

HOUSE BILL NO. 193

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 3/2/05

Referred: Health, Education and Social Services, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the licensing, regulation, enforcement, and appeal rights of
2 ambulatory surgical centers, assisted living homes, child care facilities, child placement
3 agencies, foster homes, free-standing birth centers, home health agencies, hospices or
4 agencies providing hospice services, hospitals, intermediate care facilities for the
5 mentally retarded, maternity homes, nursing facilities, residential child care facilities,
6 residential psychiatric treatment centers, and rural health clinics; relating to criminal
7 history requirements, and a registry, regarding certain licenses, certifications,
8 approvals, and authorizations by the Department of Health and Social Services; making
9 conforming amendments; and providing for an effective date."

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

11 * **Section 1.** AS 47 is amended by adding a new chapter to read:

12 **Chapter 32. Centralized Licensing and Related Administrative Procedures.**

1 **Sec. 47.32.010. Purpose and applicability.** (a) The purpose of this chapter
 2 is to establish centralized licensing and related administrative procedures for the
 3 delivery of services in this state by the entities listed in (b) of this section. These
 4 procedures are intended to promote safe and appropriate services by setting standards
 5 for licensure that will reduce predictable risk; improve quality of care; foster
 6 individual and patient rights; and otherwise advance public health, safety, and welfare.

7 (b) This chapter, and regulations adopted under this chapter, apply to the
 8 following entities:

- 9 (1) ambulatory surgical centers;
- 10 (2) assisted living homes;
- 11 (3) child care facilities;
- 12 (4) child placement agencies;
- 13 (5) foster homes;
- 14 (6) free-standing birth centers;
- 15 (7) home health agencies;
- 16 (8) hospices, or agencies providing hospice services or operating a
 17 hospice program;
- 18 (9) hospitals;
- 19 (10) intermediate care facilities for the mentally retarded;
- 20 (11) maternity homes;
- 21 (12) nursing facilities;
- 22 (13) residential child care facilities;
- 23 (14) residential psychiatric treatment centers;
- 24 (15) rural health clinics.

25 (c) The provisions of AS 47.05.300 - 47.05.390, regarding criminal history,
 26 criminal history checks, criminal history use standards, and a centralized registry,
 27 apply to entities listed in (b) of this section as provided in AS 47.05.300.

28 **Sec. 47.32.020. Requirement to obtain a license.** (a) An entity listed in
 29 AS 47.32.010(b) must be licensed under this chapter unless the entity is exempt under
 30 regulations adopted under AS 47.32.030.

31 (b) If an entity encompasses more than one type of entity listed in

1 AS 47.32.010(b), the entity must apply for and receive a separate license under this
 2 chapter before operating that type of business unless exempt under regulations adopted
 3 under AS 47.32.030.

4 **Sec. 47.32.030. Powers of the department.** (a) The department may

5 (1) administer and enforce the provisions of this chapter;

6 (2) coordinate and develop policies, programs, and planning related to
 7 licensure and operation of entities listed in AS 47.32.010(b);

8 (3) adopt regulations necessary to carry out the purposes of this
 9 chapter, including regulations that

10 (A) establish fees for licensing of each type of entity listed in
 11 AS 47.32.010(b);

12 (B) impose requirements for licensure, including standards for
 13 license renewal, that are in addition to the requirements of this chapter or of
 14 any other applicable state or federal statute or regulation;

15 (C) impose requirements and standards on licensed entities that
 16 are in addition to those imposed by this chapter or by any other applicable state
 17 or federal statute or regulation, including

18 (i) requirements and standards necessary for an entity or
 19 the state to receive money from the department from any source,
 20 including federal money;

21 (ii) recordkeeping requirements;

22 (iii) reporting requirements; and

23 (iv) requirements and standards regarding health, safety,
 24 and sanitation;

25 (D) provide for waivers, variances, and exemptions from the
 26 requirements of this chapter, including the requirement to obtain a license, if
 27 the department finds it necessary for the efficient administration of this
 28 chapter; and

29 (E) establish requirements for the operation of entities licensed
 30 under this chapter;

31 (4) investigate

- 1 (A) entities described in AS 47.32.010(b);
- 2 (B) applicants for licensure, including individuals named in an
3 application; and
- 4 (C) other persons that the department has reason to believe are
5 operating an entity required to be licensed under this chapter, or are residing or
6 working in an entity for which licensure has been sought under this chapter;
7 this subparagraph does not apply to persons receiving services from an entity
8 for which licensure has been sought under this chapter;
- 9 (5) inspect and monitor licensed entities for compliance with this
10 chapter, regulations adopted under this chapter, and any other applicable statutes or
11 regulations;
- 12 (6) enter into contracts and agreements necessary to carry out the
13 functions, powers, and duties of the department under this chapter;
- 14 (7) enter into agreements with private entities, municipalities, and
15 individuals to investigate and make recommendations to the department regarding the
16 licensure and monitoring of entities under this chapter;
- 17 (8) require an individual who is or will be operating an entity to
18 complete training related to the operation of the entity;
- 19 (9) waive the application requirements for an entity seeking licensure
20 if the entity submits documentation verifying that it
- 21 (A) has a license issued by an organization or other agency that
22 has licensing authority under state or federal law, if the standards for that
23 licensure are approved by the department under this chapter or regulations
24 adopted under this chapter;
- 25 (B) has accreditation from a nationally recognized
26 organization, if the standards for that accreditation are equal to or more
27 stringent than the standards for licensure under this chapter or regulations
28 adopted under this chapter; or
- 29 (C) is an entity that federal law does not require to be licensed.
- 30 (b) Nothing in this chapter obligates the department to provide financial
31 support to an entity licensed under this chapter.

1 **Sec. 47.32.040. Application for license.** An application for a license under
2 this chapter must be made to the department on a form provided by the department or
3 in a format approved by the department, and must be accompanied by

4 (1) any fee established by regulation; and

5 (2) documents and information required by regulation for that type of
6 entity.

7 **Sec. 47.32.050. Provisional license; biennial license.** (a) The department
8 may issue a provisional license to an entity for which application is made under
9 AS 47.32.040 if, after inspection and investigation, the department determines that the
10 application and the entity meet the requirements of this chapter, regulations adopted
11 under this chapter, and any other applicable statutes or regulations. A provisional
12 license is valid for a period not to exceed one year, except that the department may
13 extend a provisional license for one additional period not to exceed one year.

14 (b) Before expiration of a provisional license issued under (a) of this section,
15 the department shall inspect and investigate the entity to determine whether the entity
16 is operating in compliance with this chapter, regulations adopted under this chapter,
17 and any other applicable statutes or regulations. After inspection and investigation
18 under this subsection and before expiration of a provisional license, the department
19 shall issue a biennial license for the entity if the department finds that

20 (1) the entity meets the requirements for biennial licensure established
21 in this chapter, regulations adopted under this chapter, and other applicable statutes
22 and regulations;

23 (2) a ground for nonrenewal of a license does not exist; and

24 (3) any applicable fee has been paid.

25 (c) The department may place one or more conditions on a provisional or
26 biennial license issued under this section in order to further the purposes of this
27 chapter.

28 **Sec. 47.32.060. License renewal.** (a) At least 90 days before expiration of a
29 biennial license, a licensed entity that intends to remain licensed shall submit an
30 application for renewal of the license on a form provided by the department or in a
31 format approved by the department, accompanied by

1 (1) all documents and information identified in regulation as being
2 required for renewal of a license for that type of entity; and

3 (2) any fee established by regulation.

4 (b) Before expiration of a biennial license, the department or its representative
5 may inspect an entity that is the subject of a renewal application to determine whether
6 the entity is operating in compliance with this chapter, regulations adopted under this
7 chapter, and other applicable statutes or regulations. After any inspection and
8 investigation under this subsection, and before expiration of the biennial license, the
9 department shall renew a biennial license if the department finds that

10 (1) the licensed entity meets the requirements for renewal;

11 (2) a ground for nonrenewal of a license does not exist; and

12 (3) any applicable fee has been paid.

