

CS FOR HOUSE BILL NO. 193(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 4/26/05

Referred: Judiciary, Finance

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

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 or operating hospice programs, hospitals,
5 intermediate care facilities for the mentally retarded, maternity homes, nursing
6 facilities, residential child care facilities, residential psychiatric treatment centers,
7 runaway shelters, and rural health clinics; relating to criminal history requirements,
8 and a registry, regarding certain licenses, certifications, approvals, and authorizations
9 by the Department of Health and Social Services; expanding reimbursable services
10 under Medicaid waivers for older Alaskans and adults with disabilities to include adult
11 companion services; making conforming amendments; and providing for an effective
12 date."

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

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

3 (1) "health care provider" means an acupuncturist licensed under
 4 AS 08.06; an audiologist or speech-language pathologist licensed under AS 08.11; a
 5 chiropractor licensed under AS 08.20; a dental hygienist licensed under AS 08.32; a
 6 dentist licensed under AS 08.36; a nurse licensed under AS 08.68; a dispensing
 7 optician licensed under AS 08.71; a naturopath licensed under AS 08.45; an
 8 optometrist licensed under AS 08.72; a pharmacist licensed under AS 08.80; a
 9 physical therapist or occupational therapist licensed under AS 08.84; a physician or
 10 physician assistant licensed under AS 08.64; a podiatrist; a psychologist and a
 11 psychological associate licensed under AS 08.86; a hospital as defined in
 12 **AS 47.32.900** [AS 18.20.130], including a governmentally owned or operated
 13 hospital; an employee of a health care provider acting within the course and scope of
 14 employment; an ambulatory surgical facility and other organizations whose primary
 15 purpose is the delivery of health care, including a health maintenance organization,
 16 individual practice association, integrated delivery system, preferred provider
 17 organization or arrangement, and a physical hospital organization;

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

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

21 * **Sec. 3.** AS 09.65.096(d)(2) is amended to read:

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

24 * **Sec. 4.** AS 11.61.195(a) is amended to read:

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

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

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

31 (A) a public or private preschool, elementary, junior high, or

1 secondary school without the permission of the chief administrative officer of
 2 the school or district or the designee of the chief administrative officer; or

3 (B) an entity [A CENTER], other than a private residence,
 4 licensed as a child care facility under AS 47.32 [AS 47.33 OR AS 47.35] or
 5 recognized by the federal government for the care of children; or

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

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

9 (B) a dwelling.

10 * **Sec. 5.** AS 11.61.220(a) is amended to read:

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

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

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

17 (i) immediately inform the peace officer of that
 18 possession; or

19 (ii) allow the peace officer to secure the deadly weapon,
 20 or fails to secure the weapon at the direction of the peace officer,
 21 during the duration of the contact;

22 (B) that is concealed on the person within the residence of
 23 another person unless the person has first obtained the express permission of
 24 an adult residing there to bring a concealed deadly weapon within the
 25 residence;

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

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

30 (4) knowingly possesses a firearm

31 (A) within the grounds of or on a parking lot immediately

1 adjacent to **an entity** [A CENTER], other than a private residence, licensed **as**
 2 **a child care facility** under **AS 47.32** [AS 47.33 OR AS 47.35] or recognized
 3 by the federal government for the care of children;

4 (B) within a

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

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

8 (C) within a domestic violence or sexual assault shelter that
 9 receives funding from the state;

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

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

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

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

19 * **Sec. 7.** AS 18.20.130 is amended to read:

20 **Sec. 18.20.130. Definitions.** In **AS 18.20.075 - 18.20.130** [AS 18.20.010 -
 21 18.20.130],

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

23 (2) "governmental unit" means the state, a municipality, or other
 24 political subdivision, or a department, division, board, or other agency of any of them;

25 (3) "hospital" means an institution or establishment, public or private,
 26 devoted primarily to providing diagnosis, treatment, or care over a continuous period
 27 of 24 hours each day for two or more nonrelated individuals suffering from illness,
 28 physical or mental disease, injury or deformity, or any other condition for which
 29 medical or surgical services would be appropriate.

30 * **Sec. 8.** AS 18.20.310(a) is amended to read:

31 (a) If the department finds that a nursing facility, or a partner, officer, director,

1 owner of five percent or more of the nursing facility's assets, or managing employee of
 2 the nursing facility substantially failed or refused to comply with AS 08.68.340 -
 3 08.68.390, AS 08.70, AS 18.20.075 - 18.20.085 [AS 18.20.010 - 18.20.130],
 4 AS 47.07, or with a regulation adopted under any of those statutes, or, for a nursing
 5 facility that provides Medicaid services under AS 47.07, failed or refused to comply
 6 with the Medicaid requirements of 42 U.S.C. 1396r (Title XIX of the Social Security
 7 Act, as amended) or a regulation adopted under that statute, the department may take
 8 the following actions:

