could recommend to the legislature that they create longer extensions of the termination dates on boards. If boards are fulfilling their public obligations, their termination dates could be extended to 10 years. During the course of those ten years, if there appears to be a problem, the legislature could request an early audit. This would alleviate the time consuming nature of handling a legislative sunset audit for the boards and the Division of Legislative Audit and for the Legislature.

If you have any questions, please do not hesitate to contact me at 250-5244.

Respectfully,

Anne L. Henry, LPC
Board Chair

Licensure Requirements by Profession as of 1/30/06

Profession	Education	Supervision	Other	Licensure by Credentials
<p>Licensed Psychologist</p>	<p>Holds an earned doctorate degree from an academic institution whose program of graduate study meets the criteria established by the board in clinical or counseling psychology or education in a field of specialization considered equivalent by the board. Programs for a doctoral degree must require: The equivalent of 3 full time academic years of study, two years of which are from the through the degree-granting institution and one year of which is in full time residence at the degree granting institution or equivalent. There must be courses covering the following components: Methodology and history, including systematic preparation in scientific standards and responsibilities, research</p>	<p>Has one year of post doctoral supervised experience approved by the board. (80% of the supervised experience must be with a licensed psychologist, 20% may be with a psychiatrist, psychological associate, a clinical social worker or a licensed marriage and family therapist.)</p>	<ul style="list-style-type: none"> • Has not engaged in dishonorable conduct related to the practice of counseling or psychotherapy • Takes and passes the objective examination developed and approved by the board • The board may not deny recognition as an accredited or approved institution solely because it's program has not been accredited by a professional organization of psychologists • The board may grant a temporary license to a person who meets the above requirements, but lacks supervision. 	<p>A person who is licensed by a psychologist by a licensing authority other than the state of Alaska is entitled to be licensed in the state without examination if the person applies on the proper form, submits evidence of continued competence, pays credential review fee and: The person holds a doctoral degree with the primary emphasis on psychology and the out of state examination was similar to the one used in Alaska and requirements for licensure were either similar to higher than those of Alaska or The person is a diplomat in good standing of the American Board of Professional Psychology</p>

Licensure Requirements by Profession as of 1/30/06

	<p>design and methodology, quantitative methods and historical foundations in psychology. Foundations in psychology including coursework in each of the following areas of study: Biological basis of behavior including physiological psychology, comparative psychology, neuropsychology and psychopharmacology Cognitive-affective basis of behavior including learning, memory, perception, cognition, thinking, motivation and emotion Social bases of behavior including social psychology, cultural, ethnic, group processes, sex roles and organizational behavior Individual differences including personality theory, human development, individual difference, abnormal psychology, psychology of women, psychology of the handicapped, psychology of</p>		<p>However, this license is valid only for the time period identified in the person's plan for obtaining supervision.</p>	
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Licensure Requirements by Profession as of 1/30/06

	<p>th. minority experience. Area of specialization focusing on 1) Knowledge and use of ethics, guidelines and standards, 2) supervised practicum or laboratory experience appropriate to area of practice, teaching or research in psychology 3) Advance preparation appropriate to area of specialization. There must be a minimum of 324 hours of student faculty face to face individual or group educational meetings</p>			
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Licensure Requirements by Profession as of 1/30/06

<p>Licensed Psychological Associate</p>	<p>Holds a master's degree from an academic institution whose program of graduate study for a master's in psychology meets the criteria of the board in clinical psychology, counseling psychology or a field of specialization considered equivalent by the board. Master's degree must require courses in the following components:</p> <ul style="list-style-type: none"> • Human growth and development • Social and cultural foundations of society • Counseling theory and practice • Marriage, family and group dynamics • Appraisal of the individual • Research and evaluation • Professional practices and ethics 	<p>Has 2 years of supervised experience approved by the board (80% of the supervised experience must be with a licensed psychologist, 20% may be with a psychiatrist, psychological associate, a clinical social worker or a licensed marriage and family therapist.)</p>	<ul style="list-style-type: none"> • Has not engaged in dishonorable conduct related to the practice of counseling or psychotherapy • Takes and passes the objective examination developed and approved by the board • The board may not deny recognition as an accredited or approved institution solely because it's program has not been accredited by a professional organization of psychologists • The board may grant a temporary license to a person who meets the above requirements, but lacks supervision. However, this license is valid only 	
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Licensure Requirements by Profession as of 1/30/06

			for the time period identified in the person's plan for obtaining supervision	
CSW	Master's or doctoral degree in social work from a college or university approved by the board.	<p>Within 10 years before the application, under the supervision of a licensed social worker, licensed psychologist, or licensed psychiatrist either:</p> <ul style="list-style-type: none"> a) 2 years of continuous full time employment in post graduate social work or b) a minimum of 3,000 hours of less than full time employment in a period of not less than 2 years in post graduate social work. 	<ul style="list-style-type: none"> • Is of good moral character • Is in good professional standing and is fit to practice social work as determined by the board • Has provided 3 professional references that are acceptable to the board including, if the applicant <ul style="list-style-type: none"> ○ Was previously employed to practice social work, one reference from the person who was the applicant's employer while practicing social work unless the applicant demonstrates to the board that the 	<ul style="list-style-type: none"> • Holds a current license to practice social work in another jurisdiction that at the time of issuance of the license had requirements equal to or more stringent than those of Alaska • Is not the subject of an unresolved complaint or disciplinary action before a regulatory authority or professional work association. • Has provided 3 professional references • Has not had a license to practice social work revoked, suspended or

Licensure Requirements by Profession as of 1/30/06

			<p>applicant is unable to satisfy this requirement through no fault of the applicant.</p> <ul style="list-style-type: none"> ○ Is currently employed to practice social work, a reference from the applicant's present employer <ul style="list-style-type: none"> • Has satisfactorily completed the licensing examination • Has paid the required fees. • May get a license as master social worker if they have a license, but is lacking supervision. • May be licensed as a baccalaureate social worker with a BSW and meets other requirements (except supervision). 	<p>surrendered in another jurisdiction.</p> <ul style="list-style-type: none"> • Has submitted proof of continued competency to the board • Has paid the required fees
Licensed Marriage and Family	<p>Holds a master's degree or doctorate in marital and family therapy or allied</p>	<p>After receiving the degree:</p> <ul style="list-style-type: none"> • Has practiced marital and family 	<ul style="list-style-type: none"> • Applies on a form supplied by the board 	<p>If the person is licensed or certified for the practice of marital and</p>

<p>Therapist</p>	<p>mental health field from a regionally accredited educational institution approved by the board. Courses in the following areas:</p> <ul style="list-style-type: none"> • 3 courses or nine semester or 12 quarter hours of coursework in marital and family therapy • 3 courses or nine semester or 12 quarter hours of coursework in marital and family studies • 3 courses or nine semester or 12 quarter hours of coursework in human development • 1 course or 3 semester or 4 quarter hours in professional studies or professional ethics and law • 1 course or 3 	<p>therapy within 3 years of the person's application, including 1,500 hours of direct clinical contact with couples and families</p> <ul style="list-style-type: none"> • Has been supervised in the clinical contact for at least 200 hours including 100 hours of individual supervision and 100 hours of group supervision approved by the board • Board may issue a license for supervised practice which allows a person who meets the other criteria to practice with supervision. • May get temporary license until first date examination is 	<ul style="list-style-type: none"> • Pays the fee • Furnishes evidence satisfactory to the board that they have not engaged in conduct that is ground for imposing disciplinary sanctions • Has received training related to domestic violence • Has passed a written examination administered by the board 	<p>family therapy in another state that has requirements for licensure or certificate that is substantially equal to or greater than the requirements of this state and</p> <ul style="list-style-type: none"> • They apply • Pay the fee • Furnish evidence satisfactory to the board that they have not engaged in conduct that is ground for imposing disciplinary sanctions • Have the appropriate degree and course work
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Licensure Requirements by Profession as of 1/30/06

	<p>semester or 4 quarter hours in research</p> <ul style="list-style-type: none"> • One year of supervised clinical practice in marital and family therapy • If they don't have courses as part of their degree, may get them post degree. 	<p>scheduled to be given.</p>		
<p>Licensed Professional Counselors</p>	<p>Has earned a doctoral degree in counseling or related professional field or has earned a master's degree in counseling or a related professional field from a regionally or nationally accredited institution of higher education approved by the board, consisting of 48 semester hours and at least 12 other graduate semester hours in counseling during or after earning the master's degree, for a total of at least 60 hours. The board may, in its regulations, specify the areas of study that must be covered in order to meet the</p>	<p>Both doctoral and master's counselors have to have had at least 3,000 hours of supervised experience in the practice of professional counseling performed over a period of at least 2 years after earning their degree. This counseling experience must have been performed under the supervision of a supervisor who is licensed as a physician, licensed advanced nurse practitioner who is certified to provide psychiatric or mental health services, licensed clinical social worker,</p>	<ul style="list-style-type: none"> • Is at least 18 years of age • Is not under investigation in this or any other jurisdiction for an act that would constitute a violation of this chapter • Has not had a license related to the practice of counseling, psychology, marital and family therapy, or social work suspended, revoked or surrendered. • Has passed a written 	<p>The board may issue a license to a person who is licensed in another jurisdiction to practice professional counseling if the board finds that the other jurisdiction has substantially the same or higher licensure requirements as this state (as long as that person is not under investigation or has had a license revoked, suspended or surrendered in lieu of sanctions.</p>

