

SENATE BILL NO. 20

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY SENATORS ELLIS, Wilken

Introduced: 1/19/99

Referred: State Affairs, HES, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act transferring to the Department of Health and Social Services the
2 authority to license all assisted living facilities; eliminating the authority of the
3 Department of Administration to license assisted living facilities; and providing for
4 an effective date."

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

6 * **Section 1.** AS 44.62.330(a)(59) is amended to read:

7 (59) [THE] Department of Health and Social Services [AND THE
8 DEPARTMENT OF ADMINISTRATION] as to the licensing and regulation of
9 assisted living homes under AS 47.33.

10 * **Sec. 2.** AS 47.33.100(a) is amended to read:

11 (a) An assisted living home may not employ an individual in a paid position
12 that the [APPLICABLE] licensing agency has determined is covered by this section,
13 according to its regulations, unless the individual, before beginning employment,

14 (1) provides to the home a sworn statement as to whether the individual

1 has been convicted of an offense described in (c) of this section; [AND]

2 (2) provides to the home the results of a name-check criminal
3 background investigation that was completed by the Department of Public Safety no
4 more than 30 days before the individual is hired; and

5 (3) submits to the home two full sets of the individual's fingerprints.

6 * **Sec. 3.** AS 47.33.100(c) is amended to read:

7 (c) An assisted living home may not hire or retain an employee who has been
8 convicted of an offense listed in the regulations of the [APPLICABLE] licensing
9 agency as being an offense covered by this section.

10 * **Sec. 4.** AS 47.33.410(d) is amended to read:

11 (d) **The** [A] licensing agency shall

12 (1) establish, by regulation, requirements and standards for licensure
13 and renewal of a license under this chapter;

14 (2) license assisted living homes in accordance with this chapter and
15 regulations adopted under this chapter;

16 (3) investigate license applicants and licensees for compliance with this
17 chapter; and

18 (4) enforce the standards established by this chapter and regulations
19 adopted under this chapter.

20 * **Sec. 5.** AS 47.33.410(f) is amended to read:

21 (f) Under procedures and standards of operation established by the licensing
22 agency by regulation, **the** [A] licensing agency may contract with private or municipal
23 agencies to investigate and make recommendations to the licensing agency for the
24 licensing of assisted living homes.

25 * **Sec. 6.** AS 47.33.420 is amended to read:

26 **Sec. 47.33.420. Standard forms.** The Department of Health and Social
27 Services [AND THE DEPARTMENT OF ADMINISTRATION] shall
28 [COOPERATIVELY] develop standard forms that assisted living homes may use to
29 comply with the requirements of this chapter.

30 * **Sec. 7.** AS 47.33.500(a) is amended to read:

31 (a) A person who believes that a provision of this chapter or of a regulation

1 adopted under this chapter has been violated may file a complaint with the
2 [APPROPRIATE] licensing agency.

3 * **Sec. 8.** AS 47.33.520(a) is amended to read:

4 (a) **The** [A] licensing agency may investigate an assisted living home at any
5 time to determine whether the home is in compliance with this chapter and regulations
6 adopted under this chapter.

7 * **Sec. 9.** AS 47.33.540(b) is amended to read:

8 (b) **The** [EACH] licensing agency shall adopt regulations specifying the
9 contents of and establishing procedures for reports of compliance, including the time
10 period for submission to the licensing agency under (a) of this section.