- 9 (1) ban the admission of new residents to the nursing facility;
- 10 (2) as provided in AS 18.20.320, deny payment under AS 47.07 and
 11 AS 47.25.120 - 47.25.300 for any Medicaid or general relief-medical resident admitted
 12 to the nursing facility after notice by the department of denial of payment; residents
 13 who are eligible for Medicaid or general relief-medical are not responsible for
 14 payment when the department takes action under this paragraph;
- 15 (3) assess a civil fine in accordance with AS 18.20.340;
- 16 (4) suspend or terminate the nursing facility's participation in the
 17 Medicaid program;
- 18 (5) suspend, revoke, or refuse to renew the nursing facility's license
 19 issued under this chapter;
- 20 (6) seek an appointment of temporary administration as provided in
 21 AS 18.20.360 or of a receiver under AS 18.20.370;
- 22 (7) in case of an emergency, seek an order from the court either to
 23 close the nursing facility or to transfer residents from that facility, or both.

24 * **Sec. 9.** AS 18.23.070(3) is amended to read:

25 (3) "health care provider" means an acupuncturist licensed under
 26 AS 08.06; a chiropractor licensed under AS 08.20; a dental hygienist licensed under
 27 AS 08.32; a dentist licensed under AS 08.36; a nurse licensed under AS 08.68; a
 28 dispensing optician licensed under AS 08.71; an optometrist licensed under AS 08.72;
 29 a pharmacist licensed under AS 08.80; a physical therapist or occupational therapist
 30 licensed under AS 08.84; a physician licensed under AS 08.64; a podiatrist; a
 31 psychologist and a psychological associate licensed under AS 08.86; a hospital as

1 defined in AS 47.32.900 [AS 18.20.130], including a governmentally owned or
 2 operated hospital; and an employee of a health care provider acting within the course
 3 and scope of employment;

4 * **Sec. 10.** AS 18.26.220 is amended to read:

5 **Sec. 18.26.220. Facility compliance with health and safety laws and**
 6 **licensing requirements.** A medical facility constructed, acquired, improved,
 7 financed, or otherwise under the provisions of this chapter and all actions of the
 8 authority are subject to AS 18.07, AS 47.32 [AS 18.20], and any other present or
 9 future state licensing requirements for the facilities or services provided under this
 10 chapter. A medical facility issued a certificate of need under sec. 4, ch. 275, SLA
 11 1976, by virtue of being in existence or under construction before July 1, 1976, must
 12 fully meet the requirements of AS 18.07 in order to be eligible for funding under this
 13 chapter.

14 * **Sec. 11.** AS 18.50.950(4) is amended to read:

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

17 * **Sec. 12.** AS 21.86.030(c) is amended to read:

18 (c) Nothing in this section relieves a health maintenance organization that
 19 wishes to exercise the power described in (a)(1) of this section from the requirements
 20 of

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

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

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

24 * **Sec. 13.** AS 25.23.185(c) is amended to read:

25 (c) A child adoption agency licensed under **former** AS 47.35 **and a child**
 26 **placement agency licensed under AS 47.32** shall maintain records of the information
 27 required to be furnished to the court under this section or under regulations of the
 28 commissioner implementing this section. If a child adoption agency **or child**
 29 **placement agency** ceases to place persons for adoption, it shall transfer its records to
 30 the commissioner.

31 * **Sec. 14.** AS 25.27.244(s)(2) is amended to read:

1 (2) "license"

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

6 (i) license relating to boxing or wrestling under
7 AS 05.10;

8 (ii) authorization to perform an occupation regulated
9 under AS 08;

10 (iii) teacher certificate under AS 14.20;

11 (iv) authorization under AS 18.08 to perform
12 emergency medical services;

13 (v) asbestos worker certification under AS 18.31;

14 (vi) boiler operator's license under AS 18.60.395;

15 (vii) certificate of fitness under AS 18.62;

16 (viii) hazardous painting certification under AS 18.63;

17 (ix) security guard license under AS 18.65.400 -
18 18.65.490;

19 (x) license relating to insurance under AS 21.27;

20 (xi) employment agency permit under AS 23.15.330 -
21 23.15.520;

22 (xii) registration as a broker-dealer, an agent, a state
23 investment adviser, or an investment adviser representative under
24 AS 45.55.030;

25 (xiii) certification as a pesticide applicator under
26 AS 46.03.320;

27 (xiv) certification as a storage tank worker or contractor
28 under AS 46.03.375;

29 (xv) certification as a water and wastewater works
30 operator under AS 46.30;

31 (xvi) commercial crewmember fishing license under

1 AS 16.05.480 other than an entry permit or interim-use permit under
2 AS 16.43;

3 (xvii) fish transporter permit under AS 16.05.671;

4 (xviii) sport fishing operator license under
5 AS 16.40.260;

6 (xix) sport fishing guide license under AS 16.40.270;

7 (B) does not include

8 (i) a vessel license issued under AS 16.05.490 or
9 16.05.530;

10 (ii) a license issued to a child care facility under
11 AS 47.32 [AS 47.35];

12 (iii) a business license issued under AS 43.70;

13 (iv) an entry permit or interim-use permit issued under
14 AS 16.43; or

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

16 * **Sec. 15.** AS 37.05.146(c)(67) is amended to read:

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

19 * **Sec. 16.** AS 44.62.330(a) is amended by adding a new paragraph to read:

20 (45) Department of Health and Social Services relating to the
21 centralized registry under AS 47.05.330 - 47.05.390.

