

SENATE CS FOR CS FOR HOUSE BILL NO. 124(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 4/25/95

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; relating to applications for certificates
5 of need; prohibiting the issuance of a certificate of need or a license for
6 additional nursing home capacity in the state until July 1, 1997; and providing
7 for an effective date."

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

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

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

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

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

- 1 (1) collect and record fees;
- 2 (2) maintain records and files;
- 3 (3) issue and receive application forms;
- 4 (4) notify applicants of acceptance or rejection as determined by the
- 5 board or as determined by the department under AS 08.06 for acupuncturists, under
- 6 AS 08.11 for audiologists, under AS 08.18 for contractors, under AS 08.40 for
- 7 electrical and mechanical administrators, under AS 08.45 for naturopaths, [OR] under
- 8 AS 08.55 for hearing aid dealers, or under AS 08.70 for nursing home
- 9 administrators;
- 10 (5) designate dates examinations are to be held and notify applicants;
- 11 (6) publish notice of examinations and proceedings;
- 12 (7) arrange space for holding examinations and proceedings;
- 13 (8) notify applicants of results of examinations;
- 14 (9) issue licenses or temporary licenses as authorized by the board or
- 15 as authorized by the department under AS 08.06 for acupuncturists, under AS 08.11
- 16 for audiologists, under AS 08.18 for contractors, under AS 08.40 for electrical and
- 17 mechanical administrators, under AS 08.45 for naturopaths, [OR] under AS 08.55 for
- 18 hearing aid dealers, or under AS 08.70 for nursing home administrators;
- 19 (10) issue duplicate licenses upon submission of a written request by
- 20 the licensee attesting to loss of or the failure to receive the original and payment by
- 21 the licensee of a fee established by regulation adopted by the department;
- 22 (11) notify licensees of renewal dates at least 30 days before the
- 23 expiration date of their licenses;
- 24 (12) compile and maintain a current register of licensees;
- 25 (13) answer routine inquiries;
- 26 (14) maintain files relating to individual licensees;
- 27 (15) arrange for printing and advertising;
- 28 (16) purchase supplies;
- 29 (17) employ additional help when needed;
- 30 (18) perform other services that may be requested by the board;
- 31 (19) provide inspection, enforcement, and investigative services to the

1 boards and for the occupations listed in AS 08.01.010, regarding all licenses issued by
2 or through the department;

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

5 (21) issue business licenses under AS 43.70.

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

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

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

13 (2) examine, approve issuance of licenses to, and renewal of licenses
14 of qualified persons;

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

18 (4) adopt criteria for educational programs for persons preparing for the
19 licensing examination and for the continuing education of licensees; review the
20 educational programs available in the state and accredit the programs meeting the
21 criteria;

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

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

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

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

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

31 (1) applicants who pass the written examination administered by the

1 department [BOARD] and meet the standards established by the department
2 [BOARD] under AS 08.70.050;

3 (2) persons licensed under emergency regulations 7 AAC 12.045
4 promulgated in Register 51, July 8, 1974, who have practiced as administrators since
5 licensing.

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

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

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

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

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

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

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

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

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

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

30 Sec. 08.70.155. GROUNDS FOR IMPOSITION OF DISCIPLINARY
31 SANCTIONS. The department [AFTER A HEARING THE BOARD] may impose

1 the disciplinary sanctions **authorized for boards under AS 08.01.075 or otherwise**
2 **authorized for the department under AS 08.01** when it finds that a licensee

3 (1) secured a license through deceit, fraud, or intentional
4 misrepresentation;

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

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

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

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

14 (6) continued to practice after becoming unfit due to

15 (A) professional incompetence;

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

18 (C) physical or mental disability;

19 (7) sold or furnished a license to another;

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

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

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

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

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

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

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

4 * **Sec. 12.** AS 08.01.010(18); AS 08.03.010(c)(18); AS 08.70.010, 08.70.020, 08.70.030,
5 08.70.040, 08.70.055, and 08.70.180(1) are repealed.

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

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

24 * **Sec. 14.** MORATORIUM ON NURSING HOME CERTIFICATES OF NEED. (a)
25 Notwithstanding AS 18.07, after the effective date of this Act, the Department of Health and
26 Social Services may neither accept an application for a certificate of need under AS 18.07.031
27 or 18.07.071(b) nor grant a certificate of need under AS 18.07.031 or 18.07.071(b) for

28 (1) construction of a health care facility that includes nursing home beds that
29 require licensure under AS 18.20.020; or

30 (2) conversion of a building or part of a building to nursing home beds.

31 (b) This section does not apply to decisions concerning a certificate of need for which

1 an application was filed with the Department of Health and Social Services before March 15,
2 1995. For purposes of this subsection, a letter of intent is not considered an application for
3 a certificate of need.

4 * **Sec. 15.** MORATORIUM ON NURSING HOME LICENSURES. (a) Notwithstanding
5 AS 18.20, after the effective date of this Act, the Department of Health and Social Services
6 may not issue a license for

7 (1) construction of a health care facility that includes new nursing home beds;

8 (2) additional new nursing home beds in a health care facility.

9 (b) This section does not apply to decisions concerning a license for which an
10 application was filed with the Department of Health and Social Services before March 15,
11 1995.

12 * **Sec. 16.** Sections 14 - 15 of this Act are repealed July 1, 1997.

13 * **Sec. 17.** This Act takes effect immediately under AS 01.10.070(c).