11 * **Sec. 10.** AS 47.33.550(a) is amended to read:

12 (a) **The** [A] licensing agency may revoke an assisted living home license, deny
13 renewal of an assisted living home license, suspend operations of an assisted living
14 home, suspend the ability of an assisted living home to take in new residents, place
15 conditions on the ability of an assisted living home to take in new residents, restrict
16 the type of care **that** [THAN] an assisted living home may provide to residents, or
17 assess an administrative fine, as the agency considers appropriate, on one or more of
18 the following grounds:

19 (1) a violation of a provision of this chapter, a regulation adopted under
20 this chapter, an order in a notice of violation issued under this chapter, or a term of
21 a license issued under this chapter;

22 (2) a criminal conviction of an administrator of an assisted living home
23 if the conviction is

24 (A) for an offense involving a resident of the home;

25 (B) a felony; or

26 (C) a misdemeanor involving alcohol, a controlled substance, an
27 imitation controlled substance, or physical or sexual abuse;

28 (3) obtaining, retaining, or attempting to obtain or retain a license under
29 this chapter by fraud or misrepresentation.

30 * **Sec. 11.** AS 47.33.550(d) is amended to read:

31 (d) An assisted living home may contest **the** [A] licensing agency's decision

1 to impose an administrative sanction by filing a written request for a hearing, on the
 2 form provided by the licensing agency, no later than 10 days after receipt of the notice
 3 of administrative sanction.

4 * **Sec. 12.** AS 47.33.550(h) is amended to read:

5 (h) **The** [A] licensing agency shall provide notice of the agency's final action
 6 regarding imposition of an administrative sanction on an assisted living home to

7 (1) each resident of the home;

8 (2) the agencies that provide treatment to the residents;

9 (3) the residents' service coordinators; and

10 (4) adult protective services.

11 * **Sec. 13.** AS 47.33.910 is amended to read:

12 **Sec. 47.33.910. Fees.** **The** [A] licensing agency may charge and collect fees
 13 for application and licensure under this chapter.

14 * **Sec. 14.** AS 47.33.920 is amended to read:

15 **Sec. 47.33.920. Regulations.** The commissioner of health and social services
 16 [AND THE COMMISSIONER OF ADMINISTRATION EACH] may adopt
 17 regulations to carry out the provisions of this chapter, including regulations regarding
 18 licensure and renewal requirements, license application and renewal procedures;
 19 application and license fees; types, duration, renewal, and transferability of licenses;
 20 staffing and home operation standards; and variances to licensure and operating
 21 standards. Regulations adopted under this chapter may provide for the waiver or
 22 modification of the requirements of this chapter for homes with fewer than six
 23 residents except that the regulations may not provide for waiver or modification of the
 24 requirements of AS 47.33.100.

25 * **Sec. 15.** AS 47.33.990(14) is amended to read:

26 (14) "licensing agency" means the **Department of Health and Social**

27 **Services** [STATE AGENCY GIVEN AUTHORITY UNDER AS 47.33.410 TO
 28 LICENSE AN ASSISTED LIVING HOME];

29 * **Sec. 16.** AS 47.33.410(a), 47.33.410(b), 47.33.410(c), and 47.33.410(e) are repealed.

30 * **Sec. 17.** APPLICABILITY. This Act applies to licensing procedures and licensing
 31 actions pending or commencing on or after July 1, 1999. However, a license issued under

1 AS 47.33 before July 1, 1999, remains valid for the period for which it was issued, subject
2 to revocation or suspension under AS 47.33.

3 * **Sec. 18.** TRANSITION. (a) Litigation, hearings, investigations, and other proceedings
4 pending under a law amended by this Act or in connection with the function transferred by
5 this Act from the Department of Administration continue in effect and may be continued and
6 completed by the Department of Health and Social Services.

7 (b) Contracts, rights, liabilities, and obligations created by or under a law amended
8 by this Act and in effect on July 1, 1999, remain in effect notwithstanding this Act's taking
9 effect. Records, equipment, appropriations, and other property of the Department of
10 Administration related to the function transferred under this Act shall be transferred to the
11 Department of Health and Social Services to implement the provisions of this Act.

12 (c) Regulations adopted by the Department of Administration under AS 47.33 that
13 relate to assisted living homes remain in effect and may be implemented and enforced by the
14 Department of Health and Social Services until the Department of Health and Social Services'
15 own regulations take effect.

16 * **Sec. 19.** This Act takes effect July 1, 1999.