13 (c) If an application for renewal of a license is submitted but the department is
14 unable to complete its review of the application before the expiration of the biennial
15 license, the license is automatically extended for six months, or until the department
16 completes its review and either approves or denies the application, whichever occurs
17 earlier.

18 (d) The department may place one or more conditions on a renewed license
19 issued under this section to further the purposes of this section.

20 (e) The department shall adopt regulations establishing the grounds for
21 nonrenewal of a license for purposes of AS 47.32.050 and this section.

22 **Sec. 47.32.070. Denial of or conditions on license.** (a) If the department
23 denies an application for or places conditions on a provisional or biennial license, or
24 for a license renewal, the department shall provide the applicant or entity with a notice
25 of the action by certified mail. The notice must contain a written statement of the
26 reasons for the action and information about requesting a hearing under (b) of this
27 section.

28 (b) An applicant or entity that receives a notice of action under (a) of this
29 section may appeal the department's decision by requesting a hearing within 15 days
30 after receipt of the notice. The appeal must be on a form provided by the department
31 or in a format approved by the department.

1 **Sec. 47.32.080. Posting of license; license not transferable.** (a) A license
2 issued under this chapter shall be posted in a conspicuous place in the licensed entity.
3 Any notice of a variance issued by the department shall be posted near the license.

4 (b) A license issued under this chapter is not transferable unless authorized by
5 the department.

6 **Sec. 47.32.100. Complaints and investigation.** (a) A person who believes
7 that an entity has violated an applicable statute or regulation, or a condition of a
8 license issued under this chapter, may file a verbal or written complaint with the
9 department.

10 (b) The department may investigate a complaint filed under this section. The
11 department may decline to investigate a complaint if the department reasonably
12 concludes and documents that the complaint is without merit based on information
13 available to the department at the time of the complaint. The department may
14 consolidate complaints if the department concludes that a single investigation would
15 further the efficient administration of this chapter.

16 (c) A licensed entity may not take retaliatory action against a person who files
17 a complaint. Except as provided in AS 47.32.170, a complainant against whom a
18 retaliatory action has been taken may recover treble damages in a civil action upon a
19 showing that the action was taken in retaliation for the filing of a complaint.

20 **Sec. 47.32.110. Cooperation with investigation.** An entity shall cooperate
21 with an investigation initiated by the department. An investigated entity shall

22 (1) permit representatives of the department to inspect the entity;
23 review records, including files of individuals who received services from the entity;
24 interview staff; and interview individuals receiving services from the entity; and

25 (2) upon request, provide the department with information and
26 documentation regarding compliance with applicable statutes and regulations.

27 **Sec. 47.32.120. Right of access and inspection.** (a) A designated agent or
28 employee of the department shall have right of access to an entity

29 (1) to determine whether an application for licensure or renewal is
30 appropriate;

31 (2) to conduct a complaint investigation;

- 1 (3) to conduct a standard inspection;
- 2 (4) to inspect all documents, including personnel records, accounts, the
- 3 building, or the premises;
- 4 (5) to interview staff or residents; or
- 5 (6) if the department has reasonable cause to believe that the entity is
- 6 operating in violation of this chapter or the regulations adopted under this chapter.

7 (b) If an entity denies access, the department may petition the court for an

8 order permitting access, or the department may seek to revoke the entity's license

9 under AS 47.32.150.

10 (c) Upon petition of the department, and after a hearing held upon reasonable

11 notice to the entity, the court shall issue an order to an officer or employee of the

12 department authorizing the officer or employee to enter for any of the purposes

13 described in (a) of this section.

14 **Sec. 47.32.130. Report.** (a) Within 10 working days after completing an

15 investigation or inspection under AS 47.32.100 - 47.32.120, the department shall

16 prepare a report of the results of the investigation or inspection and mail a copy of the

17 report to the entity. The report shall include a description of

18 (1) any violation, including a citation to each statute or regulation that

19 has been violated; and

20 (2) any enforcement action the department intends to take under

21 AS 47.32.140 or 47.32.150.

22 (b) An entity that receives a copy of a report under this section may submit to

23 the department a written response to the report. The department may require an entity

24 to submit a response to a report received under this section.

25 (c) If a complainant requests a copy of the report in writing, the department

26 shall provide it to the complainant within 14 days after the entity receives a copy of

27 the report under this section.

28 **Sec. 47.32.140. Enforcement action: immediate revocation or suspension.**

29 (a) If the department's report of investigation or inspection under AS 47.32.130

30 concludes that the department has reasonable cause to believe that a violation of an

31 applicable statute or regulation has occurred that presents an immediate danger to the

1 health, safety, or welfare of an individual receiving services from the entity, the
 2 department, without an administrative hearing and without providing an opportunity to
 3 cure or correct the violation, may immediately revoke or suspend the entity's license
 4 or, if the entity is not licensed under this chapter, may revoke the entity's ability to
 5 become licensed under this chapter or to provide services as an entity exempted under
 6 this chapter. A suspension or revocation under this subsection takes effect
 7 immediately upon initial notice to the entity from the department, is in addition to any
 8 enforcement action under AS 47.32.150, and continues until a final determination
 9 under (c) of this section or under AS 47.32.160.

10 (b) Notice under this section shall be provided as follows:

11 (1) the department shall provide initial notice to the entity at the time
 12 the department determines that an immediate suspension or revocation is required;
 13 initial notice may be verbal, except that if no entity representative is present at the
 14 entity, the department shall post written notice on the front door of the entity; the
 15 initial notice must provide information regarding the entity's appeal rights;

16 (2) the department shall provide formal written notice to the entity
 17 within 14 working days after the immediate revocation or suspension decision; formal
 18 written notice shall include

19 (A) a copy of the department's report under AS 47.32.130, a
 20 statement of the entity's right to submit a written response to the report, and
 21 any department requirement that the entity submit a written response to the
 22 report;

23 (B) a description of any enforcement action the department
 24 intends to take under AS 47.32.150(d) or (e); and

25 (C) information regarding the entity's appeal rights.

26 (c) An entity to which a notice has been provided under this section may
 27 appeal the department's decision to impose the enforcement action, including an
 28 enforcement action the department intends to take under AS 47.32.150(d) or (e), by
 29 filing a written request for a hearing, on a form provided by the department, within 15
 30 days after receipt of the notice. If a hearing is not timely requested under this
 31 subsection, the department's notice constitutes a final administrative order for which

1 the department may seek the court's assistance in enforcing.

2 **Sec. 47.32.150. Enforcement actions.** (a) If the department's report of
3 investigation or inspection under AS 47.32.130 concludes that the department has
4 reasonable cause to believe that a violation of an applicable statute or regulation has
5 occurred, the department shall provide notice to the entity of the violation and an
6 opportunity to cure the violation within a reasonable time specified by the department.
7 The notice shall include a copy of the department's report under AS 47.32.130, a
8 statement that the entity may submit a written response to the report, any department
9 requirement that the entity submit a written response to the report, a description of any
10 enforcement action the department intends to take under (d) or (e) of this section, and
11 information regarding the entity's appeal rights.

12 (b) An entity receiving a notice under (a) of this section, or a notice under
13 AS 47.32.140(b)(2) that contains the information specified in AS 47.32.140(b)(2)(B),
14 shall submit a plan of correction to the department for approval. Once the entity has
15 cured its violations, it must submit to the department an allegation of compliance.
16 Upon receipt of the allegation of compliance, the department may conduct a follow-up
17 investigation or inspection to determine compliance. The department may take one or
18 more enforcement actions under (d) and (e) of this section regardless of whether the
19 entity achieves compliance under this subsection.

20 (c) If the department believes that an entity has not voluntarily corrected the
21 violation or entered into a plan of correction with the approval of the department, the
22 department may require that the entity participate in a plan of correction under
23 regulations of the department. Once the entity has cured its violations, it must submit
24 to the department an allegation of compliance. Upon receipt of the allegation of
25 compliance, the department may conduct a follow-up investigation or inspection to
26 determine compliance. The department may take one or more enforcement actions
27 under (d) and (e) of this section regardless of whether the entity achieves compliance
28 under this subsection.