Licensure Requirements by Profession as of 1/30/06

	<p>requirements.</p>	<p>licensed marital and family therapist, licensed psychologist or licensed psychological associate. This supervisor must submit an application, and fee, must have 5 years of experience, must provide to the board for it's approval the details of the persons supervision philosophy, orientation and experience and must meet other criteria that may be established by the board or by regulation. The supervisor's certification remains in effect without the need for renewal until the person's licensure, as a professional counselor is revoked, suspended or otherwise lapses.</p>	<p>examination</p>	
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Requirements and Rates for Licensure for Mental Health Disciplines

Licensed PhD Psychologist:

Doctoral Degree

No dishonorable conduct

One year of post-doctoral supervised experience

Passage of a board approved exam

Fee Rates: Vary from \$85 (Medicaid Reimbursement) to \$200 per hour

Licensed Psychological Associate:

Master's Degree

No dishonorable conduct

Two years post-graduate supervised experience

Passage of a board approved exam

Fee Rates: Vary from \$65 to \$135, Medicaid Reimbursement for psychotherapy is \$85

Licensed Social Worker:

Doctoral or Master's Degree

Over a minimum of 2 years, 3,000 supervised hours of experience

Good moral character and in good standing

Passage of a board approved exam (exams are specific to LCSW or LMSW)

Fee Rates: Vary from \$65 to \$135, Medicaid Reimbursement for psychotherapy is \$85

Licensed Marital and Family Therapist:

Master's Degree – with course work specific to marriage and family

Has not engaged in conduct that is a ground for imposing disciplinary sanctions

One year of post-graduate supervised clinical practice (1500 hours)

Passage of a board approved exam

Fee Rates: Vary from \$65 to \$135, Medicaid Reimbursement for psychotherapy is \$85

Licensed Professional Counselors:

Doctoral or Master's Degree

Is not under investigation

Has not had a license suspended, revoked, or surrendered elsewhere

Over a minimum of 2 years, 3,000 supervised hours of experience

Passage of a board approved exam

Fee Rates: Vary from \$65 to \$135, Medicaid Reimbursement for psychotherapy is \$85

Statutory Definitions of Licensed Mental Health Professions

Licensed PhD Psychologist:

Sec. 08.86.230. **Definitions.** In this chapter,

(6) "to practice psychology" means to render or offer to render for a fee to individuals, groups, organizations, or the public for the diagnosis, prevention, treatment, or amelioration of psychological problems and emotional and mental disorders of individuals or groups or for conducting research on human behavior, a psychological service involving the application of psychological principles, methods, and procedures of understanding, predicting, and influencing behavior, including

(A) the principles pertaining to learning, perception, motivation, emotions, and interpersonal relationships;

(B) the methods and procedures of interviewing, counseling, psychotherapy, biofeedback, behavior modification, and hypnosis;

(C) constructing, administering and interpreting tests of mental abilities, aptitudes, interests, attitudes, personality characteristics, emotions, and motivations.

Sec. 08.86.164. **Scope of practice by associate.**

(a) A psychological associate shall be licensed to provide psychological services within the nature and extent of the psychological associate's training and experience as defined in regulation.

Licensed Social Worker:

Sec. 08.95.990. **Definitions.** In this chapter,

(2) "clinical social work" means the diagnosis of psychiatric disorders and the use of techniques of applied psychotherapy of a nonmedical nature while practicing social work;

(6) "social work" means a service in which a special knowledge of social resources, human capabilities, and the part that unconscious motivation plays in determining behavior is directed, through the application of social work principles and methods, at helping individuals to achieve more adequate, satisfying, and productive social adjustments;

(7) "social work principles and methods" include counseling of a nonmedical nature to assist in the treatment of mental and emotional conditions of individuals, families, and groups; providing information and referral services; providing or arranging for the provision of social services; explaining and interpreting the psychosocial aspects in the situations of individuals, families, or groups; helping communities to organize, provide, or improve social and health services; and doing research related to social work.

Licensed Marital and Family Therapist:

Sec. 08.63.900. **Definitions.** In this chapter, unless the context indicates otherwise,

(5) "practice of marital and family therapy" means the diagnosis and treatment of mental and emotional disorders that are referenced in the standard diagnostic nomenclature for

marital and family therapy, whether cognitive, affective, or behavioral, within the context of human relationships, particularly marital and family systems; marital and family therapy involves

(A) the professional application of assessments and treatments of psychotherapeutic services to individuals, couples, and families for the purpose of treating the diagnosed emotional and mental disorders;

(B) an applied understanding of the dynamics of marital and family interactions, along with the application of psychotherapeutic and counseling techniques for the purpose of resolving intrapersonal and interpersonal conflict and changing perceptions, attitudes, and behaviors in the area of human relationships and family life;

Licensed Professional Counselors:

Sec. 08.29.490. Definitions. In this chapter,

(1) "practice of professional counseling" means, subject to (C) of this paragraph, the application of principles, methods, or procedures of the counseling profession to diagnose or treat, other than through the use of projective testing or individually administered intelligence tests, mental and emotional disorders that are referenced in the standard diagnostic nomenclature for individual, group, and organizational therapy, whether cognitive, affective, or behavioral, within the context of human relationships and systems; if otherwise within the scope of this paragraph, "practice of professional counseling" includes

(A) the professional application of evaluation techniques, treatments, and therapeutic services to individuals and groups for the purpose of treating the emotional and mental disorders;

(B) an applied understanding of the dynamics of the individual and of group interactions, along with the application of therapeutic and counseling techniques for the purpose of resolving intrapersonal and interpersonal conflict and changing perceptions, attitudes, and behaviors in the area of human relationships; and

(C) consistent with regulations adopted by the board under AS 08.29.020(a)(4), administration and use of appropriate assessment instruments that measure or diagnose problems or dysfunctions within the course of human growth and development as part of a counseling process or in the development of a treatment plan;

ANNE L. HENRY, LPC
101 9TH AVE., UNIT 5A • ANCHORAGE, AK • 99501
PHONE: 907 272 0824 • FAX: 907 272 0826
CELL: 907 250 5244 • EMAIL: anne@alaskaipc.com

January 26, 2006

Dear Senate HESS Committee Members:

I chair the board for licensing of professional counselors. I support CSSB177 in its current form, and want the committee to not require combining the LMFT and LPC boards in this piece of legislation as discussed in Wednesday's hearing. During Wednesday's HESS Committee meeting I promised to supply Senator Dyson with some information that was requested and to submit more information regarding the issue of combining the LPC and LMFT boards. I have sent an email with attachments to Senator Dyson's aide and with this letter I will address some points that came up during the hearing and the board's position on combining boards.

Investigations and increased licensing fees

During the hearing, Senator Dyson mentioned that there might be inclination on a board to not investigate a complaint against a licensee because if there were to be litigation that causes an increase in licensing fees at the next renewal. He makes a good point. I would like to clarify the complaint process to make it clear that this is unlikely to happen. When a member of the public or a concerned licensee registers a complaint, it goes directly to the division investigator. The investigator compiles information, may run it by a member of the board if it is a grey area, and if it appears that there is indeed a problem they work with the Department of Law to determine best options. These options are presented to the members of the board. In my tenure, the board has always agreed with the preferred option presented by the DOL attorney. What the LPC board has seen more than anything is renewal applications where the licensee has signed saying that they have taken the required 3 hours of ethics but do not have documentation—they are then fined and required to be audited for 3 renewal cycles.

There appears to be great concern about the cost of litigation and the burden that it puts on licensees via increased license fees. When Division Director Rick Urion began in his position, he told the boards that he would like to see some sort of insurance pool so that no one board would be hurt as the psychologist and marital and family therapist license boards have been. We enthusiastically supported it and continue in our Annual Reports to indicate that we will support the division in this goal. This is not a malpractice pool, but a pool only to cover the state's costs when individuals litigate a board decision which is based on statute and regulation. We encourage the legislature to look into the creation of such a pool to support and protect the hard working licensed professionals across the state and those who voluntarily regulate those professions.

Third party billing

Senator Green asked for clarification about comments made by Pam Watts in a letter supporting SB177 from last year. The issue was regarding third party billing, or required insurance reimbursements for anyone practicing psychotherapy with the passage of SB177. I attempted to contact Pam this morning and she is out of state. John Miller, chair of the Board of Psychologists and Psychological Associate Examiners said Wednesday that insurance companies do or do not reimburse for services depending on license types that they name specifically in their policies. In an informal DBH survey of State funded mental health agencies about 3 years ago, LMFTs and LPCs made up more than half of the licensed mental health professionals on staff. According to an annual count of mental health licensees conducted in fall 2005, LMFTs and LPCs make up

almost half of the clinical mental health professionals across the state. Many employee assistance programs and insurance companies already recognize these professionals and reimburse for their services because of recognized ability and availability, not because of any legal requirements. All licensees are already statutorily qualified to conduct emergency mental health civil commitment evaluations: the highest responsibility in the mental health professions. This bill will not force third party reimbursement to LPCs or LMFTs, nor will it increase existing third party reimbursement activity.

Combining the LPC and LMFT licensing boards

I am attaching a copy of the letter I wrote in response to the Legislative Audit staff recommendation to combine these two licensing boards. In the letter, I went over the history of this issue and several arguments opposing the concept. I will attempt to avoid repeating those points; however I do want to reiterate that the current Chairs of the Senate and House Labor and Commerce Committees on two occasions have written letters expressing no desire to pursue the issue of combining boards. Hopefully the following are new and different arguments opposing a combined board.