22 * **Sec. 17.** AS 44.64.030(a) is amended by adding a new paragraph to read:

23 (36) AS 47.32 (licensing by the Department of Health and Social
24 Services).

25 * **Sec. 18.** AS 47.05.010 is amended to read:

26 **Sec. 47.05.010. Duties of department.** The Department of Health and Social
27 Services shall

28 (1) administer adult public assistance, the Alaska temporary assistance
29 program, and all other assistance programs, and receive and spend money made
30 available to it;

31 (2) adopt regulations necessary for the conduct of its business and for

1 carrying out federal and state laws granting adult public assistance, temporary cash
2 assistance, diversion payments, or self-sufficiency services for needy families under
3 the Alaska temporary assistance program, and other assistance;

4 (3) establish minimum standards for personnel employed by the
5 department and adopt necessary regulations to maintain those standards;

6 (4) require those bonds and undertakings from persons employed by it
7 which in its judgment are necessary, and pay the premiums on them;

8 (5) cooperate with the federal government in matters of mutual
9 concern pertaining to adult public assistance, the Alaska temporary assistance
10 program, and other forms of public assistance;

11 (6) make the reports, in the form and containing the information, that
12 the federal government from time to time requires;

13 (7) cooperate with the federal government, its agencies or
14 instrumentalities in establishing, extending, and strengthening services for the
15 protection and care of homeless, dependent, and neglected children in danger of
16 becoming delinquent, and receive and expend funds available to the department by the
17 federal government, the state or its political subdivisions for that purpose;

18 (8) cooperate with the federal government in adopting state plans to
19 make the state eligible for federal matching in appropriate categories of assistance, and
20 in all matters of mutual concern, including adoption of the methods of administration
21 that are found by the federal government to be necessary for the efficient operation of
22 welfare programs;

23 (9) adopt regulations, not inconsistent with law, defining need,
24 prescribing the conditions of eligibility for assistance, and establishing standards for
25 determining the amount of assistance that an eligible person is entitled to receive; the
26 amount of the assistance is sufficient when, added to all other income and resources
27 available to an individual, it provides the individual with a reasonable subsistence
28 compatible with health and well-being; an individual who meets the requirements for
29 eligibility for assistance shall be granted the assistance promptly upon application for
30 it;

31 (10) grant to a person claiming or receiving assistance and who is

1 aggrieved because of the department's action or failure to act, reasonable notice and an
 2 opportunity for a fair hearing by the department, and the department shall adopt
 3 regulations relative to this;

4 (11) enter into reciprocal agreements with other states relative to
 5 public assistance, welfare services, and institutional care that are considered advisable;

6 (12) establish the requirements of residence for public assistance,
 7 welfare services, and institutional care that are considered advisable, subject to the
 8 limitations of other laws of the state, or law or regulation imposed as conditions for
 9 federal financial participation;

10 (13) establish the divisions and local offices that are considered
 11 necessary or expedient to carry out a duty or authority assigned to it and appoint and
 12 employ the assistants and personnel that are necessary to carry on the work of the
 13 divisions and offices, and fix the compensation of the assistants or employees except
 14 that a person engaged in business as a retail vendor of general merchandise, or a
 15 member of the immediate family of a person who is so engaged, may not serve as an
 16 acting, temporary or permanent local agent of the department, unless the
 17 commissioner of health and social services certifies in writing to the governor, with
 18 relation to a particular community, that no other qualified person is available in the
 19 community to serve as local welfare agent; for the purposes of this paragraph, a
 20 "member of the immediate family" includes a spouse, child, parent, brother, sister,
 21 parent-in-law, brother-in-law or sister-in-law;

22 (14) provide education and health-related services and referrals
 23 designed to reduce the number of out-of-wedlock pregnancies and the number of
 24 induced pregnancy terminations in the state;

25 (15) investigate reports of abuse, neglect, or misappropriation of
 26 property by certified nurse aides in facilities licensed by the department under
 27 AS 47.32 [AS 18.20].

28 * **Sec. 19.** AS 47.05.055(a) is amended to read:

29 (a) If the department has reason to believe that a certified nurse aide employed
 30 in a facility licensed by the department under AS 47.32 as a hospital or nursing
 31 home [AS 18.20] has committed abuse, neglect, or misappropriation of property in

1 connection with the person's duties as a certified nurse aide at the facility, the
 2 department shall investigate the matter. The department shall conduct proceedings to
 3 determine **whether** [IF] a finding of abuse, neglect, or misappropriation of property
 4 should be made. These proceedings shall be conducted under AS 44.62.330 -
 5 44.62.630. A finding under this subsection that a certified nurse aide has committed
 6 abuse, neglect, or misappropriation of property shall be reported by the department to
 7 the Board of Nursing.