29 (d) The department may take one or more of the following enforcement
30 actions under this section:

31 (1) delivery of a warning notice to the licensed entity and to any

1 additional person who was the subject of the investigation or inspection;

2 (2) modification of the term or scope of the entity's existing license,
3 including changing a biennial license to a provisional license or adding a condition to
4 the license;

5 (3) suspension of the entity's operations for a period of time set by the
6 department;

7 (4) suspension of or a ban on the entity's provision of services to
8 individuals not already receiving services from the entity, for a period of time set by
9 the department;

10 (5) nonrenewal of the entity's license;

11 (6) revocation of the entity's license or, if the entity is not licensed
12 under this chapter, revocation of the entity's ability to become licensed under this
13 chapter;

14 (7) issuance of an order requiring closure, immediate or otherwise, of
15 the entity regardless of whether the entity is licensed or unlicensed;

16 (8) denial of payments under AS 47.07 for the entity's provision of
17 services to any individual not already receiving services from the entity;

18 (9) assumption of either temporary or permanent management of the
19 entity or pursuit of a court-ordered receiver for the entity;

20 (10) reduction of the number of individuals receiving services from the
21 entity under the license;

22 (11) imposition of any penalty authorized under law;

23 (12) inclusion in the registry established under AS 47.05.330;

24 (13) requirement that the entity prepare and submit a plan of
25 correction.

26 (e) In addition to any other enforcement actions the department may take
27 under this section, the department may assess a civil fine against an entity for a
28 violation of an applicable statute or regulation, taking into account the type and size of
29 the entity and the type and severity of the violation. A fine assessed under this
30 subsection may not exceed \$2,500 per day for each day of violation for a continuing
31 violation or \$25,000 per single violation.

1 (f) An entity to which a notice has been provided under this section regarding
2 an enforcement action under (d) or (e) of this section may appeal the department's
3 decision to impose the enforcement action by filing a written request for a hearing, on
4 a form provided by the department, within 15 days after receipt of the notice of the
5 enforcement action.

6 (g) An enforcement action under (d) or (e) of this section may not be imposed
7 until

8 (1) the time period for requesting a hearing under AS 47.32.140(c) or
9 under (f) of this section, as applicable, has passed without a hearing being requested;
10 or

11 (2) a final agency decision has been issued following a hearing
12 requested under AS 47.32.140(c) or under (f) of this section, as applicable.

13 (h) If a hearing is not timely requested under AS 47.32.140(c) or under (f) of
14 this section, as applicable, the department's notice regarding an enforcement action
15 under (d) or (e) of this section constitutes a final administrative order. The department
16 may seek the court's assistance in enforcing the final administrative order.

17 (i) An entity against which an enforcement action under (d) or (e) of this
18 section has been taken may not apply for a license or license renewal until after the
19 time period set by the department in its final administrative order under
20 AS 47.32.140(c), under this section, or under AS 47.32.160, as applicable. If no time
21 period has been set, a final administrative order against the entity has the effect of a
22 permanent revocation and the entity may not apply for a license or license renewal. If
23 the ownership, control, or management of an entity changes, the department may
24 allow the entity to seek licensure if the entity submits documents showing the change.

25 (j) Assessment of a civil fine under this section does not preclude imposition
26 of a criminal penalty under AS 47.32.180.

27 **Sec. 47.32.160. Hearings.** (a) Upon receipt of a timely request for a hearing
28 by an entity regarding an enforcement action under AS 47.32.140(a) or under
29 AS 47.32.150(d)(3), (5), (6), (7), or (9), the department shall request the chief
30 administrative law judge (AS 44.64.020) to appoint an administrative law judge
31 employed or retained by the office of administrative hearings to preside over a hearing

1 conducted under this section. AS 44.64.060 does not apply to the hearing. The
2 procedures in AS 44.62.330 - 44.62.630 (Administrative Procedure Act) apply to the
3 hearing.

4 (b) Upon receipt of a timely request for a hearing by an entity regarding an
5 enforcement action under AS 47.32.070 or under AS 47.32.150(d)(1), (2), (4), (8),
6 (10), (11), (12), or (13), the department shall conduct a hearing in front of an officer
7 appointed by the commissioner. A hearing under this subsection shall be conducted
8 on the record, in an informal manner, and shall not be conducted under AS 44.62. The
9 appointed hearing officer may be a state employee.

10 (c) The decision following a hearing conducted under (a) or (b) of this section
11 constitutes a final agency administrative order.

12 (d) A hearing conducted under this section shall take place within 120 days
13 after the department's receipt of the request for hearing. A hearing may be held on an
14 expedited basis upon a showing of good cause. An expedited hearing shall be held
15 within 60 days.

16 **Sec. 47.32.170. Immunity.** (a) The department, its employees, and its agents
17 are not liable for civil damages as a result of an act or omission in the licensure
18 process or monitoring of a licensed entity or any activities under this chapter.

19 (b) A volunteer who works for a hospice program licensed under this chapter
20 is not liable for damages for personal injury, wrongful death, or property damage for
21 an act or omission committed in the course of hospice-related duties unless the act or
22 omission constituted gross negligence, recklessness, or intentional misconduct.

23 (c) An entity that obtains information about an employee under a criminal
24 history check under AS 47.50.310 may use that information only as provided in
25 regulations adopted by the department under AS 47.05.320. However, if that entity
26 reasonably relies upon that information in denying employment for an individual
27 selected for hire as an employee, including during any period of provisional
28 employment, the entity is not liable in any action brought by the individual based on
29 the employment determination resulting from the information.

30 **Sec. 47.32.180. Criminal penalty.** A person who intentionally, or with
31 criminal negligence, violates a provision of this chapter or a regulation adopted under

1 this chapter related to health and safety of the persons served by an entity required to
2 comply with the chapter, is guilty of a class B misdemeanor.

3 **Sec. 47.32.190. Confidentiality; release of certain information.** (a) Except
4 as otherwise provided by law, the following are confidential and may not be disclosed
5 to the public without a court order: complaints; investigations; inspections; records
6 related to a complaint, investigation, or inspection; and the identity of a complainant
7 and of individuals receiving services from an entity.

8 (b) With the exception of information that identifies a complainant or a
9 recipient of services from an entity, a copy of the department's report of investigation
10 or inspection under AS 47.32.130, an entity's written response to the report, and
11 information regarding any department imposition of an enforcement action under
12 AS 47.32.140 or 47.32.150 are public records under AS 40.25. The department shall
13 make this information available to the public for inspection and copying within
14 timeframes specified in AS 40.25 or regulations adopted under that statute, after the

15 (1) entity receives its copy of the report of investigation under
16 AS 47.32.130, if the department has determined that no enforcement action under
17 AS 47.32.140 or 47.32.150 will be taken regarding the entity;

18 (2) department's notice of enforcement action under AS 47.32.140 or
19 47.32.150 becomes a final administrative order without a hearing under
20 AS 47.32.140(c) or 47.32.150(h); or

21 (3) issuance of a decision following a hearing under AS 47.32.160.

22 **Sec. 47.32.200. Access to information.** Notwithstanding any contrary
23 provision of law, the divisions of the department assigned public health and public
24 assistance functions shall have access to any information compiled or retained by
25 other divisions within the department, regardless of the nature of the information or
26 whether the information is deemed confidential, in order to assist in administering the
27 provisions of this chapter.

28 **Sec. 47.32.210. Notice of changes from an entity.** (a) An entity shall
29 provide the department with written notice of a change of mailing address at least 14
30 days before the effective date of the change.

31 (b) An entity shall notify the department within 24 hours after having

1 knowledge that an administrator, employee, volunteer, or household member, as
2 required by the type of entity under department regulations, has been

3 (1) convicted of, charged by information or complaint with, or is under
4 indictment or presentment for, any offense listed in regulations adopted under
5 AS 47.05.310 or a law or ordinance of this or another jurisdiction with similar
6 elements; or

7 (2) found to have neglected or abused a child as described in AS 47.10.

