



**Anchorage**

3601 C Street, Suite 902  
Anchorage, Alaska 99503-5923  
Main: 907.269.7800  
Fax: 907.269.0060

**Juneau**

P.O. Box 110601  
350 Main Street, Suite 404  
Juneau, Alaska 99811-0601  
Main: 907.465.3030  
Fax: 907.465.3068

February 5, 2019

**Commissioner of the Department of Health and Social Service's**

**Declaration under AS 47.32.140(d) and (e)**

On January 30, 2019, at approximately 5:00 PM AST, I notified the Senior Leadership in the Department of Health and Social Services, that I was invoking my authority under AS 47.32.140(d) and (e). Under this authority I was assuming management of the Alaska Psychiatric Institute (API) effective no later than February 5, 2019, by contracting with a nationally recognized organization to provide day-to-day management and operations for the facility through the end of the fiscal year with the expectation that this organization will take over the full-time operations of the facility on or before July 1, 2019.

This basis for this declaration includes, but is not limited to, the following:

1. API has not been operating at full bed capacity since July of 2017 and currently has less than half its beds available for use. Reasons for this include an inability to recruit and retain new medical professionals and leadership positions due, in part, to the
  - i. "Unsafe Work Environment" report issued by the Occupational Safety and Health Administration;
  - ii. concerns noted by Bill Evans in his report; and
  - iii. lack of competitive compensation available to new hires at API.
2. API is currently under four Letters of Correction, from four different authorities, on issues of patient safety. These authorities include the:
  - a. Centers for Medicaid and Medicare Services (CMS);
  - b. Joint Commission;
  - c. Occupational Safety and Health Administration; and
  - d. Health Facilities Licensing and Certification Section, Health Care Services Division, Department of Health and Social Services.
3. Patient Safety is seriously at risk in the form of:
  - a. Suicide Risk (Ligature Rule);
  - b. Seclusion and Restraint, including the potential for:
    - i. Patient abuse and misuse;
    - ii. Patient injury; and

- iii. The violation of patient rights;
  - c. Lack of complete and appropriate training for the de-escalation of violence for both staff and security contractors (WEKA); and
  - d. Patients have been physically injured, sexually assaulted, had their rights violated, and undergone unnecessary restraint and seclusion.
4. Of those four Letters of Correction, the one from the CMS (Federal government) is the most concerning. This finding was originally issued in July of 2018 with a 90-day deadline, which was not met. In November, CMS issued a follow-up letter with intent to revoke CMS certification of API. Immediately thereafter, resignations were submitted by the then-Deputy Commissioner, Director of the Division of Behavioral Health, and CEO of API. The deadline for correction was November 26<sup>th</sup>, which was again not met and should have resulted in the loss of certification at that time. However, due to the earthquake, which put Alaska in a State of Emergency, CMS granted an extension until February 1, 2019, for API to submit its Plan of Correction. The Plan of Correction has been submitted, and the Plan itself has been approved, but upon information and belief, CMS lacks confidence in the State of Alaska to actually implement the Plan of Correction because of its repeated failure to do so in the past, and because of its current management structure and lack of personnel.
5. The leadership at API is mostly working on an interim basis. The organization lacks a permanent:
  - 1) CEO;
  - 2) Chief of Psychiatry;
  - 3) Medical Director;
  - 4) Safety Officer (there is currently no acting Safety Office either);
  - 5) Director of Nursing; and
  - 6) Assistant Director of Nursing.

Without permanent employees in these critical positions, it will be next to impossible to implement the Plan of Correction.

6. Without this Declaration, the State of Alaska faces the potential closure of the only state operated inpatient psychiatric hospital in the State of Alaska. This would have catastrophic consequences up to and including further patient trauma, the need to transfer patients out of the state to other hospitals for care (all at the expense of General Funds), and potential safety issues.
7. Despite continuing efforts, the most recent survey identified another undisclosed incident of patient-on-patient sexual assault in the last 30 days. There has been an incident of Immediate Jeopardy at least once a quarter at API over the last year. This level of compromised safety requires immediate intervention.

It is my expectation that this contractor will:

1. Immediately provide staffing to administratively manage API quickly and efficiently; provide medical staffing to increase patient capacity; and achieve rapid compliance with all regulatory and safety requirements;
2. Invoke immediate changes which will improve patient safety and rectify the legal and clinical issues surrounding restraint and seclusion; and
3. Eventually assume all hospital responsibilities including patient services.

Dated: 2/5/2019

A handwritten signature in blue ink, appearing to read 'A. Crum', with a horizontal line extending to the right.

Adam Crum, Commissioner  
Department of Health and Social Services

Cc:

Al Wall, Deputy Commissioner

Donna Steward, Deputy Commissioner

Sana Efrid, Assistant Commissioner

Margaret Brodie, Director Health Care Services