

CS FOR HOUSE BILL NO. 124(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 3/22/95

Referred: Rules

Sponsor(s): REPRESENTATIVE TOOHEY

A BILL

FOR AN ACT ENTITLED

1 "An Act transferring the regulation of nursing home administrators to the
2 Department of Commerce and Economic Development; abolishing the Board of
3 Nursing Home Administrators; clarifying the conditions under which a nursing
4 home administrator license may be denied; and providing for an effective date."

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

6 * **Section 1.** AS 08.01.010 is amended by adding a new paragraph to read:

7 (36) regulation of nursing home administrators under AS 08.70.

8 * **Sec. 2.** AS 08.01.050(a) is amended to read:

9 (a) The department shall perform the following administrative and budgetary
10 services when appropriate:

11 (1) collect and record fees;

12 (2) maintain records and files;

13 (3) issue and receive application forms;

14 (4) notify applicants of acceptance or rejection as determined by the

1 board or as determined by the department under AS 08.06 for acupuncturists, under
2 AS 08.11 for audiologists, under AS 08.18 for contractors, under AS 08.40 for
3 electrical and mechanical administrators, under AS 08.45 for naturopaths, [OR] under
4 AS 08.55 for hearing aid dealers, or under AS 08.70 for nursing home
5 administrators;

6 (5) designate dates examinations are to be held and notify applicants;

7 (6) publish notice of examinations and proceedings;

8 (7) arrange space for holding examinations and proceedings;

9 (8) notify applicants of results of examinations;

10 (9) issue licenses or temporary licenses as authorized by the board or
11 as authorized by the department under AS 08.06 for acupuncturists, under AS 08.11
12 for audiologists, under AS 08.18 for contractors, under AS 08.40 for electrical and
13 mechanical administrators, under AS 08.45 for naturopaths, [OR] under AS 08.55 for
14 hearing aid dealers, or under AS 08.70 for nursing home administrators;

15 (10) issue duplicate licenses upon submission of a written request by
16 the licensee attesting to loss of or the failure to receive the original and payment by
17 the licensee of a fee established by regulation adopted by the department;

18 (11) notify licensees of renewal dates at least 30 days before the
19 expiration date of their licenses;

20 (12) compile and maintain a current register of licensees;

21 (13) answer routine inquiries;

22 (14) maintain files relating to individual licensees;

23 (15) arrange for printing and advertising;

24 (16) purchase supplies;

25 (17) employ additional help when needed;

26 (18) perform other services that may be requested by the board;

27 (19) provide inspection, enforcement, and investigative services to the
28 boards and for the occupations listed in AS 08.01.010, regarding all licenses issued by
29 or through the department;

30 (20) retain and safeguard the official seal of a board and prepare, sign,
31 and affix a board seal, as appropriate, for licenses approved by a board;

1 (21) issue business licenses under AS 43.70.

2 * **Sec. 3.** AS 08.70.050 is amended to read:

3 Sec. 08.70.050. **REGULATION BY DEPARTMENT** [DUTIES AND
4 POWERS OF THE BOARD]. (a) The **department** [BOARD] shall

5 (1) adopt standards for licensing nursing home administrators to **ensure**
6 [INSURE] that licensees have knowledge and experience in health care and
7 institutional administration necessary for competent administrators, and update the
8 standards when necessary;

9 (2) examine, approve issuance of licenses to, and renewal of licenses
10 of qualified persons;

11 (3) establish procedures to ensure that licensees continue to uphold the
12 **department's** [BOARD'S] standards; impose disciplinary sanctions upon persons who
13 fail to uphold the standards;

14 (4) adopt criteria for educational programs for persons preparing for the
15 licensing examination and for the continuing education of licensees; review the
16 educational programs available in the state and accredit the programs meeting the
17 criteria;

18 [(5) KEEP A RECORD OF ITS PROCEEDINGS AND SUBMIT
19 ANNUAL REPORTS TO THE GOVERNOR AND THE LEGISLATURE;

20 (6)] adopt regulations ensuring that renewal of a license is contingent
21 upon proof of continued competency by the licensee.

22 (b) The **department** [BOARD] may adopt regulations necessary for the
23 performance of its duties and to meet the requirements of Title 19 of the Social
24 Security Act, the federal regulations adopted under it, and other federal requirements.

25 * **Sec. 4.** AS 08.70.110 is amended to read:

26 Sec. 08.70.110. LICENSING. (a) The **department** [BOARD] shall license

27 (1) applicants who pass the written examination administered by the
28 **department** [BOARD] and meet the standards established by the **department**
29 [BOARD] under AS 08.70.050;

30 (2) persons licensed under emergency regulations 7 AAC 12.045
31 promulgated in Register 51, July 8, 1974, who have practiced as administrators since

1 licensing.

2 (b) The **department** [BOARD] may issue a license without examination to a
3 person holding a current license as a nursing home administrator from another
4 jurisdiction, if the **department** [BOARD] finds that the standards for licensing in the
5 other jurisdiction are substantially equivalent to those in this state, and the person is
6 otherwise qualified.