8 (c) An entity shall notify the department within 24 hours after having
9 knowledge of any allegation or suspicion of abuse, neglect, or misappropriation of
10 money or other property of an individual receiving services from the entity. The entity
11 shall conduct an investigation and make a written report to the department within five
12 days following notification to the department under this subsection.

13 (d) An entity shall notify the department at least 20 days before the effective
14 date of a decision to relinquish the entity's license.

15 (e) An entity shall notify the department no later than one day after signing a
16 contract for sale of the licensed entity.

17 (f) An entity shall notify the department at least 30 days before it wishes to
18 change the location of the entity.

19 **Sec. 47.32.900. Definitions.** In this chapter,

20 (1) "ambulatory surgical center" means a facility that

21 (A) is not a part of a hospital or a physician's general medical
22 practice; and

23 (B) operates primarily for the purpose of providing surgical
24 services to patients who do not require hospitalization;

25 (2) "assisted living home"

26 (A) means a residential facility that serves three or more adults
27 who are not related to the owner by blood or marriage, or that receives state or
28 federal payment for services regardless of the number of adults served; the
29 department shall consider a facility to be an assisted living home if the facility

30 (i) provides housing and food services to its residents;

31 (ii) offers to provide or obtain for its residents

1 assistance with activities of daily living; or

2 (iii) provides or offers any combination of these
3 services;

4 (B) does not include

5 (i) a correctional facility;

6 (ii) an emergency shelter;

7 (iii) a program licensed under AS 47.10.310 for
8 runaway minors;

9 (iv) a type of entity listed in AS 47.32.010(b)(5), (8),
10 (9), (10), (11), or (12);

11 (3) "child placement agency" means an agency that arranges for
12 placement of a child

13 (A) in a foster home, residential child care facility, or adoptive
14 home; or

15 (B) for guardianship purposes;

16 (4) "criminal history check" means a report of criminal justice
17 information and a national criminal history record check under AS 47.05.310;

18 (5) "department" means the Department of Health and Social Services;

19 (6) "entity" means an entity listed in AS 47.32.010(b);

20 (7) "foster home" means a place where the adult head of household
21 provides 24-hour care on a continuing basis to one or more children who are apart
22 from their parents;

23 (8) "free-standing birth center" means a facility that is not a part of a
24 hospital and that provides a birth service to maternal clients;

25 (9) "frontier extended stay clinic" means a rural health clinic that is
26 authorized to provide 24-hour care to one or more individuals;

27 (10) "home health agency" means a public agency or private
28 organization, or a subdivision of a public agency or private organization, that
29 primarily engages in providing skilled nursing services, in combination with physical
30 therapy, occupational therapy, speech therapy, or services provided by a home health
31 aide, to individuals in the individual's home, an assisted living home, or another

1 residential setting; in this paragraph,

2 (A) "subdivision" means a component of a multi-function
3 facility or home health agency, such as the home health care division of a
4 hospital or the division of a public agency, that independently meets the
5 requirements for licensure as a home health agency;

6 (B) "public agency" means an agency operated by the state or
7 local government;

8 (11) "hospice agency" means a program that provides hospice services;

9 (12) "hospice philosophy" means a philosophy that is life affirming,
10 recognizes dying as a normal process of living, focuses on maintaining the quality of
11 remaining life, neither hastens nor postpones death, strengthens the client's role in
12 making informed decisions about care, and stresses the delivery of services, in the
13 least restrictive setting possible and with the least amount of technology necessary, by
14 volunteers and professionals who are trained to help a client with the physical, social,
15 psychological, spiritual, and emotional issues related to terminal illness so that the
16 clients can feel better prepared for the death that is to come;

17 (13) "hospice services" means a range of interdisciplinary palliative
18 and supportive services provided in a home or at an inpatient facility to persons who
19 are terminally ill and to those persons' families, in order to meet their physical,
20 psychological, social, emotional, and spiritual needs, and is based on hospice
21 philosophy;

22 (14) "hospital" means an institution or establishment, public or private,
23 devoted primarily to providing diagnosis, treatment, or care over a continuous period
24 of 24 hours each day for two or more nonrelated individuals suffering from illness,
25 physical or mental disease, injury or deformity, or any other condition for which
26 medical or surgical services would be appropriate; "hospital" does not include a
27 frontier extended stay clinic;

28 (15) "intermediate care facility for the mentally retarded" has the
29 meaning given in 42 C.F.R. 440.150;

30 (16) "licensed entity" means an entity that has a license issued under
31 this chapter;

1 (17) "maternity home" means a place of residence the primary function
 2 of which, with or without compensation, is to give care to pregnant individuals,
 3 regardless of age, or that provides care, as needed, to mothers and their newborn
 4 infants;

5 (18) "nursing facility" means a facility that is primarily engaged in
 6 providing skilled nursing care and related services for those who because of their
 7 mental or physical condition require care and services above the level of room and
 8 board; "nursing facility" does not include a facility that is primarily for the care and
 9 treatment of mental diseases;

10 (19) "residential child care facility" means a place, staffed by
 11 employees, where one or more children who are apart from their parents receive 24-
 12 hour care on a continuing basis;

13 (20) "residential psychiatric treatment center" means a secure or semi-
 14 secure facility, or an inpatient program in another facility, that provides, under the
 15 direction of a physician, psychiatric diagnostic, evaluation, and treatment services on a
 16 24-hour-a-day basis to children with severe emotional or behavioral disorders;

17 (21) "rural health clinic"

18 (A) means a facility or clinic that is authorized to provide
 19 health care services and is located in a rural area;

20 (B) includes a frontier extended stay clinic;

21 (C) does not include a rehabilitation agency, or a facility
 22 primarily for the care and treatment of mental diseases.

23 * **Sec. 2.** AS 09.55.560(1) is amended to read:

24 (1) "health care provider" means an acupuncturist licensed under
 25 AS 08.06; an audiologist or speech-language pathologist licensed under AS 08.11; a
 26 chiropractor licensed under AS 08.20; a dental hygienist licensed under AS 08.32; a
 27 dentist licensed under AS 08.36; a nurse licensed under AS 08.68; a dispensing
 28 optician licensed under AS 08.71; a naturopath licensed under AS 08.45; an
 29 optometrist licensed under AS 08.72; a pharmacist licensed under AS 08.80; a
 30 physical therapist or occupational therapist licensed under AS 08.84; a physician or
 31 physician assistant licensed under AS 08.64; a podiatrist; a psychologist and a

1 psychological associate licensed under AS 08.86; a hospital as defined in
 2 **AS 47.32.900** [AS 18.20.130], including a governmentally owned or operated
 3 hospital; an employee of a health care provider acting within the course and scope of
 4 employment; an ambulatory surgical facility and other organizations whose primary
 5 purpose is the delivery of health care, including a health maintenance organization,
 6 individual practice association, integrated delivery system, preferred provider
 7 organization or arrangement, and a physical hospital organization;

8 * **Sec. 3.** AS 09.65.095(b)(2) is amended to read:

9 (2) "hospital" means a hospital as defined in **AS 47.32.900**
 10 [AS 18.20.130], including a governmentally owned or operated hospital.

11 * **Sec. 4.** AS 09.65.096(d)(2) is amended to read:

12 (2) "hospital" has the meaning given in **AS 47.32.900** [AS 18.20.130]
 13 and includes a governmentally owned or operated hospital;

14 * **Sec. 5.** AS 11.61.195(a) is amended to read:

15 (a) A person commits the crime of misconduct involving weapons in the
 16 second degree if the person knowingly

17 (1) possesses a firearm during the commission of an offense under
 18 AS 11.71.010 - 11.71.040;

19 (2) violates AS 11.61.200(a)(1) and is within the grounds of or on a
 20 parking lot immediately adjacent to

21 (A) a public or private preschool, elementary, junior high, or
 22 secondary school without the permission of the chief administrative officer of
 23 the school or district or the designee of the chief administrative officer; or

24 (B) **an entity** [A CENTER], other than a private residence,
 25 licensed **as a child care facility** under **AS 47.32, licensed under** AS 47.33, or
 26 **licensed under former** AS 47.35, or recognized by the federal government for
 27 the care of children; or

28 (3) discharges a firearm at or in the direction of

29 (A) a building with reckless disregard for a risk of physical
 30 injury to a person; or

31 (B) a dwelling.

