

SENATE BILL NO. 56

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Introduced: 2/8/99

Referred: HESS, Labor and Commerce

A BILL

FOR AN ACT ENTITLED

1 "An Act allowing the disclosure of reports with regard to inspection and
2 investigations of certain health care facilities, home health agencies, hospice
3 programs, and assisted living homes; authorizing the Department of Health and
4 Social Services to license home health agencies; and providing for an effective
5 date."

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

7 * **Section 1.** AS 18.18 is amended by adding a new section to read:

8 **Sec. 18.18.350. Disclosure of information.** (a) The department shall make
9 reports concerning inspections and investigations of a hospice program it licenses in
10 this chapter, including statements of deficiencies and approved plans of correction,
11 available to the public within 14 calendar days after the information is made available
12 to the hospice program being reviewed.

13 (b) The department may not publicly disclose information that identifies clients

1 of the program under review.

2 * **Sec. 2.** AS 18.20.090 is repealed and reenacted to read:

3 **Sec. 18.20.090. Disclosure of information.** (a) The department shall make
4 reports concerning annual inspections and investigations of the facilities or entities it
5 licenses in this chapter, including statements of deficiencies and approved plans of
6 correction, available to the public within 14 calendar days after the information is
7 made available to the facility or entity being reviewed.

8 (b) The department may not publicly disclose information that identifies
9 patients or clients of the facility or entity under review.

10 * **Sec. 3.** AS 18.28 is amended by adding new sections to read:

11 **Article 2. Home Health Agencies.**

12 **Sec. 18.28.110. Purpose; applicability.** (a) The purpose of AS 18.28.110 -
13 18.28.190 is to promote safe and adequate home health services for individuals by
14 setting standards for home health agencies that will ensure quality of care, safeguard
15 patient's rights, and otherwise protect public health, safety, and welfare.

16 (b) AS 18.28.110 - 18.28.190 and the regulations adopted under those sections
17 apply to agencies for which licensure is required under AS 18.28.130.

18 **Sec. 18.28.120. Powers of department.** The department may

19 (1) license home health agencies;

20 (2) inspect applicants and licensees, including subunits and branches
21 of the licensee, and persons that the department reasonably believes are operating an
22 agency without a license in violation of this chapter;

23 (3) consistent with the purposes identified in AS 18.28.110, adopt
24 regulations to implement AS 18.28.110 - 18.28.190, including regulations establishing
25 licensure and renewal procedures, inspection procedures, standards, fees, and
26 requirements for operation of home health agencies;

27 (4) accept accreditation by the Joint Commission on the Accreditation
28 of Health Organizations or another national accreditation organization recognized by
29 the department in lieu of an inspection of a home health agency by the department for
30 the year in which the accreditation was granted if the accreditation standards are
31 substantially similar to the inspection standards of the department.

1 **Sec. 18.28.130. License required.** (a) An entity that establishes, conducts,
2 or represents itself to the public as a home health agency must have a license from the
3 department authorizing it to be a home health agency under AS 18.28.110 - 18.28.190.

4 (b) A parent agency or subunit of a home health agency must be located in the
5 state. Each subunit must independently meet the requirements of this section and be
6 issued a separate license. A branch office of the parent agency or of one of its
7 subunits is not required to independently meet the requirements for licensure.

8 **Sec. 18.28.140. Application for license.** Application for a license to operate
9 a home health agency shall be made to the department on a form provided by the
10 department and shall be accompanied by applicable fees established by the department
11 under AS 18.28.120.

12 **Sec. 18.28.150. Issuance and renewal of license.** (a) Upon receipt of an
13 application for license and the license fee, the department shall issue a license if the
14 applicant meets the requirements established under AS 18.28.110 - 18.28.190. If the
15 applicant does not meet the requirements established under AS 18.28.110 - 18.28.190
16 but makes continued efforts to comply with them, the department may grant a
17 temporary or provisional license for a limited period of time.

18 (b) Each license issued is for the person, agency, corporation, partnership,
19 association, or other form of organization named on the application and is not
20 transferable or assignable except with the written approval of the department.

21 (c) The department shall establish the standards for license renewal and
22 determine the renewal period by regulation.

23 (d) A license is not renewable if it has been suspended or revoked under
24 AS 18.28.160.