8 * **Sec. 20.** AS 47.05 is amended by adding new sections to read:

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

10 **Sec. 47.05.300. Applicability.** (a) The provisions of AS 47.05.310 -
 11 47.05.390 apply to any individual or entity that is required by statute or regulation to
 12 be licensed or certified by the department or that is eligible to receive payments, in
 13 whole or in part, from the department to provide for the health, safety, and welfare of
 14 persons who are served by the programs administered by the department.

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

- 17 (1) public home care providers described in AS 47.05.017;
 18 (2) providers of home and community-based waiver services financed
 19 under AS 47.07.030(c); and
 20 (3) case managers to coordinate community mental health services
 21 under AS 47.30.530.

22 **Sec. 47.05.310. Criminal history; criminal history check; compliance.** (a)
 23 If an individual has been charged with, convicted of, found not guilty by reason of
 24 insanity for, or adjudicated as a delinquent for, a crime that is inconsistent with the
 25 standards for licensure or certification established by the department by regulation,
 26 that individual may not own an entity, or be an officer, director, partner, member, or
 27 principal of the business organization that owns an entity. In addition, an entity may
 28 not

- 29 (1) allow that individual to operate the entity;
 30 (2) hire or retain that individual at the entity as an employee,
 31 independent contractor, or volunteer of the entity;

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

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

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

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

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

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

19 (d) An entity shall provide to the department a release of information
20 authorization for a criminal history check for an individual who is not a recipient of
21 services from the entity and, after the entity has been issued a license, license renewal,
22 certification, or certification renewal by the department,

23 (1) who intends to become an owner of the entity, or an officer,
24 director, partner, member, or principal of the business organization that owns the
25 entity;

26 (2) whom the entity intends to hire or retain as the operator of the
27 entity's business;

28 (3) whom the entity intends to hire or retain as an employee,
29 independent contractor, or volunteer of the entity; or

30 (4) who will be present in the entity or at the places of operation of
31 entity, and would have regular contact with individuals who receive services from the

1 entity, but who is not a family member or visitor of an individual who receives
2 services from the entity.

3 (e) An individual for whom a release of information authorization has been
4 provided to the department shall submit the individual's fingerprints to the department,
5 with the fee established under AS 12.62.160, for a report of criminal justice
6 information under AS 12.62 and for submission by the Department of Public Safety to
7 the Federal Bureau of Investigation for a national criminal history record check. The
8 Department of Public Safety shall provide the report of criminal justice information
9 and the results of the national criminal history record check to the department for its
10 use in considering an application for a license, license renewal, certification, or
11 certification renewal, or in considering other approval or selection regarding an entity,
12 for compliance with the standards established in this section. For purposes of
13 obtaining access to criminal justice information maintained by the Department of
14 Public Safety under AS 12.62, the department is a criminal justice agency conducting
15 a criminal justice activity. The department may waive the requirement for fingerprint
16 submission if an individual is unable to provide fingerprints due to a medical or
17 physical condition that is documented by a licensed physician.

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

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

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

26 (i) For purposes of (b) and (c) of this section, in place of nonissuance or
27 nonrenewal of a license or certification, an entity or individual service provider that is
28 not required to be licensed or certified by the department or a person wishing to
29 become an entity or individual service provider that is not required to be licensed or
30 certified by the department is instead ineligible to receive a payment, in whole or in
31 part, from the department to provide for the health, safety, and welfare of persons who

1 are served by the programs administered by the department if the entity, individual
2 service provider, or person

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

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

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

11 **Sec. 47.05.320. Criminal history use standards.** The department shall by
12 regulation establish standards for the consideration and use by the department, an
13 entity, or an individual service provider of the criminal history of an individual
14 obtained under AS 47.05.310.

15 **Sec. 47.05.330. Centralized registry.** (a) The department shall by regulation
16 provide for a centralized registry to facilitate the licensing or certification of entities
17 and individual service providers, the authorization of payments to entities or
18 individual service providers by the department, and the employment of individuals by
19 entities and individual service providers.

20 (b) Except for the name of each victim being redacted before the information
21 is placed on the registry, the registry shall consist of the following information for an
22 entity or individual service provider, an applicant on behalf of an entity or individual
23 service provider, or an employee or volunteer of an entity or individual service
24 provider:

25 (1) decisions, orders, judgments, and adjudications finding that the
26 applicant, employee, or volunteer committed

27 (A) abuse, neglect, or exploitation under AS 47.10, AS 47.24,
28 AS 47.62, or a substantially similar provision in another jurisdiction; or

29 (B) medical assistance fraud under AS 47.05.210 or a
30 substantially similar provision in another jurisdiction;

31 (2) orders under a state statute or a substantially similar provision in

1 another jurisdiction that a license or certification of the entity or individual service
2 provider to provide services related to the health, safety, and welfare of persons was
3 denied, suspended, revoked, or conditioned.

4 (c) As a condition for applying for licensure or certification of an entity or
5 individual service provider, or for payment to an entity or individual service provider
6 by the department, an applicant must agree to submit timely to the registry the
7 information required under this section relating to the entity, any individual, the
8 applicant, employees, and volunteers of the entity or individual service provider.

