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Privatization Leaves More Questions than Answers

ALASKA - The Disability Law Center of Alaska (DLC) is concerned about the State's press release dated February 8, 2019, announcing the Alaska Psychiatric Institute will fall under the management of Wellpath, a private, for-profit company. Our caution stems in part from documented problems in the privatization of medical and mental health care in federal prisons, the privatization of immigration detention facilities, and the privatization of state psychiatric hospitals. According to David Fleurant, DLC's Executive Director, "Privatization creates tension between patient care and profit. When choosing between the two, what will a Wellpath corporate office in Nashville decide?"

Is this an appropriate use of the emergency authority cited by the Commissioner? The statute cited in the press release allows the Department, not a contractor, to manage an "entity" that has been taken over, and only applies once there has been an investigation and report by the Department. It is not clear that the authority directly to manage API extends to hiring a contractor to manage it. Additionally, is the contract executed with Wellpath compliant with the State's procurement laws and policies? If there is an Attorney General's opinion on the exercise of this authority, it should be made available to the public. The terms of the contract with Wellpath should be immediately released.

How does the State reconcile today's decision with the conclusion of a 2017 report, commissioned by the legislature, that privatization of API would cost the State more money?

Does the State see this primarily as a funding crisis or a patient care crisis? If the latter, the public is entitled to know the extent of the problem(s). The State should immediately make available to the public all reports documenting the problems at API. This would include reports from CMS, the Joint Commission, the State Licensing agency, and any other reports addressing problems at API. If this is primarily a federal funding issue, did the State pursue a Systems Improvement Agreement (SIA) that could have preserved federal funding for more than a year, thereby allowing the State to take a more thoughtful and inclusive approach to solving the problems at API? If they did, and this contract is part of that effort, the SIA should be released to the public.

Lastly, today's announcement indicates that Wellpath will operate with continued oversight by the State. "This is unacceptable," says Fleurant. "The State's failed oversight of API is what has led to this crisis in the first place." If the exercise of this authority is to protect patients, a responsibility the State has been incapable of meeting, then another independent entity needs to be created to assess whether Wellpath is successful in the first phase of this contract.

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The Disability Law Center (DLC) is an independent non-profit law firm designated as the State of Alaska's Protection and Advocacy (P&A) System and the Client Assistance Program (CAP) for individuals with disabilities. With offices in Anchorage, Fairbanks, and Juneau, DLC provides legally based advocacy to people with disabilities statewide.