There is an equity issue in board composition

As of last fall there were 88 LMFTs and 349 LPCs. When the original letter of intent required that the boards work together to figure out how to combine boards, the practical, logistical issue of how to fairly conduct business came up. If the licensees number 3 to 1, but representation is 3 to 3 plus a public member, is that fair if LMFTs oppose something that the LPCs propose? If you create a board with 1 member per 100 licensees, it would be 1 to 3 with a public member. And would that be fair to LMFTs?

There is no cost savings for a combined board

Last year while attending the American Association of State Counseling Boards, I stood before the assembly and asked everyone who was from a state where there were combined boards to meet with me to talk about their experiences. What I learned was that several states have combined boards (12 or so), some boards work well together. Several people talked about turf problems. A couple of people said it was a huge mistake. But they all talked about the need to meet as a group and separately as sub-committees to address LMFT and LPC issues separately. Since these are all public meetings and need staff support, they cannot be held at the same time. More meetings equal more cost.

The LMFT Board has a large legal debt which has caused license fees to be raised. There is a presumption that if the boards are combined that burden will be reduced by lowering the cost of board meetings. This year the LPC board will meet twice for two days. We have 5 members and meet once in Anchorage and will meet next in Juneau. The amount of work we need to do to meet our statutory obligations will not be reduced by combining boards, nor will the work of the LMFT board. Most of those issues are still specific to the LPC licensees or the writing of regulations specific to LPCs. If both boards have work specific to their discipline but are also required to meet as a joint board, then there will be more meetings not fewer. There will be no cost savings to licensees: costs will rise. If the intent in combining boards is for LPC licensees to help pay for the cost of the LMFT legal debt I am sure there will be a large outcry from irate LPCs.

The LMFT licensure is declining but not because of other licenses.

The numbers of LMFTs has always been low and for the past several years—before the legal debt caused fees to climb, I believe their numbers were dwindling. The licensing statutes for LMFTs require very specific numbers of hours of course work in very

specific areas. They also require that an applicant be supervised only by an LMFT supervisor. There are graduate programs in the state that prepare grads to become psychologists, social workers and professional counselors, but none for marriage and family therapy. These issues were discussed as prohibitive problems for many potential applicants years before the cost of the LPC fee went down. The LPC license fee has gone down because of hard work by the board, including recent regulation requiring renewal applicants to pass an exam on the statutes and regulations and Code of Ethics governing their profession before being issued a renewed license. It is these efforts that will keep our litigation costs down.

Combining boards does not improve public safety

How does combining boards protect the public safety? We see it as taking time away as board members must work with the legislature to draft new statutes and regulations—at state cost because this would not be fair to charge LPCs for costs of board member time when they oppose the combining in the first place. We see combining boards as taking away from legitimate board business for a period of years as they settle the dust of working together. Again, how does this improve the protection of the public?

"If it ain't broke don't fix it."

The board of professional counselors was audited and found to be doing its job. We work hard to put public safety before licensee convenience or cost. We are a responsible, dedicated volunteer board with a respect for the obligations of being regulators. It is often not easy or fun to spend hours pouring over license applications on the weekend. But we do this work to make sure that our profession reflects a high standard of training, experience and behavior that will keep safe the vulnerable individuals that put their faith and trust in our abilities and integrity.

I would like to close with a request and a recommendation. I request that the Committee pass CSSB177 in its current form, without further modifications. I suggest that one way to save the State money would be to extend the sunset periods on responsible boards to 10 years and make provision for early audits if there are complaints against the board regarding fulfilling statutory obligations. This would cut the cost of auditing every four years in half. And it would cut the work of board members because every time there is an audit, there must be a lengthy response from the board to the auditors. This takes time away from board business and again this is voluntary time.

Respectfully submitted,

Anne L. Henry, LPC Board Chair

Jason Hooley

From: Anne L. Henry [alhenry@alaska.net]
Sent: Saturday, January 28, 2006 10:03 AM
To: Jason Hooley
Subject: Question that needs clarification

Good morning Jason. Last night I got a call from a social worker who is a leader in his discipline. He was calling because the old version of SB177 was still on the website and he was concerned that it did not reflect the changes we had discussed over the summer. I mentioned that Senator Dyson was planning to attach language to combine the LMFT and LPC boards and he said that the LMFTs wanted to combine with LPCs so their legal debt would be paid by LPCs.

Before the administration change Catherine Reardon told me that the use of one board's funds by another was not legal, and that there were laws in place to keep that from happening. However in a call with Occupational Licensing Division Director Rick Urion, when I mentioned this he did not deny or agree with it. But, he did say repeatedly and in various ways that the LMFT board was in deep financial trouble—with the clear implication that the LPCs would help that go away—not necessarily with the cushion of funds that we currently have but somehow.

So, is it possible to get clarification on this point? Is it legal for the division to use LPC funds to cover the debt of another board or not?

Obviously this is critical to LPCs.
Thank you,
Anne

Jason Hooley

From: Anne L. Henry [alhenry@alaska.net]

Sent: Monday, January 30, 2006 8:29 AM

To: Jason Hooley

Subject: Letter from L&C Chairs

Jason, did Pat Davidson or Senator Bunde happen to fax you a copy of the May 6, 2003 letter from Senator Bunde and Representative Anderson to your office? It is the letter dismissing the four mental health boards from pursuing the efforts of the letter of intent—working on a plan to combine boards.

Unfortunately no one, including Pat Davidson to whom the letter was written, seems to be able to come up with a copy of the letter that was signed by the same chairs last year after the Legislative Auditors again recommended combining boards. That letter contained language that said that neither committee was interested in pursuing mandating the combining of boards. The first letter had not made it clear enough.

I know the letter was written and signed because I drafted the letter for Josh Applebee. But, after searching my two laptops, I cannot find a copy of it. Pat says she cannot find it and since Senator Bunde's Office contacted Pat for a copy, obviously they don't have a copy of it.

If you have not yet received a copy of the first letter, I will fax it to you.

I will be leaving for a medical appointment at about 9:45 but should be home working most of the rest of the day. An early call would be good if you still want to chat.
Anne

Jason Hooley

From: Jane Alberts
Sent: Monday, January 30, 2006 2:45 PM
To: Jason Hooley
Subject: regarding SB 177

I am getting the impression Con may be a little luke warm to this merging of boards your boss might be proposing for SB 177. WE have found the letter he signed in conjunction with House L&C, and supporting that amendment would counter his signing of the paper that released those boards of a letter of intent instructing them to merge.
Just thought I would catch you up.

jane

Jane C. Alberts
Committee Aide/ Senate Labor and Commerce Committee

Senator Con Bunde's office
907-465-4843
907-465-3871 FAX
Alaska State Capitol, Room 506
Juneau, Alaska 99801

Jason Hooley

From: Joan Soutar [akjbear@yahoo.com]
Sent: Sunday, January 29, 2006 2:00 PM
To: Sen. Fred Dyson; Sen. Gary Wilken; Sen. Donny Olson; Sen. Lyda Green;
Senator_Kim_Elton@legis.ak.us
Subject: SB177-comments from a LPC

Ladies and Gentlemen of the Alaska Senate,

I support passage of SB177. I do NOT support combining ahd LPC and the LMFT boards.

I have had different training, different supervision and serve different clients than do LMFT's. I believe that my LPC Board membes stand up for me and my needs. I want the board members to focus upon LPC licensed individuals.

I need to ask why seek to combine these two boards but not add in social workers, psychologists, psychiatrists and psychological associates into one hugh board? Are you trying to save LMFT individuals in some way by combining their board with the growing number of LPS's?

When I received my initial license the cost was over \$800 for two years. Costs have gone progressively down to the \$200 I paid in October 2005. The LPC board even adjusted the date of renewal to coincide with our receipt of our Alaska Dividends which I appreciated. I believe my board works hard for me in keeping quality up and costs down. I do not want to take on expenses of individuals who hold a different license.

Sincerely,

Joan Soutar MA, LPC (#52)

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Tired of spam? Yahoo! Mail has the best spam protection around <http://mail.yahoo.com>

Jason Hooley

From: Anne B. Norton Psy.S., LPC [akmentalhealth@gci.net]
Sent: Thursday, January 26, 2006 9:57 AM
To: I@gci.net; Sen. Lyda Green; Sen. Fred Dyson; Senator_Gary_Wilkin@legis.state.ak.us; Sen. Donny Olson; Sen. Kim Elton
Subject: I'm against combining LPC with LMFT boards on SB 177

Hello,

I am a private practice school psychologist and Licensed Professional Counselor. I am requesting you to NOT combine the boards-while it may 'make sense' on the surface of it, it really is not the best way to deal with the two boards.

There are so many issues at stake that might not have been considered. As an LPC, I feel my licensing costs are high enough (plus I renew two other licenses)..and I just cannot imagine another cost, or higher cost to incorporate the LMFTs as each board then holds the responsibility for legal costs of all. LMFTs may increase the cost of legal battles, turf wars etc.

LPC counselors have a more stringent training program than LMFTs as well-thus the risk for more legal costs may lay with the LMFTs. We have our own issues, and work with different populations as well. (LPC are more broad based, wherease LMFT are specifically trained in limited areas).

Please do not combine LPC with LMFT on SB177- we ARE different, and need our own boards.
Thank you,

Anne B. Norton, Psy. S., LPC
School Psychologist, Licensed Professional Counselor, Nationally Certified Interpreter.

2550 Denali Street Ste 1606
Anchorage, AK 99503

907 334 9842

Jason Hooley

From: F Kenneth Freedman [fken@alaska.net]
Sent: Friday, January 27, 2006 10:57 PM
To: Sen. Fred Dyson
Subject: SB177

Dear Senator Dyson:

Here's my support for SB177 but I do not want to see the boards combined.