25 **Sec. 18.28.160. Denial, suspension, or revocation of license.** (a) The
26 department may deny, change to a provisional license, or revoke a home health agency
27 application or license if the department finds that the agency

28 (1) has endangered or would endanger the health, safety, or welfare of
29 a patient;

30 (2) has a history of deficiencies in quality of care;

31 (3) has had a license to operate a home health agency revoked in any

1 licensing jurisdiction;

2 (4) has been convicted of operating a home health agency without a
3 license in any licensing jurisdiction;

4 (5) lacks a sufficient number of personnel who have the training,
5 experience, or judgment to provide adequate patient care;

6 (6) has committed fraud, deceit, misrepresentation, or dishonesty
7 associated with the application for or operation of a home health agency in any
8 licensing jurisdiction; or

9 (7) has violated regulations adopted under AS 18.28.110 - 18.28.190.

10 (b) The department may, without a hearing, summarily suspend a home health
11 agency license if it finds that the actions or deficiencies of the agency cause an
12 immediate and serious threat to the public health, safety, or welfare. A summary
13 suspension remains in effect until the department finds that the actions or deficiencies
14 are corrected or the license is revoked.

15 (c) The department may, without a hearing, change a home health agency
16 license to a provisional license for a period of time established by the department if
17 the department finds that an agency is temporarily unable to comply with
18 AS 18.28.110 - 18.28.190 or is in the Medicare decertification process, but is taking
19 the appropriate steps necessary to bring the agency into compliance. An agency
20 holding a provisional license may not accept new patients. If the agency fails to
21 correct its deficiencies within the provisional license period, the department shall
22 revoke that agency's license.

23 (d) Application denial and revocation actions by the department shall be
24 conducted under AS 44.62 (Administrative Procedure Act).

25 **Sec. 18.28.170. Disclosure of information.** (a) The department shall make
26 reports concerning inspections and investigations of home health agencies it licenses
27 in this chapter, including statements of deficiencies and approved plans of correction,
28 available to the public within 14 calendar days after the information is made available
29 to the home health agency being reviewed.

30 (b) The department may not publicly disclose information that identifies
31 patients or clients of the home health agency under review.

1 **Sec. 18.28.190. Definitions.** In AS 18.28.110 - 18.28.190,

2 (1) "branch" means an office location from which a home health
3 agency provides service within a portion of the total geographic area served by the
4 parent home health agency and that is sufficiently close in geographic proximity to the
5 parent home health agency that it shares administration, supervision, and services on
6 a daily basis;

7 (2) "department" means the Department of Health and Social Services;

8 (3) "geographic area" means the location, site, or address of the clients
9 served by the parent home health agency or its parents or subunits;

10 (4) "home health agency" means a public agency or private organization,
11 or a subdivision of a public agency or private organization, that primarily engages in
12 providing skilled nursing services in combination with physical therapy, occupational
13 therapy, speech therapy, or services provided by a home health aide to individuals in
14 the individual's home, an assisted living home, or another residential setting;

15 (5) "parent home health agency" means a licensed home health agency,
16 which may have branches or subunits;

17 (6) "subdivision" means a component of a multi-function home health
18 agency, such as the home care division of a hospital or the nursing division of a health
19 agency, that independently meets the requirements for a licensure as a home health
20 agency;

21 (7) "subunit" means a home health agency that provides services
22 beyond the geographic area served by the parent home health agency and is unable to
23 share administration, supervision, and services on a daily basis with the parent home
24 health agency.

25 * **Sec. 4.** AS 47.33.520(e) is amended to read:

26 (e) Except as otherwise provided in AS 47.33.500(c),

27 **(1) a completed investigation report [REPORTS] and a response**
28 **[RESPONSES] from a home [HOMES] are public records; and**

29 **(2) the licensing agency shall make reports concerning inspections**
30 **and investigations of a home it licenses in this chapter, including statements of**
31 **deficiencies and approved plans of correction, available to the public within 14**

1 calendar days after the information is made available to the home being reviewed.

2 * **Sec. 5.** TRANSITION. A department affected by this Act may proceed to adopt
3 regulations necessary to implement this Act. Regulations to implement a provision of this Act
4 take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date
5 of sec. 3 of this Act.

6 * **Sec. 6.** REVISOR'S INSTRUCTION. In AS 18.28.040, 18.28.050, and 18.28.100, the
7 revisor shall substitute "AS 18.28.010 - 18.28.100" for "this chapter."

8 * **Sec. 7.** Section 5 of this Act takes effect immediately under AS 01.10.070(c).