9 (d) Within 24 hours of a court decision, order, judgment, or adjudication that
10 an entity, individual service provider, or employee or volunteer of an entity or
11 individual service provider committed an act listed under (b) of this section, the entity,
12 individual service provider, or employee or volunteer of an entity or individual service
13 provider shall report the court action to the department.

14 (e) Within 24 hours of receiving notice of an allegation that an employee,
15 volunteer, or former employee or volunteer of an entity or individual service provider
16 committed an act listed under (b) of this section within the past 10 years, the entity or
17 individual service provider shall report the allegation to the department.

18 (f) The department shall prescribe by regulation the form or format by which
19 an applicant shall submit required information to the registry.

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

25 (h) Information contained in the registry is confidential and is not subject to
26 public inspection and copying under AS 40.25.110 - 40.25.125. However, information
27 contained in the registry may be released to entities, individual service providers, and
28 governmental agencies authorized and in a manner provided under this section and
29 regulations adopted under this section.

30 (i) A person is presumed to be acting in good faith and is immune from civil
31 and criminal liability if the person

1 (1) makes a report of medical assistance fraud, abuse, neglect, or
2 exploitation;

3 (2) submits information to the registry; or

4 (3) fails to hire or retain an employee or volunteer because the
5 employee or volunteer is included in the registry.

6 (j) A person about whom information is placed in the registry may request the
7 department to delete or modify the information to correct inaccuracies. The
8 department shall investigate the request and make necessary deletions or
9 modifications.

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

12 **Sec. 47.05.390. Definitions.** In AS 47.05.300 - 47.05.390, unless the context
13 otherwise requires,

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

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

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

17 (4) "criminal justice information" has the meaning given in
18 AS 12.62.900;

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

20 (6) "entity" means an entity listed in AS 47.32.010(b) and includes an
21 owner, officer, director, member or partner of the entity;

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

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

25 * **Sec. 21.** AS 47.10.141(b) is amended to read:

26 (b) A peace officer shall take into protective custody a minor described in (a)
27 of this section if the minor is not otherwise subject to arrest or detention. Unless (c) of
28 this section applies, when a peace officer takes a minor into protective custody under
29 this subsection,

30 (1) the peace officer shall

31 (A) return the minor to the minor's parent or guardian at the

1 parent's or guardian's residence if the residence is in the same community
 2 where the minor was found and if the minor's parent or guardian consents to
 3 the return, except that the officer may not use this option if the officer has
 4 reasonable cause to believe that the minor has experienced physical or sexual
 5 abuse in the parent's or guardian's household;

6 (B) take the minor to a nearby location agreed to by the minor's
 7 parent or guardian if the parent or guardian does not consent to return of the
 8 minor under (A) of this paragraph and the officer does not have reasonable
 9 cause to believe that the minor has experienced physical or sexual abuse in the
 10 parent's or guardian's household; or

11 (C) if disposition of the minor is not made under (A) or (B) of
 12 this paragraph, take the minor to

13 (i) an office specified by the Department of Health and
 14 Social Services;

15 (ii) a program for runaway minors licensed by the
 16 department under AS 47.10.310;

17 (iii) a shelter for runaways that has a permit from the
 18 department under AS 47.32 [AS 47.35.085] that agrees to shelter the
 19 minor;

20 (iv) a facility or contract agency of the department; or

21 (v) another suitable location and promptly notify the
 22 department if an office specified by the department, a licensed program
 23 for runaway minors, a shelter for runaways that will accept the minor,
 24 or a facility or contract agency of the department does not exist in the
 25 community;

26 (2) if the peace officer plans to take the minor to an office, program,
 27 shelter, or facility under (1)(C) of this subsection, the peace officer shall give the
 28 highest priority to taking the minor to an office, program, shelter, or facility that is
 29 semi-secure;

30 (3) a minor under protective custody may not be housed in a jail or
 31 other detention facility but may be housed in a semi-secure portion of an office,

1 program, shelter, or other facility under (1) (C) of this subsection;

2 (4) the peace officer, immediately upon taking a minor into protective
3 custody, shall

4 (A) advise the minor of available mediation services and of the
5 right to social services under AS 47.10.142(b); and

6 (B) if the identity of the minor's parent or guardian is known,
7 advise the minor's parent or guardian that the minor has been taken into
8 protective custody and that counseling services for the minor's parent or
9 guardian and the minor's household may be available under AS 47.10.142(b).

10 * **Sec. 22.** AS 47.10.392 is amended to read:

11 **Sec. 47.10.392. Certificate required.** A private residence may not be held
12 out publicly as a shelter for runaway minors unless the residence

13 (1) is designated a shelter for runaways by a corporation that is
14 licensed to make the designation under AS 47.32 [AS 47.35.085]; and

15 (2) has a valid permit from the department signifying that designation.