7 * **Sec. 5.** AS 08.70.110 is amended by adding a new subsection to read:

8 (c) Notwithstanding other provisions of this chapter, the department may refuse
9 to issue a license to a person

10 (1) who attempts to secure the license through deceit, fraud, or
11 intentional misrepresentation; or

12 (2) for a reason for which it may impose disciplinary sanctions under
13 AS 08.70.155.

14 * **Sec. 6.** AS 08.70.120 is amended to read:

15 Sec. 08.70.120. EXAMINATION. The purpose of the examination is to test
16 the applicant's knowledge of the health and safety standards of the state and the
17 applicant's experience in the practice of health care. The **department shall determine**
18 [BOARD DETERMINES] the content, scope, format, and grading procedure.
19 Examinations shall be given at least annually, at the time and place chosen by the
20 **department** [BOARD].

21 * **Sec. 7.** AS 08.70.130(a) is amended to read:

22 (a) A provisional license may be granted without examination to a person who
23 meets the standards adopted by the **department** [BOARD] under AS 08.70.050 and
24 who is needed to fill a vacancy in an administrative position.

25 * **Sec. 8.** AS 08.70.155 is amended to read:

26 Sec. 08.70.155. GROUNDS FOR IMPOSITION OF DISCIPLINARY
27 SANCTIONS. **The department** [AFTER A HEARING THE BOARD] may impose
28 **the disciplinary sanctions authorized for boards under AS 08.01.075 or otherwise**
29 **authorized for the department under AS 08.01** when it finds that a licensee

30 (1) secured a license through deceit, fraud, or intentional
31 misrepresentation;

(2) engaged in deceit, fraud, or intentional misrepresentation in the course of providing professional services or engaging in professional activities;

(3) advertised professional services in a false or misleading manner;

(4) intentionally or negligently engaged in or permitted the performance of patient care by persons under the licensee's supervision that [WHICH] does not conform to minimum professional standards regardless of whether actual injury to the patient occurred;

(5) failed to comply with this chapter, with a regulation adopted under this chapter, or with an order of the department [BOARD];

(6) continued to practice after becoming unfit due to

(A) professional incompetence;

(B) addiction or severe dependency on alcohol or other drugs that [WHICH] impairs the licensee's ability to practice safely;

(C) physical or mental disability;

(7) sold or furnished a license to another;

(8) practiced as a nursing home administrator or used a designation tending to imply that the licensee is a nursing home administrator without a license issued under this chapter unless exempted from licensure requirements under AS 08.70.080.

* **Sec. 9.** AS 08.70.180(3) is amended to read:

(3) "license" means the certificate awarded by the department [BOARD] to a qualified person that [WHICH] entitles the person to be a nursing home administrator in this state;

* **Sec. 10.** AS 08.70.180(4) is amended to read:

(4) "licensee" means a person who has been granted a license to be a nursing home administrator in this state by the department [BOARD];

* **Sec. 11.** AS 44.62.330(a)(50) is amended to read:

(50) Department of Commerce and Economic Development concerning the licensing and regulation of nursing home administrators [BOARD OF NURSING HOME ADMINISTRATORS];

* **Sec. 12.** AS 08.01.010(18); AS 08.03.010(c)(18); AS 08.70.010, 08.70.020, 08.70.030,

1 08.70.040, 08.70.055, and 08.70.180(1) are repealed.

2 * **Sec. 13.** TRANSITION. (a) A regulation adopted by the Board of Nursing Home
3 Administrators and in effect on the effective date of this Act remains in effect and shall be
4 implemented and enforced by the Department of Commerce and Economic Development after
5 the effective date of this Act until the department amends the regulation. To be consistent
6 with the changes made by this Act, wherever in the regulations adopted by the Board of
7 Nursing Home Administrators the board is identified, that reference shall be read as referring
8 to the Department of Commerce and Economic Development. Under AS 44.62.125(b)(6), the
9 regulations attorney shall implement this subsection in the administrative regulations.

10 (b) All litigation, hearings, investigations, and other proceedings pending under a law
11 amended or repealed by this Act, or in connection with functions transferred by this Act,
12 continue in effect and may be continued and completed notwithstanding a transfer or
13 amendment or repeal provided for in this Act. Licenses and orders issued under authority of
14 a law amended or repealed by this Act remain in effect for the term issued, or until revoked,
15 vacated, or otherwise modified under the provisions of this Act. All contracts, rights,
16 liabilities, and obligations created by or under a law amended or repealed by this Act, and in
17 effect on the effective date of this Act remain in effect notwithstanding this Act's taking effect.
18 Records, equipment, and other property of the Board of Nursing Home Administrators are
19 transferred to the Department of Commerce and Economic Development.

20 * **Sec. 14.** This Act takes effect immediately under AS 01.10.070(c).