1 * **Sec. 6.** AS 11.61.220(a) is amended to read:

2 (a) A person commits the crime of misconduct involving weapons in the fifth
3 degree if the person

4 (1) is 21 years of age or older and knowingly possesses a deadly
5 weapon, other than an ordinary pocket knife or a defensive weapon,

6 (A) that is concealed on the person, and, when contacted by a
7 peace officer, the person fails to

8 (i) immediately inform the peace officer of that
9 possession; or

10 (ii) allow the peace officer to secure the deadly weapon,
11 or fails to secure the weapon at the direction of the peace officer,
12 during the duration of the contact;

13 (B) that is concealed on the person within the residence of
14 another person unless the person has first obtained the express permission of
15 an adult residing there to bring a concealed deadly weapon within the
16 residence;

17 (2) knowingly possesses a loaded firearm on the person in any place
18 where intoxicating liquor is sold for consumption on the premises;

19 (3) being an unemancipated minor under 16 years of age, possesses a
20 firearm without the consent of a parent or guardian of the minor;

21 (4) knowingly possesses a firearm

22 (A) within the grounds of or on a parking lot immediately
23 adjacent to **an entity** [A CENTER], other than a private residence, licensed **as**
24 **a child care facility** under **AS 47.32, licensed under** AS 47.33, or **licensed**
25 **under former** AS 47.35, or recognized by the federal government for the care
26 of children;

27 (B) within a

28 (i) courtroom or office of the Alaska Court System; or

29 (ii) courthouse that is occupied only by the Alaska
30 Court System and other justice-related agencies; or

31 (C) within a domestic violence or sexual assault shelter that

1 receives funding from the state;

2 (5) possesses or transports a switchblade or a gravity knife; or

3 (6) is less than 21 years of age and knowingly possesses a deadly
4 weapon, other than an ordinary pocket knife or a defensive weapon, that is concealed
5 on the person.

6 * **Sec. 7.** AS 18.07.031(b) is amended to read:

7 (b) Notwithstanding the expenditure threshold in (a) of this section, a person
8 may not convert a building or part of a building to a nursing home that requires
9 licensure **as a nursing facility** under **AS 47.32** [AS 18.20.020] unless authorized
10 under the terms of a certificate of need issued by the department.

11 * **Sec. 8.** AS 18.23.070(3) is amended to read:

12 (3) "health care provider" means an acupuncturist licensed under
13 AS 08.06; a chiropractor licensed under AS 08.20; a dental hygienist licensed under
14 AS 08.32; a dentist licensed under AS 08.36; a nurse licensed under AS 08.68; a
15 dispensing optician licensed under AS 08.71; an optometrist licensed under AS 08.72;
16 a pharmacist licensed under AS 08.80; a physical therapist or occupational therapist
17 licensed under AS 08.84; a physician licensed under AS 08.64; a podiatrist; a
18 psychologist and a psychological associate licensed under AS 08.86; a hospital as
19 defined in **AS 47.32.900** [AS 18.20.130], including a governmentally owned or
20 operated hospital; and an employee of a health care provider acting within the course
21 and scope of employment;

22 * **Sec. 9.** AS 18.26.220 is amended to read:

23 **Sec. 18.26.220. Facility compliance with health and safety laws and**
24 **licensing requirements.** A medical facility constructed, acquired, improved,
25 financed, or otherwise under the provisions of this chapter and all actions of the
26 authority are subject to AS 18.07, **AS 47.32** [AS 18.20], and any other present or
27 future state licensing requirements for the facilities or services provided under this
28 chapter. A medical facility issued a certificate of need under Sec. 4, ch. 275, SLA
29 1976 by virtue of being in existence or under construction before July 1, 1976, must
30 fully meet the requirements of AS 18.07 in order to be eligible for funding under this
31 chapter.

1 * **Sec. 10.** AS 18.50.950(4) is amended to read:

2 (4) "child adoption agency" means a child adoption agency licensed **as**
 3 **a child placement agency** under **AS 47.32 or under former** AS 47.35;

4 * **Sec. 11.** AS 21.86.030(c) is amended to read:

5 (c) Nothing in this section relieves a health maintenance organization that
 6 wishes to exercise the power described in (a)(1) of this section from the requirements
 7 of

8 (1) AS 18.07, regarding obtaining a certificate of need;

9 (2) **AS 47.32** [AS 18.20], regarding regulation of hospitals; and

10 (3) other statutes applicable to hospitals or other health care facilities.

11 * **Sec. 12.** AS 25.23.185(c) is amended to read:

12 (c) A child adoption agency licensed under **former** AS 47.35, **and a child**
 13 **placement agency licensed under AS 47.32,** shall maintain records of the
 14 information required to be furnished to the court under this section or under
 15 regulations of the commissioner implementing this section. If a child adoption agency
 16 **or child placement agency** ceases to place persons for adoption, it shall transfer its
 17 records to the commissioner.

18 * **Sec. 13.** AS 25.27.244(s)(2) is amended to read:

19 (2) "license"

20 (A) means, except as provided in (B) of this paragraph, a
 21 license, certificate, permit, registration, or other authorization that, at the time
 22 of issuance, will be valid for more than 150 days and that may be acquired
 23 from a state agency to perform an occupation, including the following:

24 (i) license relating to boxing or wrestling under
 25 AS 05.10;

26 (ii) authorization to perform an occupation regulated
 27 under AS 08;

28 (iii) teacher certificate under AS 14.20;

29 (iv) authorization under AS 18.08 to perform
 30 emergency medical services;

31 (v) asbestos worker certification under AS 18.31;

- 1 (vi) boiler operator's license under AS 18.60.395;
- 2 (vii) certificate of fitness under AS 18.62;
- 3 (viii) hazardous painting certification under AS 18.63;
- 4 (ix) security guard license under AS 18.65.400 -
- 5 18.65.490;
- 6 (x) license relating to insurance under AS 21.27;
- 7 (xi) employment agency permit under AS 23.15.330 -
- 8 23.15.520;
- 9 (xii) registration as a broker-dealer, an agent, a state
- 10 investment adviser, or an investment adviser representative under
- 11 AS 45.55.030;
- 12 (xiii) certification as a pesticide applicator under
- 13 AS 46.03.320;
- 14 (xiv) certification as a storage tank worker or contractor
- 15 under AS 46.03.375;
- 16 (xv) certification as a water and wastewater works
- 17 operator under AS 46.30; and
- 18 (xvi) commercial crewmember fishing license under
- 19 AS 16.05.480 other than an entry permit or interim-use permit under
- 20 AS 16.43;
- 21 (xvii) fish transporter permit under AS 16.05.671;
- 22 (xviii) sport fishing operator license under
- 23 AS 16.40.260;
- 24 (xix) sport fishing guide license under AS 16.40.270;
- 25 (B) does not include
- 26 (i) a vessel license issued under AS 16.05.490 or
- 27 16.05.530;
- 28 (ii) a license issued **to a child care facility** under
- 29 **AS 47.32** [AS 47.35];
- 30 (iii) a business license issued under AS 43.70;
- 31 (iv) an entry permit or interim-use permit issued under

1 AS 16.43; or

2 (v) a driver's license issued under AS 28.15;

3 * **Sec. 14.** AS 37.05.146(c)(67) is amended to read:

4 (67) fees received by the Department of Health and Social Services
5 under AS 47.32 [AS 47.33.910 FOR LICENSING ASSISTED LIVING HOMES];

6 * **Sec. 15.** AS 47.05.010(15) is amended to read:

7 (15) investigate reports of abuse, neglect, or misappropriation of
8 property by certified nurse aides in facilities licensed by the department under
9 AS 47.32 or under former AS 18.20.