16 * **Sec. 23.** AS 47.10.399(2) is amended to read:

17 (2) "shelter for runaways" or "shelter for runaway minors" means a
18 private residence whose legal occupant agrees to shelter, with or without
19 compensation, a runaway minor accepted into the residence by the legal occupant and
20 that

21 (A) is not simultaneously licensed under AS 47.10.310 as a
22 program for runaway minors;

23 (B) has been designated a shelter for runaways by a corporation
24 licensed for that purpose under AS 47.32 [AS 47.35.085]; and

25 (C) has a permit issued by the department under AS 47.32
26 [AS 47.35.085].

27 * **Sec. 24.** AS 47.10.990(10) is amended to read:

28 (10) "foster care" means care provided by a person or household under
29 a foster home license required under AS 47.32 [AS 47.35.015];

30 * **Sec. 25.** AS 47.10.990(24) is amended to read:

31 (24) "secure residential psychiatric treatment center" has the meaning

1 given "**residential psychiatric treatment center**" in **AS 47.32.900** [AS 47.35.900].

2 * **Sec. 26.** AS 47.12.990(14) is amended to read:

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

5 * **Sec. 27.** AS 47.24.013(a) is amended to read:

6 (a) If a report received under AS 47.24.010 regards the abandonment,
7 exploitation, abuse, neglect, or self-neglect of a vulnerable adult who is 60 years of
8 age or older that is alleged to have been committed by or to have resulted from the
9 negligence of the staff or a volunteer of an out-of-home care facility, including a
10 facility licensed under **AS 47.32** [AS 18.20], in which the vulnerable adult resides, the
11 department shall transfer the report for investigation to the long term care ombudsman
12 under AS 47.62.015.

13 * **Sec. 28.** AS 47.24.017(d) is amended to read:

14 (d) If the protective services under this section include the placement of a
15 vulnerable adult in an assisted living home at the state's expense, the minimum daily
16 reimbursement rate to the assisted living home for the vulnerable adult is \$70. The
17 department may, under its regulations, provide for a daily rate higher than \$70 if the
18 additional care provided to the vulnerable adult in the assisted living home justifies the
19 additional reimbursement. In this subsection, "assisted living home" means an assisted
20 living home licensed under **AS 47.32** [AS 47.33].

21 * **Sec. 29.** AS 47.25.071(b) is amended to read:

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

24 (1) be currently licensed under **AS 47.32** [AS 47.35] and applicable
25 municipal licensing requirements;

26 (2) participate in the day care assistance program under AS 47.25.001 -
27 47.25.095; and

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

30 * **Sec. 30.** AS 47.25.095(2) is amended to read:

31 (2) "child care facility" means an establishment licensed **as a child**

1 **care facility** under **AS 47.32** [AS 47.35], including day care centers, family day care
 2 homes, and schools for preschool age children, that provides care for children not
 3 related by blood, marriage, or legal adoption to the owner, operator, or manager of the
 4 facility;

5 * **Sec. 31.** AS 47.25.095(4) is amended to read:

6 (4) "day care facility" means a center or home licensed in accordance
 7 with the provisions of **AS 47.32 as a child care facility** [AS 47.35] or recognized by
 8 the federal government for the care of children;

9 * **Sec. 32.** AS 47.25.195(f)(1) is amended to read:

10 (1) "assisted living home" means an assisted living home licensed
 11 under **AS 47.32** [AS 47.33];

12 * **Sec. 33.** AS 47.30.915(5) is amended to read:

13 (5) "evaluation facility" means a health care facility that has been
 14 designated or is operated by the department to perform the evaluations described in
 15 AS 47.30.660 - 47.30.915, or a medical facility licensed under **AS 47.32**
 16 [AS 18.20.020] or operated by the federal government;

17 * **Sec. 34.** AS 47.31.100(4) is amended to read:

18 (4) "evaluation facility" means a health care facility that has been
 19 designated by the department to perform the evaluations described in AS 47.30.670 -
 20 47.30.915, including a facility licensed under **AS 47.32** [AS 18.20.020] or operated by
 21 the federal government;

22 * **Sec. 35.** AS 47 is amended by adding a new chapter to read:

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

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

30 (b) This chapter and regulations adopted under this chapter apply to the
 31 following entities:

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

18 **Sec. 47.32.020. Requirement to obtain a license.** (a) An entity may not
 19 operate a facility described in AS 47.32.010(b) without first obtaining a license under
 20 this chapter unless the entity is exempt under regulations adopted under AS 47.32.030.

21 (b) If an entity encompasses more than one type of activity listed in
 22 AS 47.32.010(b), the entity shall apply for and receive a separate license under this
 23 chapter before operating that type of activity unless exempt under regulations adopted
 24 under AS 47.32.030.

