

**December 26, 2006**

We are asking for your help and support in passing revisions to AS47.30.847—Psychiatric patient's grievance procedure. Our proposed revision is based on best practices, State of Maine statute, Alaska statute and Federal regulations.

Disability Law / Psychiatric Rights / Alaska Mental Health Board have agreed, in principle, that AS47.30.847—psychiatric patient grievance procedure—needs to be revised.

We would like to explain why detail needs to be added to the present statute.

In a recent Alaska Supreme Court decision, the justices stated there is a clear unavoidable tension between hospitals seeking convenience / economics and patient rights which can manifest itself in patient abuse.

Psychiatric hospitals have in the past and will in the future take advantage of any statute / grievance procedure that is vague and allows loopholes.

Following are some of the loopholes that psychiatric hospitals are taking advantage of in the present statute:

1. The present statute says patients have a right to file a formal grievance, but some of the hospitals call everything an informal complaint and the patient's concern never makes it to a formal grievance. There is nothing in the statute that says psychiatric hospitals can't frontload a formal grievance process with an informal complaint procedure.
2. Some hospitals have no reasonable due process for patient's grievances or appeals.
3. Federal regulations are specific on what resolution of a grievance must contain. There is no corresponding requirement in state statute. Some patient's grievances never receive true resolution—there is nothing in the present statute that says psychiatric hospitals have to.
4. Present statute says patients must be informed of the existence and content of the grievance procedure but it doesn't specify that it must be in writing—so some hospitals refuse to release a written copy of the grievance procedure.
5. The present statute doesn't say the grievance procedure has to be released to the general public or guardians, etc.

(Con.)

6. The present statute says that there must be an Impartial Body to hear patient's grievances, but the statute doesn't define what an Impartial Body is. Presently it is generally the C.E.O. of the hospital who establishes the Impartial Body and it usually consists of hospital employees. By no stretch of the imagination would employees be considered impartial.
7. Federal regulation says a grievance must be answered in writing, but since some hospitals call everything an informal complaint, they can get around that provision.
8. Federal regulations say psychiatric patients must be informed of their rights prior to receiving services or having services discontinued. There is nothing corresponding to that Federal regulation in the grievance procedure/ state statute that would assure hospital compliance.
9. There is no clear procedure in the present statute for patients or guardians to file an urgent grievance. Some other states have added a urgent grievance procedure to their statute in response to patients dying because they were not able to have their grievance identified as an emergency and heard soon enough.

Psychiatric patients deserve to have a grievance procedure statute that psychiatric hospitals cannot take advantage of through loopholes and that is going to take detail in the statute. Other states have faced the same problem and they have remedied it by adding more detail to their statute.

To promote fairness to psychiatric patients and to protect their rights, the State of Maine has enacted in their statute one single grievance procedure that all designated psychiatric facilities or evaluation facilities must follow. Their process is spelled out in Code of Maine Rules, 14-193 CMR ch. 1, Part A, Section VII and "Rights of Recipients of Mental Health Services."

There are 4 psychiatric hospitals in Alaska that do civil commitments—There are 3 or 4 others that do three day evaluations that often stretch out into seven days. The majority of the programs operate on government Medicaid, Medicare monies. Patients are often brought there without a choice and their rights need to be protected. There is now a blurring between government psychiatric hospitals and non-profits doing psychiatric civil commitments / evaluations. Problems with Grievance procedure cannot be fixed with hospital policy because policy can change frequently and does not have to be strictly followed.

We need a revised grievance procedure statute in Alaska and it needs to have more detail and we are asking that you look favorably on our proposal and lend your support.

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