10 * **Sec. 16.** AS 47.05.055(a) is amended to read:

11 (a) If the department has reason to believe that a certified nurse aide employed
12 in a facility licensed by the department under AS 47.32 as a hospital or nursing
13 home, or under former AS 18.20, has committed abuse, neglect, or misappropriation
14 of property in connection with the person's duties as a certified nurse aide at the
15 facility, the department shall investigate the matter. The department shall conduct
16 proceedings to determine whether [IF] a finding of abuse, neglect, or
17 misappropriation of property should be made. These proceedings shall be conducted
18 under AS 44.62.330 - 44.62.630. A finding under this subsection that a certified nurse
19 aide has committed abuse, neglect, or misappropriation of property shall be reported
20 by the department to the Board of Nursing.

21 * **Sec. 17.** AS 47.05 is amended by adding new sections to read:

22 **Article 3. Criminal History; Registry.**

23 **Sec. 47.05.300. Applicability.** (a) The provisions of AS 47.05.310 -
24 47.05.390 apply to any individual or entity that is required by statute or regulation to
25 be licensed or certified by the department or that is eligible to receive payments, in
26 whole or in part, from the department to provide for the health, safety, and welfare of
27 persons who are served by the programs administered by the department.

28 (b) Those individual service providers subject to AS 47.05.310 - 47.05.390
29 under (a) of this section include

30 (1) public home care providers described in AS 47.05.017;

31 (2) providers of home and community-based waiver services financed

1 under AS 47.07.030(c); and

2 (3) case managers to coordinate community mental health services
3 under AS 47.30.530.

4 **Sec. 47.05.310. Criminal history; criminal history check; compliance.** (a)

5 If an individual has been charged with, convicted of, found not guilty by reason of
6 insanity for, or adjudicated as a delinquent for, a crime that is inconsistent with the
7 standards for licensure or certification established by the department by regulation,
8 that individual may not own an entity, or be an officer, director, partner, member, or
9 principal of the business organization that owns an entity. In addition, an entity may
10 not

11 (1) allow that individual to operate the entity;

12 (2) hire or retain that individual at the entity as an employee,
13 independent contractor, or volunteer of the entity;

14 (3) allow that individual to reside in the entity if not a recipient of
15 services; or

16 (4) allow that individual to be present in the entity if the individual
17 would have regular contact with individuals who receive services from the entity,
18 unless that individual is a family member of or visitor of an individual who receives
19 services from the entity.

20 (b) The department may not issue or renew a license or a certification for an
21 entity that is in violation of (a) of this section or that would be in violation based on
22 the information received as part of the application process.

23 (c) The department may not issue or renew a license or certification for an
24 entity if an individual is applying for a license, license renewal, certification, or
25 certification renewal for the entity and that

26 (1) individual has been found by a court or agency of this or another
27 jurisdiction to have neglected, abused, or exploited a child or vulnerable adult under
28 AS 47.10, AS 47.24, or AS 47.62 or a substantially similar provision in another
29 jurisdiction; or

30 (2) individual's name appears on the centralized registry established
31 under AS 47.05.330 or a similar registry of this state or another jurisdiction.

1 (d) An entity shall provide to the department a release of information
2 authorization for a criminal history check for any individual who is not a recipient of
3 services from the entity, and who, after the entity has been issued a license, license
4 renewal, certification, or certification renewal by the department,

5 (1) intends to become an owner of the entity, or an officer, director,
6 partner, member, or principal of the business organization that owns the entity;

7 (2) the entity intends to hire or retain as the operator of the entity's
8 business;

9 (3) the entity intends to hire or retain as an employee, independent
10 contractor, or volunteer of the entity; or

11 (4) will be present in the entity or at the places of operation of entity,
12 and would have regular contact with individuals who receive services from the entity,
13 but is not a family member or visitor of an individual who receives services from the
14 entity.

15 (e) An individual for whom a release of information authorization has been
16 provided to the department shall submit the individual's fingerprints to the department,
17 with the fee established under AS 12.62.160, for a report of criminal justice
18 information under AS 12.62 and for submission by the Department of Public Safety to
19 the Federal Bureau of Investigation for a national criminal history records check. The
20 Department of Public Safety shall provide the report of criminal justice information
21 and the results of the national criminal history records check to the department for its
22 use in considering an application for a license, license renewal, certification, or
23 certification renewal, or in considering other approval or selection regarding an entity,
24 for compliance with the standards established in this section. For purposes of
25 obtaining access to criminal justice information maintained by the Department of
26 Public Safety under AS 12.62, the department is a criminal justice agency conducting
27 a criminal justice activity. The department may waive the requirement for fingerprint
28 submission if an individual is unable to provide fingerprints due to a medical or
29 physical condition that is documented by a licensed physician.

30 (f) The provisions of this section do not apply if the department grants an
31 exception from a requirement of (a) - (e) of this section under a regulation adopted by

1 the department.

2 (g) The department shall adopt regulations listing those criminal offenses that
3 are inconsistent with the standards for licensure or certification by the department.

4 (h) An individual service provider is subject to the provisions of (a) - (g) of
5 this section as if the individual service provider were an entity subject to those
6 provisions.

7 (i) For purposes of (b) and (c) of this section, in place of nonissuance or
8 nonrenewal of a license or certification, an entity or individual service provider that is
9 not required to be licensed or certified by the department, or a person wishing to
10 become such an entity or individual service provider, is instead ineligible to receive a
11 payment, in whole or in part, from the department to provide for the health, safety, and
12 welfare of persons who are served by the programs administered by the department if
13 the entity, individual service provider, or person

14 (1) is in violation of (a) of this section, or would be in violation based
15 on information received by the department as part of an application, approval, or
16 selection process;

17 (2) has been found by a court or agency of this or another jurisdiction
18 to have neglected, abused, or exploited a child or vulnerable adult under AS 47.10,
19 AS 47.24, or AS 47.62 or a substantially similar provision in another jurisdiction; or

20 (3) appears on the centralized registry established under AS 47.05.330
21 or a similar registry of this state or another jurisdiction.

22 **Sec. 47.05.320. Criminal history use standards.** The department shall by
23 regulation establish standards for the consideration and use by the department, an
24 entity, or an individual service provider of the criminal history of an individual
25 obtained under AS 47.05.310.

26 **Sec. 47.05.330. Centralized registry.** (a) The department shall by regulation
27 provide for a centralized registry to facilitate the licensing or certification of entities
28 and individual service providers, the authorization of payments to entities or
29 individual service providers by the department, and employment of individuals by
30 entities and individual service providers.

31 (b) Except for the name of each victim being redacted before the information

1 is placed on the registry, the registry shall consist of the following information for an
2 entity or individual service provider, an applicant on behalf of an entity or individual
3 service provider, or an employee of an entity or individual service provider:

4 (1) orders, judgments, and adjudications finding that the applicant or
5 the employee committed abuse, neglect, or exploitation under AS 47.10, AS 47.24,
6 AS 47.62, or a substantially similar provision in another jurisdiction;

7 (2) orders under a state statute or a substantially similar provision in
8 another jurisdiction that a license or certification of the entity or individual service
9 provider to provide services related to the health, safety, and welfare of persons was
10 denied, suspended, revoked, or conditioned.

11 (c) As a condition for applying for licensure or certification of an entity or
12 individual service provider, or for payment to an entity or individual service provider
13 by the department, an applicant must agree to submit timely to the registry the
14 information required under this section relating to the entity, any individual, the
15 applicant, and employees of the entity or individual service provider.

16 (d) The department shall prescribe by regulation the form or format by which
17 an applicant must submit required information to the registry.

18 (e) Notwithstanding any contrary provision of law, the department may also
19 submit information described in this section to the registry. An entity or individual
20 that is exempt from department licensure or certification and that does not receive
21 money from the department for its services may voluntarily submit information
22 described in this section to the department for placement in the registry.

23 (f) Information contained in the registry is a public record under AS 40.25 and
24 is subject to public inspection and copying.

25 (g) A person who, in good faith, submits information to the registry in
26 accordance with this section is immune from civil or criminal liability that might
27 otherwise exist for submitting information to the registry.

28 (h) A person about whom information is placed in the registry may request the
29 department to delete or modify the information to correct inaccuracies. The
30 department shall investigate the request and make necessary deletions or
31 modifications.