25 **Sec. 47.32.030. Powers of the department; delegation to municipality.** (a)
 26 The department may

- 27 (1) administer and enforce the provisions of this chapter;
- 28 (2) coordinate and develop policies, programs, and planning related to
- 29 licensure and operation of entities listed in AS 47.32.010(b);
- 30 (3) adopt regulations necessary to carry out the purposes of this
- 31 chapter, including regulations that

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

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

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

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

12 (ii) record-keeping requirements;

13 (iii) reporting requirements; and

14 (iv) requirements and standards regarding health, safety,
15 and sanitation;

16 (D) provide for waivers, variances, and exemptions from the
17 requirements of this chapter, including the requirement to obtain a license, if
18 the department finds it necessary for the efficient administration of this
19 chapter; and

20 (E) establish requirements for the operation of entities licensed
21 under this chapter;

22 (4) investigate

23 (A) entities described in AS 47.32.010(b);

24 (B) applicants for licensure, including individuals named in an
25 application; and

26 (C) other persons that the department has reason to believe are
27 operating an entity required to be licensed under this chapter, or are residing or
28 working in an entity for which licensure has been sought under this chapter;
29 this subparagraph does not apply to persons receiving services from an entity
30 for which licensure has been sought under this chapter;

31 (5) inspect and monitor licensed entities for compliance with this

1 chapter, regulations adopted under this chapter, and any other applicable statutes or
2 regulations;

3 (6) enter into contracts and agreements necessary to carry out the
4 functions, powers, and duties of the department under this chapter;

5 (7) enter into agreements with private entities, municipalities, and
6 individuals to investigate and make recommendations to the department regarding the
7 licensure and monitoring of entities under this chapter;

8 (8) require an individual who is or will be operating an entity to
9 complete training related to the operation of the entity;

10 (9) waive the application requirements for an entity seeking licensure
11 if the entity submits documentation verifying that it

12 (A) has a license issued by an organization or other agency that
13 has licensing authority under state or federal law if the standards for that
14 licensure are approved by the department under this chapter or regulations
15 adopted under this chapter;

16 (B) has accreditation from a nationally recognized organization
17 if the standards for that accreditation are equal to or more stringent than the
18 standards for licensure under this chapter or regulations adopted under this
19 chapter; or

20 (C) is an entity that federal law does not require to be licensed.

21 (b) The department shall delegate the department's authority to regulate child
22 care facilities to a municipality that has adopted an ordinance providing for child care
23 licensing under home rule powers under AS 29.10.010 or as authorized under
24 AS 29.35.200 - 29.35.210. The department shall make the delegation described in this
25 subsection within 90 days after receiving a written request from the municipality to
26 delegate the authority. A municipality receiving a delegation under this subsection
27 may adopt additional requirements for child care facilities operating within the
28 boundaries of the municipality if the requirements meet or exceed the requirements
29 under state law.

30 (c) 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.** A person shall apply to the
 2 department for a license under this chapter. The application must be made to the
 3 department on a form provided by the department or in a format approved by the
 4 department, and must be accompanied by

5 (1) any fee established by regulation; and

6 (2) documents and information required by regulation.

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 the license; 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 license renewal, the department shall provide the applicant or entity with a notice of
25 the action by certified mail. The notice must contain a written statement of the reason
26 for the action and information about requesting a hearing under (b) of this section.

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

31 **Sec. 47.32.080. Posting of license; license not transferable.** (a) A license

1 issued under this chapter shall be posted in a conspicuous place on the licensed
2 premises. Any notice of a variance issued by the department shall be posted near the
3 license.

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

6 **Sec. 47.32.090. Complaints and investigation.** (a) A person who believes
7 that an entity has violated an applicable statute or regulation or a condition of a license
8 issued under this chapter may file a verbal or written complaint with the department.

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

15 (c) A licensed entity may not take retaliatory action against a person who files
16 a complaint. Except as provided in AS 47.32.160, a complainant against whom a
17 retaliatory action has been taken may recover treble damages in a civil action upon a
18 showing that the action was taken in retaliation for the filing of a complaint.

19 **Sec. 47.32.100. Cooperation with investigation.** An entity shall cooperate
20 with an investigation initiated by the department. An investigated entity shall

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

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

26 **Sec. 47.32.110. Right of access and inspection.** (a) A designated agent or
27 employee of the department shall have right of access to an entity

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

30 (2) to conduct a complaint investigation;

31 (3) to conduct a standard inspection;

1 (4) to inspect documents, including personnel records, accounts, the
2 building, or the premises;

3 (5) to interview staff or residents; or

4 (6) if the department has reasonable cause to believe that the entity is
5 operating in violation of this chapter or the regulations adopted under this chapter.

6 (b) If an entity denies access, the department may petition the court for an
7 order permitting access, or the department may seek to revoke the entity's license
8 under AS 47.32.140.

9 (c) Upon petition of the department and after a hearing held upon reasonable
10 notice to the entity, the court shall issue an order to an officer or employee of the
11 department authorizing the officer or employee to enter for any of the purposes
12 described in (a) of this section.

13 **Sec. 47.32.120. Report.** (a) Within 10 working days after completing an
14 investigation or inspection under AS 47.32.090 - 47.32.110, the department shall
15 prepare a report of the results of the investigation or inspection and mail a copy of the
16 report to the entity. The report shall include a description of

17 (1) any violation, including a citation to each statute or regulation that
18 has been violated; and

19 (2) any enforcement action the department intends to take under
20 AS 47.32.130 or 47.32.140.