Thanks,

F. Kenneth Freedman, LPC

January 26, 2006

Dear Senator,

As an LPC therapist I do support the passage of bill SB177 but do not want to see anything about combining LPC and LMFT boards attached to the bill.

LPC and LMFT disciplines and orientations and often, clients are different. LMFT therapists, as their initials state, specialize in work with families, marriages and couples. LPC's serve a broader base of clientele and our specialties within the field of counseling are diverse. My own specialty is PTSD (post traumatic stress disorder).

As an LPC I want to be responsible for the legal and other expenses in my own area of work. I do not want to take on past, current, or future debt of LMFT's and have my own licensure expense penalized.

I understand the legislature's interest in combining boards to simplify and save State money. But, this does not benefit LPC's in any way and in fact creates more liability for us.

Please do not add anything about combining boards to bill SB177.

Thank you.

Micki Halloran, MA, LPC
2605 Denali Street #203
Anchorage, Alaska 99503
State of Alaska, LPC #329
907-279-1393

Jason Hooley

From: Sen. Fred Dyson
Sent: Monday, January 30, 2006 9:13 AM
To: Jason Hooley
Subject: FW: Hess Committee

From: Ellen Cole [mailto:ecole@alaskapacific.edu]
Sent: Thursday, January 26, 2006 11:30 PM
To: Sen. Fred Dyson; Sen. Gary Wilken; Sen. Donny Olson; Sen. Lyda Green; Sen. Kim Elton
Subject: Hess Committee

Dear Senators,

I am writing to you as director of the Master of Science in Counseling Psychology (MSCP) program at Alaska Pacific University. While I am a psychologist, myself, I and my APU colleagues are responsible for training the next generation of Alaska's Licensed Professional Counselors. We support the passage of SB177 but do not support the combining of the LPC licensing board and the Marriage and Family Therapist licensing board.

We do not think combining the boards would serve either profession well, nor (above all) would it serve the clients with whom we work. There is already enough confusion about the differences between the two professions. Combining the boards would only add to that confusion.

The fact of the matter is that LMFT's specialize in one very particular and focused arena of the counseling world. LPC's practice across a broader range of specialties and have very different training, theoretical orientations, and internship requirements. To become an LPC in Alaska, a graduate student must complete a 60-credit graduate program which includes a 600 hour internship. Then there are 3000 hours of post-graduate supervision and the passage of a national exam. These are rigorous requirements, and those who complete them are very proud of their accomplishments. They chose to become Professional Counselors. Marriage and Family Therapy is an equally fine profession, but it is a different one.

In addition, my understanding is that two difficulties emerge states that have tried to combine mental health boards. First, turf wars are inevitable and create inefficiency and ill will. Second, combined boards cost more in the long run, because each discipline wants and needs to meet separately in addition to joint meetings.

I hope these comments help with your deliberations. Thank you for your attention.

Ellen Cole, Ph.D.
Professor of Psychology
Director, MSCP
Alaska Pacific University
4101 University Drive
Anchorage, Alaska 99508
tel: 907-564-8216
fax: 907-564-8396
ecole@alaskapacific.edu

Pat Crowe, LPC
PO Box 135
Kodiak, AK 99615
907-486-0846
pcrowe@ak.net

Senator Fred Dyson, Chair, and
Members of Senate HE&SS Committee
State Capitol
Juneau, Alaska

Dear Senator Dyson:

Senate Bill 177 serves a very important purpose to the public, by allowing mental health and related behavioral health professionals to legally provide the services they either already offer mentally ill Alaskans, or could offer them, if this bill is passed.

Many mental health professionals in community mental health centers, and other behavioral health agencies are technically not allowed to use some of the "psychology-related" language, or provide services referred to in this legislation, even though they are trained and qualified to do so. SB 177 would correct that situation.

For Alaskans, this would mean greater access to needed services, often at less cost to them than they currently might pay. They could receive mental health services, and have greater opportunity to use their own insurance to cover those services provided by agencies and providers qualified to perform them.

I strongly encourage you and the Committee to support this legislation, in the best interests of our state and communities.

Thank you,

Pat Crowe

Jason Hooley

From: Joan Soutar [akjbear@yahoo.com]
Sent: Sunday, January 29, 2006 2:00 PM
To: Sen. Fred Dyson; Sen. Gary Wilken; Sen. Donny Olson; Sen. Lyda Green;
Senator_Kim_Elton@legis.ak.us
Subject: SB177-comments from a LPC

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Sincerely,

Joan Soutar MA, LPC (#52)

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Jason Hooley

From: F Kenneth Freedman [fken@alaska.net]
Sent: Friday, January 27, 2006 10:57 PM
To: Sen. Fred Dyson
Subject: SB177

Follow Up Flag: Follow up
Flag Status: Completed

Dear Senator Dyson:

Here's my support for SB177 but I do not want to see the boards combined.

Thanks,

F. Kenneth Freedman, LPC

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 4/15/05

FURTHER: Labor and Commerce

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 2.3.06

Health, Education and Social Services Committee considered

SENATE BILL NO. 177

SB 177 PRACTICE OF PSYCHOLOGY

"An Act eliminating the requirement that persons using titles or descriptions of services that incorporate the terms 'psychotherapy,' 'psychotherapeutic,' or 'psychotherapist' be licensed by the Board of Psychologist and Psychological Associate Examiners."

and recommends:

- be replaced with _____ CS for SB 177 (HES)
- adopt previous _____ CS (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:
 Same Title
 New Title

SCS House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
LED	1/24			x	

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
	✓			
			✓	
	✓			

CHAIR.

SB

184

August 12, 2005

Faith Myers
Dorrance Collins
801 Airport Hts. #35
Anchorage, AK 99508

Dear Ms. Myers and Mr. Collins,

I wholeheartedly support your efforts to amend AS47.30.840 to include a section acknowledging the right of psychiatric patients to choose the gender of staff providing intimate care. How sad that you and others have to fight for something that simple human respect and common sense would dictate should be done.

Recent empirical studies provide evidence that many common practices in psychiatric settings - such as those at issue here, cause patients chronic stress and put them at risk for iatrogenic psychiatric morbidity such as PTSD and Depression. They also very likely increase avoidance of helpful treatments.¹ Yet, it is often difficult to influence change in professional practice, or in established procedures. The medical dictum to "do no harm" frequently does not guide decision making.

Legislators often have good common sense. It should be clear to them for example that no one in their circle of family or friends would accept routinely being bathed, touched intimately, toileted etc. by someone of the opposite sex that they did not know.

But with patients in a psychiatric setting, the issue is much more serious. First, many psychiatric patients (51% - 98%) have histories of sexual and/or physical abuse.^{2,3,4} This makes them especially vulnerable to "re-traumatization" by procedures such as being stripped, bathed, touched, and toileted by a staff of the same gender as their childhood perpetrator. Such a practice replicates and "triggers" feelings from the original abuse experiences and engenders feelings of fear, helplessness, distress, humiliation and loss of trust in staff.² When individuals are continually re-traumatized in this way, they are subject to chronic stress⁵ which in turn worsens serious mental illness and results in symptom relapses and repeated re-hospitalization^{6,7,8,9}.

Thank you for your efforts on behalf of persons with mental health issues. In this instance of unconscionable resistance to changing practices experienced as harmful by patients, the right to choose a preferred or same-sex provider must be legislatively mandated, and enforced.

Sincerely,



Ann F. Jennings, Ph.D.
Trauma-Informed Systems Consultant
The Anna Foundation
21 Ocean Street
Rockland, ME 04841

References:

1. Mueser, K.T., Rosenberg, S.D. (2003) Treating the trauma of first episode psychosis: A PTSD perspective. *Journal of Mental Health*. 12, 2, 103-108
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7. Butzlaff, R.L., Hooley, J.M. (1998). Expressed emotion and psychiatric relapse. *Archives of General Psychiatry* 55, 547-552
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TESTIMONY FOR HB220/SB 184 -- Faith Myers

My name is Faith Myers. I am a mental health patient who has been in Alaskan mental institutions and the institutions of other states over the last five years. I support the passing of committee substitute of House Bill 220.

Over the last 4 years I have testified on the issue of psychiatric patients not having the right to gender choice for hands-on intimate care in Alaska.

I have traveled to Fairbanks, Juneau, and in Anchorage and I have testified in front of all relevant Boards and committees. And in Feb '04 I testified in front of the Joint Commission on Accreditation of Hospital Organizations. They stated we had a good complaint letter but outside the scope of their authority. One of their suggestions was to approach the legislature and we did. House Bill 220 is a patients' rights bill. It is necessary.

Fifty-one to ninety eight percent of all the psychiatric patients in Alaska's mental hospitals have been sexually and or physically abused as children or adults. It is difficult to know which gender abused them, which is why it is important to let the patient choose the gender of the staff they feel most safe and comfortable with performing intimate care. This is why gender choice of staff is more preferable than same sex of staff for intimate care in legislative wording of the bill.

There is an out for the institutions. On page 1, line 14 of HB 220 it states the institutions must only make a "reasonable and good faith effort." On page 2, line 2 it simply says that institutions will document in the patient's record that they were unable to comply with the patient's request. That gives the institutions an out for any contingency.

Some of the 9 support letters submitted in favor of a bill have been written by people who either had the experience of being in an Alaskan psychiatric institution or have had family members in an Alaskan psychiatric institution.

House Bill 220 is based on a Bangor, Maine policy and it is do-able.

I support Committee Substitute House Bill 220 and ask that it be passed.