1 **Sec. 47.05.340 Regulations.** The department shall adopt regulations to
2 implement AS 47.05.300 - 47.05.390.

3 **Sec. 47.05.390. Definitions.** In AS 47.05.300 - 47.05.390, unless the context
4 otherwise requires,

5 (1) "criminal history records" has the meaning given in AS 12.64.010;

6 (2) "criminal justice activity" has the meaning given in AS 12.62.900;

7 (3) "criminal justice agency" has the meaning given in AS 12.62.900;

8 (4) "criminal justice information" has the meaning given in
9 AS 12.62.900;

10 (5) "department" means the Department of Health and Social Services;

11 (6) "entity" includes an entity listed in AS 47.32.010(b);

12 (7) "individual service provider" means an individual described in
13 AS 47.05.300(a), and includes those listed in AS 47.05.300(b);

14 (8) "license" includes a provisional license.

15 * **Sec. 18.** AS 47.10.990(10) is amended to read:

16 (10) "foster care" means care provided by a person or household under
17 a foster home license required under **AS 47.32 or under former** AS 47.35.015;

18 * **Sec. 19.** AS 47.10.990(24) is amended to read:

19 (24) "secure residential psychiatric treatment center" has the meaning
20 given **"residential psychiatric treatment center"** in **AS 47.32.900** [AS 47.35.900].

21 * **Sec. 20.** AS 47.12.990(14) is amended to read:

22 (14) "secure residential psychiatric treatment center" has the meaning
23 given **"residential psychiatric treatment center"** in **AS 47.32.900;** [AS 47.35.900.]

24 * **Sec. 21.** AS 47.24.013(a) is amended to read:

25 (a) If a report received under AS 47.24.010 regards the abandonment,
26 exploitation, abuse, neglect, or self-neglect of a vulnerable adult who is 60 years of
27 age or older that is alleged to have been committed by or to have resulted from the
28 negligence of the staff or a volunteer of an out-of-home care facility, including a
29 facility licensed under **AS 47.32 or under former** AS 18.20, in which the vulnerable
30 adult resides, the department shall transfer the report for investigation to the long term
31 care ombudsman under AS 47.62.015.

1 * **Sec. 22.** AS 47.24.017(d) is amended to read:

2 (d) If the protective services under this section include the placement of a
3 vulnerable adult in an assisted living home at the state's expense, the minimum daily
4 reimbursement rate to the assisted living home for the vulnerable adult is \$70. The
5 department may, under its regulations, provide for a daily rate higher than \$70 if the
6 additional care provided to the vulnerable adult in the assisted living home justifies the
7 additional reimbursement. In this subsection, "assisted living home" means an
8 assisted living home licensed under **AS 47.32 or under** AS 47.33.

9 * **Sec. 23.** AS 47.25.071(b) is amended to read:

10 (b) To qualify for a grant under (a) or (d) of this section, the child care facility
11 must

12 (1) be currently licensed under **AS 47.32 or under former** AS 47.35,
13 and applicable municipal licensing requirements;

14 (2) participate in the day care assistance program under AS 47.25.001 -
15 47.25.095; and

16 (3) provide care under a payment system as provided in (g) of this
17 section.

18 * **Sec. 24.** AS 47.25.095(2) is amended to read:

19 (2) "child care facility" means an establishment licensed **as a child**
20 **care facility** under **AS 47.32, or licensed under former** AS 47.35, including day care
21 centers, family day care homes, and schools for preschool age children, that provides
22 care for children not related by blood, marriage, or legal adoption to the owner,
23 operator, or manager of the facility;

24 * **Sec. 25.** AS 47.25.095(4) is amended to read:

25 (4) "day care facility" means a center or home licensed in accordance
26 with the provisions of **AS 47.32 as a child care facility or with the provisions of**
27 **former** AS 47.35, or recognized by the federal government for the care of children;

28 * **Sec. 26.** AS 47.25.195(f)(1) is amended to read:

29 (1) "assisted living home" means an assisted living home licensed
30 under **AS 47.32 or under** AS 47.33;

31 * **Sec. 27.** AS 47.30.915(5) is amended to read:

1 (5) "evaluation facility" means a health care facility that has been
 2 designated or is operated by the department to perform the evaluations described in
 3 AS 47.30.660 - 47.30.915, or a medical facility licensed under **AS 47.32 or under**
 4 **former** AS 18.20.020 or operated by the federal government;

5 * **Sec. 28.** AS 47.31.100(4) is amended to read:

6 (4) "evaluation facility" means a health care facility that has been
 7 designated by the department to perform the evaluations described in AS 47.30.670 -
 8 47.30.915, including a facility licensed under **AS 47.32 or under former**
 9 AS 18.20.020 or operated by the federal government;

10 * **Sec. 29.** AS 47.40.021 is amended to read:

11 **Sec. 47.40.021. Licensing and supervision.** Facilities providing services that
 12 are purchased by the department under AS 47.40.011 - 47.40.091, shall, if required by
 13 the department, be licensed and supervised under **AS 47.32** [AS 47.35].

14 * **Sec. 30.** AS 47.40.110 is amended to read:

15 **Sec. 47.40.110. Licensing and supervision.** A person providing services
 16 purchased by the Department of Health and Social Services under AS 47.40.100 -
 17 47.40.120 shall, if required to be licensed under **AS 47.32** [AS 47.35], be licensed and
 18 supervised in the same manner as foster homes and maternity homes under **AS 47.32**
 19 [AS 47.35].

20 * **Sec. 31.** AS 47.62.090(2) is amended to read:

21 (2) "long term care facility" means an assisted living home **as defined**
 22 **in AS 47.32.900** [THAT IS REQUIRED TO BE LICENSED UNDER AS 47.33] and
 23 a nursing **facility** [HOME] as defined in **AS 47.32.900** [AS 08.70.180];

24 * **Sec. 32.** AS 47.80.140 is repealed and reenacted to read:

25 **Sec. 47.80.140. Licensing and certificates of need.** (a) A person may not
 26 establish or operate a residential facility until the facility has been licensed under
 27 AS 47.32.

28 (b) A certificate of need is required as a prerequisite for the licensing of a
 29 residential facility established after July 1, 1978, and not otherwise provided for in
 30 AS 18.07.031 - 18.07.111. A certificate shall be issued and regulated in the same
 31 manner as provided in AS 18.07.031 - 18.07.111 for certificates of need for health

1 care facilities. This subsection does not apply to an assisted living home licensed
2 under AS 47.32.

3 * **Sec. 33.** AS 14.43.148(h)(1)(B)(iii) is repealed.

4 * **Sec. 34.** AS 18.05.040(a)(10); AS 18.18.005, 18.18.010, 18.18.020, 18.18.030,
5 18.18.040, 18.18.100, 18.18.200, 18.18.300, 18.18.310, 18.18.320, 18.18.330, 18.18.340,
6 18.18.350, 18.18.390, 18.18.410, 18.18.420, 18.18.430, 18.18.440, 18.18.450, 18.18.460,
7 18.18.470, and 18.18.490 are repealed.

8 * **Sec. 35.** AS 18.20.010, 18.20.020, 18.20.030, 18.20.040, 18.20.050, 18.20.060,
9 18.20.070, 18.20.090, 18.20.110, 18.20.120 18.20.130(2), 18.20.230, 18.20.240, 18.20.250,
10 18.20.260, and 18.20.302 are repealed.

11 * **Sec. 36.** AS 44.62.330(15), 44.62.330(17), and 44.62.330(41) are repealed.

12 * **Sec. 37.** AS 47.33.100, 47.33.400, 47.33.410, 47.33.420, 47.33.430, 47.33.500,
13 47.33.510, 47.33.520, 47.33.530, 47.33.540, 47.33.550, 47.33.560, 47.33.570, 47.33.910,
14 47.33.920, 47.33.990(8), 47.33.990(11), and 47.33.990(14) are repealed.

