

CS FOR SENATE BILL NO. 56(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 3/16/99

Referred: Labor and Commerce

Sponsor(s): SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

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 18.18 is amended by adding new sections to read:

3 **Article 4. Home Health Agencies.**

4 **Sec. 18.18.410. Purpose; applicability.** (a) The purpose of AS 18.18.410 -
5 18.18.490 is to promote safe and adequate home health services for individuals by
6 setting standards for home health agencies that will ensure quality of care, safeguard
7 patient's rights, and otherwise protect public health, safety, and welfare.

8 (b) AS 18.18.410 - 18.18.490 and the regulations adopted under those sections
9 apply to agencies for which licensure is required under AS 18.18.430.

10 **Sec. 18.18.420. Powers of department.** The department may

11 (1) license home health agencies;

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

15 (3) consistent with the purposes identified in AS 18.18.410, adopt
16 regulations to implement AS 18.18.410 - 18.18.490, including regulations establishing
17 licensure and renewal procedures, inspection procedures, standards, fees, and
18 requirements for operation of home health agencies;

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

24 **Sec. 18.18.430. License required.** (a) An entity that establishes, conducts,
25 or represents itself to the public as a home health agency must have a license from the
26 department authorizing it to be a home health agency under AS 18.18.410 - 18.18.490.

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

31 **Sec. 18.18.440. Application for license.** Application for a license to operate

1 a home health agency shall be made to the department on a form provided by the
 2 department and shall be accompanied by applicable fees established by the department
 3 under AS 18.18.420.

4 **Sec. 18.18.450. Issuance and renewal of license.** (a) Upon receipt of an
 5 application for license and the license fee, the department shall issue a license if the
 6 applicant meets the requirements established under AS 18.18.410 - 18.18.490. If the
 7 applicant does not meet the requirements established under AS 18.18.410 - 18.18.490
 8 but makes continued efforts to comply with them, the department may grant a
 9 temporary or provisional license for a limited period of time.

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

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

15 (d) A license is not renewable if it has been suspended or revoked under
 16 AS 18.18.460.

17 **Sec. 18.18.460. Denial, suspension, or revocation of license.** (a) The
 18 department may deny, change to a provisional license, or revoke a home health agency
 19 application or license if the department finds that the agency

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

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

23 (3) has had a license to operate a home health agency revoked in any
 24 licensing jurisdiction;

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

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

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

1 (7) has violated regulations adopted under AS 18.18.410 - 18.18.490.

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

7 (c) The department may, without a hearing, change a home health agency
8 license to a provisional license for a period of time established by the department if
9 the department finds that an agency is temporarily unable to comply with
10 AS 18.18.410 - 18.18.490 or is in the Medicare decertification process, but is taking
11 the appropriate steps necessary to bring the agency into compliance. An agency
12 holding a provisional license may not accept new patients. If the agency fails to
13 correct its deficiencies within the provisional license period, the department shall
14 revoke that agency's license.

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

17 **Sec. 18.18.470. Disclosure of information.** (a) The department shall make
18 reports concerning inspections and investigations of home health agencies it licenses
19 in this chapter, including statements of deficiencies and approved plans of correction,
20 available to the public within 14 calendar days after the information is made available
21 to the home health agency being reviewed.

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

24 **Sec. 18.18.490. Definitions.** In AS 18.18.410 - 18.18.490,

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

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

31 (3) "geographic area" means the location, site, or address of the clients

1 served by the parent home health agency or its parents or subunits;

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

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

10 (6) "subdivision" means a component of a multi-function home health
11 agency, such as the home care division of a hospital or the nursing division of a health
12 agency, that independently meets the requirements for a licensure as a home health
13 agency;

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

18 * **Sec. 3.** AS 18.20.090 is repealed and reenacted to read:

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

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

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

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

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

30 (2) the licensing agency shall make reports concerning inspections
31 and investigations of a home it licenses in this chapter, including statements of

1 **deficiencies and approved plans of correction, available to the public within 14**
2 **calendar days after the information is made available to the home being reviewed.**

3 * **Sec. 5.** TRANSITION. A department affected by this Act may proceed to adopt
4 regulations necessary to implement this Act. Regulations to implement a provision of this Act
5 take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date
6 of secs. 1 - 4 of this Act.

7 * **Sec. 6.** REVISOR'S INSTRUCTION. In AS 18.18.005 - 18.18.390, the revisor of
8 statutes shall substitute "AS 18.18.005 - 18.18.390" for "this chapter."

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