Thank you,
Faith Myers
801 Airport Hts #35
Anchorage, Ak. 99508
(907) 929-0532

Faith Myers

March 1, 2005

Faith Myers,
Dorrance Collins
330 E. 14th Ave., Apt E
Anchorage, Alaska 99501

Re; Psychiatric Staff Gender Rights

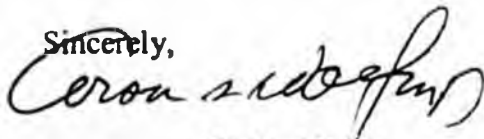
Dear Ms Myers and Mr. Collins,

I would very much support your efforts to amend AS47.30.840 to include a section acknowledging the right of Psychiatric patients to choose the gender of staff providing intimate care.

This is a very important issue as my Psychiatric inpatients already have significant issues with both sexuality and trust.

I believe that as a Physician this would be a significant step forward in providing the best and most therapeutic care for psychiatric patients throughout the State of Alaska. Please contact me if I can be of further assistance.

Sincerely,



Aron S. Wolf MD, MMD
Distinguished Life Fellow American Psychiatry Association

Alaska Counseling, Inc.
Parkway Professional Building II
4120 Laurel St., Suite 102, Anchorage, Alaska 99508
907.569.8600



NAMI Anchorage

*Anchorage's Voice on
Mental Illness*

There is hope.

Trish McDonald
Executive Director

Yvonne Akai Evans
President

Eileen Davey
Vice President

Roger Branson
Secretary

Alina Blasiak
Treasurer

Geno Daly
Member at Large

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Yvonne Akai Evans
907.272.9952 direct

yvon@gci.net

501 3 (c) non-profit
corporation in
Alaska since 1984

Faith Myers
Dorrance Collins
330 E. 14th Ave., Apt. E
Anchorage, Alaska 99501

27 February 2005

Dear Faith and Dorrance:

We here at the National Alliance for the Mentally Ill, Anchorage Affiliate (NAMI-Anch) have received and support your request for psychiatric patients to have the ability, through existing law and the most basic of privacy rights, to request gender specific intimate care. We further feel that these rights need to be clearly enunciated and that an addition to AS 47.30.840 reflecting such is in order.

We concur with and support the position Disability Law Center has taken in their letter to you dated December 22, 2004 and support their further involvement in resolving this matter of extreme importance.

It is telling to us that we rarely hear of this issue in private facilities where patients and their families have the freedom and ability to select other service providers. We understand that public institutions operate on limited resources, however this most basic of human rights, the right to personal dignity, is one that cannot carry a price tag but must be provided for in public as well as private facilities.

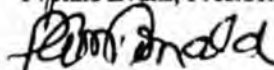
It is further troubling for us to realize that the staff making the majority of these decisions involving this most intimate of care are those who are the least trained. These staff members may well view their employment in the psychiatric care field as being transitory in nature and feel they have nothing or little to lose should a complaint regarding them be found to have merit. Our highest concern is that these individuals wield excessive physical and emotional power over these vulnerable persons and can too easily abuse the discretion given them to include suppressing complaints against them.

It is important to note that as State laws are currently being interpreted these basic rights to control who views and perhaps even touches our naked bodies may well be, and likely are being, violated without rising to the level of being a sexual assault or breaking any other laws. However, in this context, sexual assaults may well be, and quite possibly are being, committed with the vulnerable victim having little to no recourse, hope or even prayer of justice.

We urge our lawmakers to pass legislation which will protect individuals receiving this care.

Sincerely,


Yvonne Evans, President


Trish McDonald, Executive Director

Cc Ron Adler
David Fleurant



Alaska Mental Health Consumer Web

**1248 Gambell St.
Anchorage, ALASKA 99501**

**Phone: 907.222.2980
Fax: 907.222.2981**

March 2, 2005

**Faith Myers
Dorrance Collins
330 E. 14th Ave., Apt. E
Anchorage, Alaska 99501**

Dear Faith and Dorrance:

We at Alaska Mental Health Consumer Web would like to express our full support for your efforts to ensure the right of Alaskans undergoing mental health evaluation and treatment to choose the gender of their caregivers. Specifically, we wholeheartedly endorse the amendment of AS47.30.840 to include the right of Psychiatric patients to choose the gender of those that provide their care. It is our collective belief that this is not only a core human right, but also a matter of basic human dignity. For many years Alaskans have received care without regard to the gender of the provider. This practice has potentially violated the rights of thousands of Alaskan citizens and may have breached the boundaries of people who may have issues of sexuality and trust.

We again applaud your efforts and if I can be of further assistance please do not hesitate to contact me.

Sincerely,

**Carl Ipock
Executive Director
Alaska Mental Health Consumer Web**



NAMI Alaska

144 W. 15th Avenue
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info@nami-alaska.org

February 28, 2005

Faith Myers
Dorrance Collins
330 E. 14th Avenue. Apt. E
Anchorage Alaska 99501

Re: Psychiatric Staff Gender Rights

Dear Ms. Myers and Mr. Collins,

NAMI Alaska supports your efforts to amend AS47.30.840 to include a section requiring the right of psychiatric patients to choose the gender of staff providing intimate care.

Many persons with mental health issues already have significant problems with trust and issues pertaining to their bodies. To give them the opportunity to select a same sex care provider may keep from re-traumatizing someone who has been physically violated or inappropriately touched in the past.

The right to chose a same-sex care provider while in a vulnerable mental state should be a state mandated right to provide the best possible care for psychiatric patients in Alaska.

Sincerely,

Beth LaCrosse
by Tracy Barber

Beth LaCrosse, President



December 22, 2004

Faith Myers
Dorrance Collins
330 E. 14th Ave., Apt. E
Anchorage, Alaska 99501

Dear Faith and Dorrance:

I am in receipt of your letter wherein you request support from the Disability Law Center, Alaska's Protection and Advocacy agency for individuals with disabilities, in your efforts to secure "more rights" for patients at the Alaska Psychiatric Institute ["API"]. Specifically, you are advocating for a change in AS 47.30.840 that would, in effect, provide Alaskans undergoing mental health evaluation or treatment the right to choose the gender of the person providing them hands-on intimate care, such as toileting, bathing, diapering and dressing. You have asked the Disability Law Center to both confirm the legality of the requested statutory change and to voice support for your effort.

A review of statutory and judicial authority reveals a strong foundation of support for your legislative goal. In fact, securing the change in statute would not be bestowing 'more rights' onto patients, but would be a codification of an existing constitutional right that is not being acknowledged and protected. Based on this research, as well as common sense and decency, the Disability Law Center fully supports your effort.

It is clear that the State anticipates that some individuals admitted to API will require assistance with intimate care activities. The brief job description for a psychiatric nursing assistant that appears on the State's website describes the duties as follows:

Assist patients in occupational, recreational, and industrial therapy and school programs. Assist patients with daily routine activities *such as oral hygiene, preparing for meals, toileting, or preparing for bed.* Help with feeding of patients unable to feed themselves.

(Emphasis supplied). Acknowledging the need by some patients for this intimate assistance during a hospitalization, must these individuals submit themselves to care by a staff member of API's choosing, or do they have the right to choose the gender of the person viewing and touching their bodies? Do patients at API have a right to privacy?

Article I, Section 22 of the Constitution of Alaska provides that: "The right of the people to privacy is recognized and shall not be infringed." The specific enumeration of this right in Alaska's Constitution has been interpreted to

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PROTECTION &
ADVOCACY
SYSTEMS

mean that Alaska's right to privacy is broader than that afforded by the United States Constitution. *Messerli v. State*, 626 P.2d 81 (Alaska 1980).

Federal courts have clearly enunciated that encompassed within the right to privacy is the right to shield one's unclothed body from view. As the Ninth Circuit Court of Appeals held over forty years ago, "We cannot conceive of a more basic subject of privacy than the naked body. The desire to shield one's unclothed figure from view of strangers, and particularly strangers of the opposite sex, is impelled by elementary self-respect and personal dignity. *Story v. York*, 324 F.2d 450, 455 (9th Cir. 1963).

Many of the cases discussing this aspect of the right to privacy arose in the context of employment discrimination complaints against correctional facilities. These facilities were sued for restricting the gender of certain guard positions, in part, to protect the privacy rights of prisoners. The courts have held that this right is not destroyed simply because one is institutionalized. *Turner v. Safley*, 482 U.S. 78, 84. (1987) ("Prison walls do not form a barrier separating prison inmates from the protections of the Constitution."); *Robino v. Iranon*, 145 F.3d 1109, 1111 (9th Cir. 1998) ("[A] person's interest in not being viewed unclothed by members of the opposite sex survives incarceration.")

Most people, however, have a special sense of privacy in their genitals, and involuntary exposure of them in the presence of people of the other sex may be especially demeaning and humiliating. When not reasonably necessary, that sort of degradation is not to be visited upon those confined in our prisons.

Lee v. Downs, 641 F.2d 1117, 1119 (4th Cir. 1981).

There are a few cases that address the employment of gender specific individuals in psychiatric hospitals. Courts have recognized that, unlike prison guards, hospital staff can infringe significantly on a patient's privacy rights. "Treatment assistants at a state psychiatric hospital intrude on patients' privacy by performing duties involving intimate personal care such as 'assisting patients with toileting, disrobing, showering and cleaning their genitals,' as well as stripping patients before placing them into restraints and conducting bed checks of patients who sleep naked or whose nightwear comes off during sleep. *Olsen v. Marriott International, Inc.*, 75 F. Supp.2d 1052, 1062 (Ariz. 1999) quoting *Jennings v. New York State Office of Mental Health*, 786 F. Supp. 376, 382 (S.D.N.Y. 1992).