15 * **Sec. 38.** AS 47.35.005, 47.35.010, 47.35.015, 47.35.017, 47.35.019, 47.35.021,
16 47.35.022, 47.35.023, 47.35.025, 47.35.027, 47.35.029, 47.35.033, 47.35.037, 47.35.039,
17 47.35.043, 47.35.045, 47.35.047, 47.35.048, 47.35.085, 47.35.105, 47.35.110, 47.35.120,
18 47.35.130, 47.35.132, 47.35.140, 47.35.800, 47.35.810, 47.35.820, and 47.35.900 are
19 repealed.

20 * **Sec. 39.** AS 47.37.270(2) and 47.37.270(3) are repealed.

21 * **Sec. 40.** The uncodified law of the State of Alaska is amended by adding a new section to
22 read:

23 **APPLICABILITY; DEPARTMENT ACTION.** (a) The changes made by this Act
24 apply to

25 (1) applications or requests submitted within the 90 days before, or submitted
26 on or after, the effective dates of secs. 1 and 17 of this Act for initial licensure, certification,
27 or other approval or selection as any of the following:

28 (A) an entity or individual service provider that is subject to
29 AS 47.05.300 - 47.05.390, enacted by sec. 17 of this Act,

30 (B) an entity listed in AS 47.32.010(b), enacted by sec. 1 of this Act,
31 that is not described in (A) of this paragraph;

1 (2) applications submitted within the 90 days before, or submitted on or after,
 2 the effective date of secs. 1 - 31 and 33 - 39 of this Act for renewal of a license issued before
 3 the effective date of secs. 1 - 31 and 33 - 39 of this Act under a statute repealed or amended
 4 by this Act, and regarding a type of entity listed in AS 47.32.010(b), enacted by sec. 1 of this
 5 Act; and

6 (3) applications or requests submitted within the 90 days before, or submitted
 7 on or after, the effective dates of secs. 1 and 17 of this Act, for renewal of a license,
 8 certification, or other approval or selection for an entity or individual service provider that is
 9 subject to AS 47.05.300 - 47.05.390, enacted by sec. 17 of this Act, and that is not described
 10 in (2) of this subsection.

11 (b) The Department of Health and Social Services may not make a final determination
 12 regarding an application or request described in (a) of this section earlier than the effective
 13 date of secs. 1 - 31 and 33 - 39 of this Act.

14 (c) In this section,

15 (1) "entity" includes an entity subject to AS 47.05.300 - 47.05.390, enacted by
 16 sec. 17 of this Act, and an entity listed in AS 47.32.010(b), enacted by sec. 1 of this Act, that
 17 is not subject to AS 47.05.300 - 47.05.390, enacted by sec. 17 of this Act;

18 (2) "individual service provider" has the meaning given in AS 47.05.390,
 19 enacted by sec. 17 of this Act.

20 * **Sec. 41.** The uncodified law of the State of Alaska is amended by adding a new section to
 21 read:

22 **TRANSITION: CURRENTLY LICENSED OR APPROVED FACILITIES.** (a)
 23 Notwithstanding AS 47.32.020, enacted by sec. 1 of this Act, a facility that is a type of entity
 24 listed in AS 47.32.010(b), enacted by sec. 1 of this Act, and that on the effective date of secs.
 25 1 - 31 and 33 - 39 of this Act is being operated under a valid license or under an approval
 26 issued by the department under a statute repealed or amended by this Act, may continue to be
 27 operated under that license or approval as provided in this section.

28 (b) Until renewal or expiration of a current license under (c) or (d) of this section, the
 29 requirements and standards, including department oversight, monitoring, and enforcement
 30 actions, regarding operation of a facility that is authorized to continuing operating under this
 31 section are those that were in effect in statute or regulation on the day before the effective date

1 of secs. 1 - 31 and 33 - 39 of this Act.

2 (c) Unless the terms of the facility's current license provide for an earlier expiration
3 date, and unless an enforcement action taken by the department as provided in (b) of this
4 section affects the validity of the current license, the expiration date of the current license of a
5 facility described in (a) of this section is June 30, 2006.

6 (d) Application for license renewal must be made under AS 47.32.060, enacted by
7 sec. 1 of this Act, by the date required by that statute, for a facility described in (a) of this
8 section for which renewal of licensure is desired before expiration of the facility's current
9 license. For purposes of renewal of a license under this subsection and AS 47.32.060, enacted
10 by sec. 1 of this Act, the current license for the facility is considered to be a biennial license
11 under AS 47.32.

12 (e) In this section,

13 (1) "current license" means a license or approval described in (a) of this
14 section;

15 (2) "department" means the Department of Health and Social Services.

16 * **Sec. 42.** The uncodified law of the State of Alaska is amended by adding a new section to
17 read:

18 **TRANSITION: CERTAIN PENDING APPLICATIONS AND OTHER REQUESTS.**

19 (a) An application for licensure or approval regarding a facility that is a type of entity listed
20 in AS 47.32.010(b), enacted by sec. 1 of this Act, that was submitted more than 90 days
21 before the effective date of secs. 1 - 31 and 33 - 39 of this Act under a statute repealed or
22 amended by this Act and that is pending department action on the effective date of secs. 1 - 31
23 and 33 - 39 of this Act shall continue to be processed, and either granted or denied, by the
24 department under the applicable statutes and regulations that were in effect on the day before
25 the effective date of secs. 1 - 31 and 33 - 39 of this Act.

26 (b) Until renewal or expiration of the license or approval under (c) or (d) of this
27 section, the requirements and standards, including department oversight, monitoring, and
28 enforcement actions, regarding operation of a facility licensed or approved as provided in (a)
29 of this section are those that were in effect in statute or regulation on the day before the
30 effective date of secs. 1 - 31 and 33 - 39 of this Act.

31 (c) Unless an enforcement action taken by the department as provided in (b) of this

1 section affects the validity of the license or approval, a license or approval issued by the
 2 department on or after the effective date of secs. 1 - 31 and 33 - 39 of this Act under the
 3 provisions of (a) of this section expires June 30, 2006.

4 (d) Application must be made under AS 47.32.060, enacted by sec. 1 of this Act, by
 5 the date required by that statute, for a facility described in (a) of this section for which a
 6 license or approval was issued under (a) of this section and for which renewal of a license is
 7 desired, before expiration of the license or approval issued under (a) of this section. For
 8 purposes of renewal of a license under this subsection and AS 47.32.060, enacted by sec. 1 of
 9 this Act, the license or approval issued under (a) of this section regarding the facility is
 10 considered to be a biennial license under AS 47.32.

11 (e) An application or other request for licensure, certification, or other approval or
 12 selection as an entity or individual service provider that would be subject to AS 47.05.300 -
 13 47.05.390, enacted by sec. 17 of this Act, that was submitted more than 90 days before the
 14 effective date of sec. 17 of this Act and is pending department action on the effective date of
 15 sec. 17 of this Act shall continue to be processed, and either granted or denied, by the
 16 department under the applicable statutes and regulations that were in effect on the day before
 17 the effective date of sec. 17 of this Act. In this subsection,

18 (1) "entity" means an entity that would be subject to AS 47.05.300 -
 19 47.05.390, enacted by sec. 17 of this Act, other than one for which an application was
 20 submitted as described in (a) of this section;

21 (2) "individual service provider" has the meaning given in AS 47.05.390,
 22 enacted by sec. 17 of this Act.

23 (f) In this section,

24 (1) "department" means the Department of Health and Social Services;

25 (2) "license" includes a renewed license.

26 * **Sec. 43.** The uncodified law of the State of Alaska is amended by adding a new section to
 27 read:

28 **TRANSITION: REGULATIONS.** The Department of Health and Social Services
 29 may proceed to adopt regulations necessary to implement this Act. The regulations take
 30 effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the
 31 statutory changes.

1 * **Sec. 44.** Sections 40, 42, and 43 of this Act take effect immediately under
2 AS 01.10.070(c).

3 * **Sec. 45.** Section 32 of this Act takes effect July 1, 2006.

4 * **Sec. 46.** Except as provided in secs. 44 and 45 of this Act, this Act takes effect July 2,
5 2005.