Obviously most people would find it a greater intrusion of their dignity and privacy to have their naked bodies viewed (or any number of personal services performed) by a member of the opposite sex. Although there will be a certain relinquishment of privacy by necessity when anyone is admitted to a hospital or mental health facility, this is not to say that a patient has forfeited all rights to privacy.

Local 567 American Federation of State, County & Municipal Employees v. Michigan Council 25, American Federation of State, County & Municipal Employees, 635 F.Supp. 1010, 1013-14 (E.D. Mich. 1986) (footnote omitted).

The court in *Jennings* distinguished the privacy rights of patients from that of prisoners.

The patients at OMH are not convicted criminals but instead are there as a result of civil commitments. Thus, their right to privacy may not be abrogated by virtue of their confinement in a state-run facility unlike a prison inmate who has forfeited some rights in repayment to society. The patients at OMH are just that, patients. They are vulnerable and mentally ill. Basic decency demands that their privacy be respected to whatever degree feasible.

Jennings v. New York State Office of Mental Health, 786 F. Supp. At 384. The federal district court in Michigan held that not only should the psychiatric hospital respect the privacy rights of their patients, but should assist in protecting those rights.

It is obvious that the law recognizes the privacy rights of these patients or residents and that the defendants had the right to protect these rights, possibly even more so in the case of mental health patients who are far more reliant on the protection of the defendants than patients in hospitals. Moreover the failure to recognize their privacy rights is contrary to the concept of normalization which recognizes that mentally handicapped persons have a right to lives as close as possible to that which is typical for the general population.

Local 567 American Federation of State, County & Municipal Employees v. Michigan Council 25, American Federation of State, County & Municipal Employees, 635 F.Supp. at 1013. See also *Jennings v. New York State Office of Mental Health*, 786 F. Supp. at 383 ("[T]he fact that a person does not assert his or her constitutional right does not mean that state run facilities are still not obligated to respect these same rights.") "It would be a strange doctrine . . . that would decree that the sanctity of the right of privacy in the performance of the excretory functions, fully respected in a public restroom, is forfeited by the fact of falling ill and becoming hospitalized." *Local 567*, 635 F.Supp. at 1014.

Sensitivity towards the privacy rights of patients would also seem to further the treatment goals for many individuals. A large number of women and men have been sexually abused and live with the devastating aftermath of such experiences. Many with histories of maltreatment are extremely sensitive to issues of privacy and violation of their privacy. Early on in their lives their sense of body integrity was invaded by the behaviors of their perpetrators. Being exposed to the invasion of privacy while dressing, showering, or using the toilet can cause flashbacks in some individuals of prior abuse experiences. In others it can cause embarrassment and a sense of shame, even if they have no history of prior maltreatment. The need for a safe place where one is not exposed to the dominate

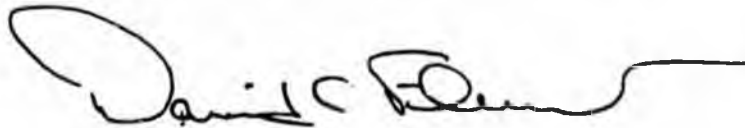
and submission process is imperative. The only way to make that possible is for people to have choices. Without choice there is a potential for the reenactment of trauma.

It is therefore possible that being viewed naked by staff of the opposite gender can cause significant harm to patients. A serious risk of harm violates the Eighth Amendment of the U.S. Constitution, even if no harm has yet occurred. *Farmer v. Brennan*, 511 U.S. 825 (1994); *Helling v. McKinney*, 509 U.S. 25 (1993).

For the reasons set forth above, the Disability Law Center of Alaska enthusiastically supports your efforts to protect the privacy rights of patients at API through the legislative process. Please do not hesitate to contact me if there is anything this agency can do to assist you with your advocacy.

Sincerely,

DISABILITY LAW CENTER OF ALASKA

A handwritten signature in black ink, appearing to read "David C. Fleurant". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

David C. Fleurant
Executive Director

cc Ron Adler

PsychRights

LAW PROJECT FOR

PSYCHIATRIC RIGHTS, INC.

406 G Street, Suite 206, Anchorage, Alaska 99501

(907) 274-7686 Phone ~ (907) 274-9493 Fax

<http://psychrights.org>

January 3, 2005

Faith Myers
Dorrance Collins
330 E. 14th Ave., Apt. E
Anchorage, Alaska 99501

Re: Psychiatric Staff Gender Rights

Dear Ms. Myers and Mr. Collins:

The Law Project for Psychiatric Rights (PsychRights) unreservedly supports your efforts for legislative acknowledgment of the right for psychiatric patients to choose the gender of staff providing intimate care. We are outraged such a choice is not provided now. It is well known that many psychiatric patients (male as well as female) have been sexually assaulted or otherwise physically abused and that the failure to be sensitive to this issue is re-traumatizing and counter-therapeutic. Since the Alaska Psychiatric Institute is unwilling to recognize this and change its policy, a legislative directive is certainly in order.

PsychRights also concurs in the Disability Law Center's conclusion that Alaska patients already have such rights under the Alaska Constitution at least. If the 2005 Alaska Legislature fails to correct this outrage, I would encourage the Disability Law Center to pursue this through the courts.

Yours truly,



James B. (Jim) Gottstein, Esq.

cc: Ron Adler
David Fleurant

TESTIMONY SUPPORTING HB220 / SB184

My name is Dorrance Collins. I support the passing of HB 220 and SB 184. I also ask that the committee read the 9 support letters submitted. The letters were written by professionals in the psychiatric field and by patients' rights organizations.

The National Alliance for the Mentally Ill, Anchorage has 7 people on their Board. They voted to write a letter of support for a gender choice for intimate care bill.

NAMI, Ak.'s Board voted to support.

Alaska Mental Health Consumer Web's Board voted to support.

Psychiatric Rights submitted a letter of support and has a Board of Directors.

Disability Law—their decision to write a four page support letter was made in a staff meeting.

We are also honored to have individual signers of support—Dr. Aron Wolf, MD, psychiatrist who has over 30 years of experience treating children and adults.

Ann F. Jennings, PhD, who has an educational background in trauma / PTSD and a knowledge of psychiatric facilities has also submitted a support letter.

And a letter from my colleague, Faith J. Myers.

Including the executive Directors and all the Board members, there are approximately 45 people involved in requesting legislative action on this issue. They are the voice for several hundred of their members and they are quite articulate giving their reasons for pragmatically supporting this legislative action.

HB 220 is based on a Bangor, Maine policy. Significant changes were brought about in Maine first by court action, then legislative action.— Historically, it's never been the strong point of mental institutions anywhere to guarantee patients' rights. Patients' rights have traditionally come from the legislature and the courts such as AS 47-30-840.

House Bill 220 is fair to the psychiatric patients, many of which have been sexually abused—not always by the opposite gender, which is why gender choice of staff for intimate care is very important.

House Bill 220 is fair to the institutions. It gives them an out. On page 1 of the Bill it says the institutions only have to make a good faith effort, then document in the patient's records that gender choice was not given. That is a huge loophole for any contingency for the institutions.

Defeating this bill is only a matter of convenience to the mental institutions—And what the last 100 years has taught us is the institutions will fight for convenience. It is much more to the patients. It's about not being degraded or humiliated and maintaining some control over your life and your body. It is important and it is do-able.

We ask that House Bill 220 be passed.

Thank you.

Dorrance Collins

Dorrance Collins
801 Airport Hts #35
Anchorage, Ak. 99508
(907) 929-0532

Dear Sen. Fred Dyson—Chair, HESS Committee,

2/26/06

We support the Committee Substitute Senate Bill 184 with the changes we were told would be added.

One change in CS-SB184, Line 19/20 that we agree with is "A hospital is exempt from the requirements under (a) of this section if the patient's treating hospital psychiatrist determines and makes a notation in the patient records that compliance would adversely affect patient treatment." -- That addition opens the door to responsibly giving psychiatric patients the right to gender choice of staff for hands-on intimate care.

We would be opposed to any bill that only offered same gender of staff for intimate care. Men have sexually abused men; women have sexually abused women, etc. According to Ann F. Jennings, PhD., a bill supporter, "Many psychiatric patients (51% - 98%) have histories of sexual and / or physical abuse." Bill supporter, Ann F. Jennings, PhD. points out that gender choice for intimate care is necessary as does Disability Law, Psych / Rights, Dr. Aron Wolf M.D., etc.

We are not attorneys, but we have read legal opinions (paraphrasing):

When a person enters prison, it is expected they will lose some rights;

But a person entering a locked psychiatric facility should not lose rights; their rights should remain intact to the greatest extent possible.

People in the general population (society) expect to receive their gender choice of staff for hands-on intimate care. That same right should be enjoyed by psychiatric patients to the greatest extent possible.

There is a systemic pattern of operating psychiatric hospitals for convenience and bottom line, ignoring patient rights. Major psychiatric facilities don't offer a policy or assistance in choosing the gender of a doctor performing an intimate examination. Nor do they have a policy assisting the patients to receive the requested gender of gynecologist. In the major cities there is no reason why that accommodation cannot be made, especially with the availability of advanced nurse practitioners, physicians assistants, etc. When a patient complains, they find out in AS47.30.847 that there is no due process—that hospitals can answer when they want to. There are a number of hospitals (some private) in Alaska that can do civil commitments. They operate on bottom line and convenience.

We have examined a Bangor, Maine psychiatric hospital policy and it has 3 pages of procedure on how their gender policy will be carried out. For instance, the head nurse has to schedule male / female ratios on different shifts—if the correct gender is not available to give the patient a bath, then the staff is required to go to the next unit to try to get the correct gender—or someone can work overtime.

Alaska major psychiatric facilities have stated they will not put procedures into policy; they feel it will cost too much money. But when a person considers the human misery and the exacerbation of Post Traumatic Stress Disorder, procedure is cheap.

The only way to force psychiatric hospitals to put procedure into policy is for the legislature to be definite / specific in statute. The statute's language has to stay away from vague words like—"when feasible," or "when possible." It leaves too much leeway for hospital abuse.

We hope this Committee Substitute Senate Bill 184 will be looked on favorably and passed by the HESS Committee and that this state of Alaska will move forward in granting and protecting psychiatric patient rights.

Thank You,

Faith Myers / Dorrance Collins
801 Airport Heights # 35
Anchorage, Ak. 99508
(907) 929-0532

Faith Myers
Dorrance Collins

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB184SS-DHSS-DBH-03-01-06
 () Publish Date: _____
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction): _____

Title: MENTAL HEALTH PATIENTS RIGHTS AND CHOICE OF THE SEX OF STAFF PROVIDING CARE RDU Behavioral Health
 Component: Alaska Psychiatric Institute

Sponsor: DAVIS
 Requester: SENATE (HES) Component No. 311

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The intent of SS SB 184 is to put into law the right of a patient who receives mental health treatment to request the gender of the staff person who will provide the patient's intimate care. In those cases where the patient is incapacitated, the intimate care is to be provided by a staff member who is the same sex as the patient as provided in (c)(2) of the proposed bill.

The Department has determined that passage of this bill will have zero fiscal impact on its budget.

Prepared by: Cristy Willer, Director
 Division: Behavioral Health
 Approved by: Karley Jackson, Commissioner
 Agency: Department of Health and Social Services

Phone 269-3410
 Date/Time 02/27/2006
 Date 03/01/2006

Alaska State Legislature

Twenty-Fourth Legislature-Second Session

January-May 2006

Senator Bettye Davis

Senate Bill 184

""An Act relating to mental health patient rights and to a hospital's duty to provide choice of the sex of staff providing intimate care to a mental health patient."

Possible testifiers for Senate Bill 184

Andrea Schmook, Co-Chair, Alaska Mental Health Board
(Off-net)

Faith Meyers, mental health advocate

Dorrance Collins, Mental health advocate

ALASKA STATE LEGISLATURE

Senate
Labor & Commerce
Committee
•
Senate
State Affairs
Committee

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Fax: (907) 465-3756
•

While in Anchorage
716 West 4th Avenue
Anchorage, Alaska 99501
(907) 269-0144
Fax: (907) 269-0148

SENATOR BETTYE DAVIS

Senator_Bettye_Davis@legis.state.ak.us
www.akdemocrats.org

Senate Bill 184

"An Act relating to mental health patient rights and to a hospital's duty to provide choice of the sex of staff providing intimate care to a mental health patient."

Sponsor Statement

The purpose of Senate Bill 184 is to insure the right of mental health patients to have care provided by a staff member who is the same sex as the patient. Mental health service recipients should suffer no loss of basic human or civil rights. Because of the exceptional circumstances under which such patients are treated, however, the exercise of some rights may require special safeguards. This bill is intended to keep recipients' rights paramount, to assure that individual rights will be both recognized and protected during the course of service delivery, and to ensure treatment consistent with ethical and professional standards.

Alaska State Legislature

Interim: (May - Dec)
716 W. 4th Ave
Anchorage, AK 99501
Phone: (907) 269-0144
Fax: (907) 269-0148



Session: (Jan. - May)
State Capitol, Suite 7
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Senator_Bettye_Davis@legis.state.ak.us
<http://www.akdemocrats.org>

Senator Bettye Davis

Sectional Analysis Senate Bill 184

Section 1.

Establishes a list of rights pertaining to same sex care by a staff member for patients 18 years of age or older who are receiving mental health treatment and intimate care at a hospital.

PsychRights[®]

Law Project for
Psychiatric Rights, Inc.

Alaska Legislature
Alaska State Capitol
Juneau, Alaska 99801

January 30, 2006

Re: Psychiatric Rights Legislation

This is to support the proposals by Faith Myers and Dorrance Collins to amend Alaska law to enhance certain rights given to people diagnosed with serious mental illness and held at inpatient facilities.

For example, the wording "patients must be given reasonable opportunity" gives some facilities license to deny patients the rights the statute is intended to ensure. Some facilities turn these rights on their head and make them "privileges." To address this, it is recommended that something like the following be added to AS 47.30.840:

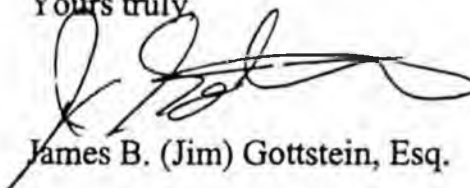
At no time shall the rights set forth in this chapter be treated as privileges that the recipient must earn by meeting certain standards of behavior.

Of course these rights are meaningless if there is no effective enforcement process. It is therefore suggested that AS 47.30.847 be amended to specify a time limit in which grievances/complaints must be answered and that patients 18 and older have a right to appoint a representative of their choice to help them file and pursue grievances/complaints.¹ Such representatives should have the right to "reasonable access to all living and program areas and to staff involved in the treatment of the patient in order to assist the patient in the protection of his or her rights."

In addition the state Ombudsman or some other state oversight authority should have the right to go into any facility holding people because being diagnosed with mental illness. The Ombudsman's Office is presently excluded from all but state hospitals and would have to be granted a different authority to enter other facilities.

I have known Faith Myers and Dorrance Collins for a number of years and they are absolutely spot on with their suggestions. Alaska citizens deserve the type of consideration Faith and Dorrance are asking for and I urge you to act favorably upon their suggestions.

Yours truly,



James B. (Jim) Gottstein, Esq.

¹ For patients under 18, their guardian would retain that right.



January 30, 2006

Faith Myers
Dorrance Collins
330 E. 14th Ave., Apt. E
Anchorage, Alaska 99501

Dear Faith and Dorrance:

You have requested a letter of support from the Disability Law Center of Alaska for your effort to revise the grievance rights of psychiatric patients in Alaska. In essence, your proposed revisions seek to ensure that psychiatric patients are afforded basic due process rights when filing a grievance.

The Disability Law Center of Alaska supports your efforts to ensure that psychiatric patients in Alaska are afforded basic due process rights. Your recommendations, including permitting psychiatric patients the right to obtain the assistance of a self-designated representative and establishing specific time frames for certain actions, are very appropriate means of assuring that rights can both be exercised and are protected.

Please let me know if there is anything we can do to assist you in this effort.

Sincerely,

DISABILITY LAW CENTER OF ALASKA

A handwritten signature in black ink, appearing to read "David C. Fleurant".

David C. Fleurant
Executive Director

MEMBER OF THE
NATIONAL
ASSOCIATION OF
PROTECTION &
ADVOCACY
SYSTEMS

24-LS0935VF
Mischel
3/3/06

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 184()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR DAVIS

A BILL
FOR AN ACT ENTITLED

1 **"An Act relating to a mental health patient's right to choose the sex of hospital staff**
2 **providing intimate care to the mental health patient and to the duties of hospital staff in**
3 **caring for patients receiving mental health treatment ."**

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

5 *** Section 1. AS 18.20 is amended by adding a new section to read:**

6 **Sec. 18.20.095. Mental health patient's right to select staff; duties of**
7 **hospital staff. (a) Except as provided in (d) of this section, a patient 18 years of age or**
8 **older who is receiving mental health treatment and being provided intimate care at a**
9 **hospital shall have a right to have care provided by a staff member who is the sex that**
10 **the patient requests.**

11 **(b) A supervisor or manager employed by a hospital shall**

12 **(1) post a notice of the right provided under (a) of this section in a**
13 **conspicuous place; and**

14 **(2) if, after reasonable and good faith efforts to comply, the hospital is**

1 unable to comply with the requirement under (a) of this section,

2 (A) document in the patient record that intimate care was
3 provided by a licensed staff member of the sex opposite to the sex requested by
4 the patient under (a) of this section; or

5 (B) if a licensed staff member is not on duty at the time of the
6 patient's request under (a) of this section, document in the patient record that
7 the care was provided by an unlicensed staff member of the sex opposite to
8 that requested under (a) of this section.

9 (c) Staff members employed by a hospital shall, in regard to patients receiving
10 mental health treatment,

11 (1) provide privacy for each patient, especially for patients who are the
12 opposite sex and especially when patient care involves intimate bodily functions,
13 unavoidable intimate touching, or nudity;

14 (2) except when necessitated by a medical emergency that is
15 documented in the patient's record, avoid entering patient care areas for a person of the
16 opposite sex and areas specified for persons of the opposite sex; and

17 (3) only conduct routine safety checks and rounds of bedrooms,
18 bathrooms, and shower areas of a patient who is the same sex as the staff member.

19 (d) A hospital is exempt from the requirements of (a) of this section if the
20 treating psychiatrist for the patient at the hospital determines that compliance would
21 adversely affect patient treatment and the psychiatrist documents the determination in
22 the patient's record.

23 (e) In this section,

24 (1) "intimate care" means hygienic care, including bathing, dressing,
25 changing, and toileting, that involves a patient's perineal area and, for a female patient,
26 the patient's breasts; "intimate care" does not include activities done in preparation for
27 medical procedures;

28 (2) "licensed staff member" means a person who is employed by the
29 hospital to provide direct patient care and who is licensed or certified in the state as a
30 physician or physician assistant under AS 08.64, direct-entry midwife under AS 08.65,
31 nurse or nurse aide under AS 08.68, or physical therapist or occupational therapist

1 under AS 08.84;

2 (3) "mental health treatment" means admission to a hospital primarily
3 for electroconvulsive treatment or treatment with psychotropic medication, or
4 admission to and retention in a health care institution for other mental health
5 treatment;

6 (4) "staff member" means a person employed by a hospital to provide
7 direct patient care.

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

*Advisory Board on Alcoholism and Drug Abuse
Alaska Mental Health Board*

Frank H. Murkowski, GOVERNOR

*P.O. BOX 110608
JUNEAU, AK 99811-0608
PHONE: (907) 465-8920
FAX: 465-4410*

March 3, 2006

Senator Bettye Davis
Alaska Senate
Alaska State Legislature

Dear Representative Davis:

Thank you for introducing SB 184, Mental Health Patient Rights: Staff Gender.

The Alaska Mental Health Board (AMHB) strongly supports the notion that patients in psychiatric hospitals should have the right to choose the gender of the person providing them intimate care. This type of choice will allow the individual to retain their dignity during a time of extreme distress and vulnerability, and will afford a modicum of choice and control in a fundamentally uncontrollable situation. Therefore, the AMHB supports CSSB 184, rather than the Sponsor Substitute that mandated that the patient be served by someone of the "same sex."

This bill has been criticized as "unnecessary" because hospitals should be allowed to handle this issue administratively through internal policies and procedures. The AMHB was instrumental in convincing API to promulgate such a policy, and applauds their efforts. But the Board believes a single, isolated policy is not sufficient to safeguard the rights of all individuals who find themselves in an acute psychiatric facility. Placing this provision into statute will ensure that patients in API and the State of Alaska's Designated Evaluation and Treatment beds, as well as those in private psychiatric facilities, will be afforded this basic right.

The AMHB is also sensitive to the argument that the bill's provisions will create a financial burden on psychiatric hospitals by forcing them to staff so as to have both genders available for patient care at all times. But the language found in the CS clearly provides a method for dealing with this issue – if the patient cannot be served by someone of the gender they choose, the hospital must simply document that a request was made and that it was not able to be honored. As such, this bill will not impact the "bottom line" for hospitals.

Finally, the bill offers a balance between the rights of the patient for privacy and choice and the physician's duty to provide sound and responsible care. If the treating psychiatrist determines that the choice made by the patient is not in the best interest of the patient's treatment, he or she may override a patient's choice.

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services
Department of Education & Early Development
State of Alaska

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

*Advisory Board on Alcoholism and Drug Abuse
Alaska Mental Health Board*

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Finally, the bill offers a balance between the rights of the patient for privacy and choice and the physician's duty to provide sound and responsible care. If the treating psychiatrist determines that the choice made by the patient is not in the best interest of the patient's treatment, he or she may override a patient's choice.

The AMHB believes that putting gender choice into statute is the correct and responsible way to ensure that all psychiatric patients retain their basic dignity while being treated for acute or ongoing psychiatric disabilities. The Board urges all members of the Senate Health and Social Services Committee to support the bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Angela Salerno". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Angela Salerno, ACSW
Advocacy Coordinator
AMHB

Dear Sen. Fred Dyson,

3/7/06

We attended Senate Bill 184 hearing at the LIO, March 6th. The question was raised, if gender choice was not supplied, can a note be put in the patient's records. The answer is yes- by putting the notation in the patient's Progress Notes.

Mr. Ronald Adler, CEO of API made the statement that only medical notes can be added to medical records. But Mr. Adler failed to mention Progress Notes. There are from 1 to 6 pages of Progress Notes produced for each patient per day.

Who produces the Progress Notes? Psychiatric Nurse Assistants, Nurses, Psychiatrist, Medical Doctor, Social Worker, Management of the Hospital.

What goes into Progress Notes? If a patient requests a glass of water, loses a shoe, yells, if the husband calls and talks to the Social Worker, that entire conversation can go in. In a general way, the patient's legal status. A toothache, an argument, of course, Dr's appointments, illnesses, but not the details. General details of the patient's day.

What does not go into Progress Notes? If a male or female patient states they are traumatized by being bathed by the undesired gender, that will not go in. If a female patient is upset by having a male staff walk into her bedroom while she is undressed for a routine matter. If you are getting dressed and you request a female to help and a male helps instead, making you upset. In general patient complaints are not put in or are sanitized.

The point is that the hospital will document that you asked for a glass of water, but the hospital will not document that the patient is complaining that they are being traumatized by something the hospital is doing. The hospital controls the pen, they will simply document that the patient is out of control or non-compliant.

We believe it is not too much to ask to have a small notation in the Progress Notes that gender choice was not provided.

Thank you for your help.

Faith Myers / Dorrance Collins
801 Airport Hts. Spc #35
Anchorage, Ak. 99508
(907) 929-0532

CC: Sen. Gary Wilken

Sen. Lyda Green

Sen. Kim Elton

Sen. Donny Olson

Faith Myers
Dorrance Collins

TESTIMONY SUPPORTING COMMITTEE SUBSTITUTE SENATE BILL 184

Thank you Mr. Chair,

My name is Dorrance Collins. I support passing Committee Substitute Senate Bill 184.

In 1992, the legislative bodies, in a general sort of way, directed psychiatric facilities to produce a grievance procedure for their patients. Most did, but most left out little things like due process or reasonable due process, emergency grievances, written replies, etc. I believe the issue will be re-visited by the legislature next year.

Historically it has never been a strong point of psychiatric facilities anywhere to guarantee patient rights. Patient rights have traditionally come from the legislature and the courts.

Some of the major patient rights organizations have brought this issue to their Board of Directors. They voted to support a gender choice bill. And they are the voice for several hundred of their members. Disability Law stated, in their opinion, patients have a legal right to gender choice. Dr. Aron Wolf, a psychiatrist, has 30 years experience treating children and adults. Ann F. Jennings, PhD has an extensive knowledge and experience of patient trauma. They support a gender choice bill.

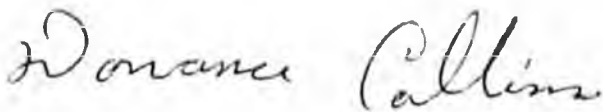
I believe if the hospitals in the state cannot provide the requested gender choice to the patient and go against the patient's wishes, they have an obligation to use a licensed staff member. A licensed staff member can be a psychiatric nurse assistant with a GED who has had 4 to 6 weeks of on the job training becoming a CNA.

Defeating this bill is only a matter of convenience to the psychiatric institutions. It is much more to the patients. Its about not being degraded or humiliated and maintaining some control over your life and your body. It is important and it is do-able.

We ask that Committee Substitute Senate Bill 184 be passed.

Thank you.

Dorrance Collins
801 Airport Hts, Spc. # 35
Anchorage, Ak. 99508
(907) 929-0532



TESTIMONY SUPPORTING COMMITTEE SUBSTITUTE SENATE BILL 184

Thank You Mr. Chair and members of the Senate HESS Committee:

My name is Faith Myers. I support Committee Substitute Senate Bill 184.

Committee Substitute Senate Bill 184 is a patient's rights bill; it only requires that the institutions make a reasonable and good faith effort to supply gender choice to patients and make a notation in the patient's records when it cannot be supplied.

The Bill also states that the treating psychiatrist is the final authority, thus responsibly giving gender choice to the psychiatric patient.

As a patient, I've been in acute care psychiatric facilities in Alaska, Nevada, and Washington. The total amount of time combined is approximately 1 year. Psychiatric institutions are sometimes brutal by necessity, but they're also sometimes brutal or callous by habit and for convenience.

For the last 5 years I have volunteered as a patient advocate. I have spoken to numerous patients in and out of psychiatric institutions and experts in the field of trauma. I've traveled to Anchorage, Juneau, and Fairbanks and testified in front of all relevant boards and committees. I've also spoken to management of acute care psychiatric facilities.

One of the issues I support is that patients should have the right to gender choice of staff for hands-on intimate care. I also support page 2 of the Committee Substitute Sec (C) which directs hospitals to provide privacy for each patient, (outside of psychiatric emergencies,) especially for patients who are the opposite sex and in routine matters.

As a matter of course, people outside the psychiatric institutions in society have a right to choose the gender of staff who perform their intimate care; similarly a psychiatric patient's rights should remain intact inside the psychiatric institution to the greatest extent possible. Fifty-one to ninety-eight percent of all the psychiatric patients in Alaska's psychiatric hospitals have been sexually and or physically abused as children or adults. It is difficult to know which gender abused them, which is why it is important to let the patient choose the gender of the staff they feel most safe and comfortable with performing their intimate care.

It states in the Committee Substitute Senate Bill 184, a licensed staff member should perform the intimate care if the requested gender is not available. I agree. A licensed staff member would have more training and is more likely to be viewed as professional by the patient.

(Con.)

Presently, there are 9 support letters submitted to the Senate HESS Committee from the major patients rights organizations in Alaska stating that a gender choice bill should be passed, including the Alaska Mental Health Board.

I am asking that the HESS Committee pass the Committee Substitute Senate Bill 184.

Thank you,

Faith Myers

Faith Myers
801 Airport Hts, #35
Anchorage, Ak. 99508
(907) 929-0532

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CC: Sen. Gary Wilken

Sen. Lyda Green

Sen. Kim Elton

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Faith Myers
Dorrance Collins
P.S. Please allow Senate
Bill 184 into the H&SS
Committee for a fair hearing.
Faith