21 (b) An entity that receives a copy of a report under this section may submit a
22 written response to the report to the department. The department may require an entity
23 to submit a response to a report received under this section.

24 (c) Within 14 days after the entity receives a copy of the report under this
25 section, upon request of the complainant, the department shall provide a copy of the
26 report to the complainant.

27 **Sec. 47.32.130. Enforcement action: immediate revocation or suspension.**

28 (a) If the department's report of investigation or inspection under AS 47.32.120
29 concludes that the department has reasonable cause to believe that a violation of an
30 applicable statute or regulation has occurred that presents an immediate danger to the
31 health, safety, or welfare of an individual receiving services from the entity, the

1 department, without an administrative hearing and without providing an opportunity to
 2 cure or correct the violation, may immediately revoke or suspend the entity's license
 3 or, if the entity is not licensed under this chapter, may revoke the entity's ability to
 4 become licensed under this chapter or to provide services as an entity exempted under
 5 this chapter. A suspension or revocation under this subsection takes effect
 6 immediately upon initial notice to the entity from the department, is in addition to any
 7 enforcement action under AS 47.32.140, and continues until a final determination
 8 under (c) of this section or AS 47.32.150.

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

10 (1) the department shall provide initial notice to the entity at the time
 11 the department determines that an immediate suspension or revocation is required;
 12 initial notice may be oral, except that, if an entity representative is not present at the
 13 entity, the department shall post written notice on the front door of the entity; the
 14 initial notice must provide information regarding the entity's appeal rights;

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

18 (A) a copy of the department's report under AS 47.32.120, a
 19 statement of the entity's right to submit a written response to the report, and
 20 any department requirement that the entity submit a written response to the
 21 report;

22 (B) a description of any enforcement action the department
 23 intends to take under AS 47.32.140(d) or (f); and

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

25 (c) An entity to which a notice has been provided under this section may
 26 appeal the department's decision to impose the enforcement action, including an
 27 enforcement action the department intends to take under AS 47.32.140(d) or (f), by
 28 filing a written request for a hearing, on a form provided by the department, within 15
 29 days after receipt of the notice. If a hearing is not timely requested under this
 30 subsection, the department's notice constitutes a final administrative order for which
 31 the department may seek the court's assistance in enforcing.

1 **Sec. 47.32.140. Enforcement actions.** (a) If the department's report of
2 investigation or inspection under AS 47.32.120 concludes that the department has
3 reasonable cause to believe that a violation of an applicable statute or regulation has
4 occurred, the department shall provide notice to the entity of the violation and an
5 opportunity to cure the violation within a reasonable time specified by the department.
6 The notice must include a copy of the department's report under AS 47.32.120, a
7 statement that the entity may submit a written response to the report, any department
8 requirement that the entity submit a written response to the report, a description of any
9 enforcement action the department intends to take under (d) or (f) of this section, and
10 information regarding the entity's appeal rights.

11 (b) An entity receiving a notice under (a) of this section, or a notice under
12 AS 47.32.130(b)(2) that contains the information specified in AS 47.32.130(b)(2)(B),
13 shall submit a plan of correction to the department for approval. Once it has cured its
14 violations, the entity shall submit to the department an allegation of compliance.
15 Upon receipt of the allegation of compliance, the department may conduct a follow-up
16 investigation or inspection to determine compliance. The department may take one or
17 more enforcement actions under (d) and (f) of this section regardless of whether the
18 entity achieves compliance under this subsection.

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

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

30 (1) delivery of a warning notice to the licensed entity and to any
31 additional person who was the subject of the investigation or inspection;

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

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

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

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

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

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

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

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

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

21 (11) imposition of a penalty authorized under law;

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

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

25 (e) The department may not take action under (d)(9) of this section unless the
 26 commissioner has reasonable cause to believe that continued management by the
 27 entity while the entity is attempting to cure a violation would be injurious to the
 28 health, safety, or welfare of an individual who is receiving a service from the entity.

29 (f) In addition to any other enforcement actions the department may take
 30 under this section, the department may assess a civil fine against an entity for a
 31 violation of an applicable statute or regulation, taking into account the type and size of

1 the entity and the type and severity of the violation. A fine assessed under this
 2 subsection may not exceed \$2,500 a day for each day of violation for a continuing
 3 violation or \$25,000 for a single violation.

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

9 (h) An enforcement action under (d) or (f) of this section may not be imposed
 10 until

11 (1) the time period for requesting a hearing under AS 47.32.130(c) or
 12 under (g) of this section, as applicable, has passed without a hearing being requested;
 13 or

14 (2) a final agency decision has been issued following a hearing
 15 requested under AS 47.32.130(c) or under (g) of this section, as applicable.

16 (i) If a hearing is not timely requested under AS 47.32.130(c) or under (g) of
 17 this section, as applicable, the department's notice regarding an enforcement action
 18 under (d) or (f) of this section constitutes a final administrative order. The department
 19 may seek the court's assistance in enforcing the final administrative order.

20 (j) An entity against which an enforcement action under (d) or (f) of this
 21 section has been taken may not apply for a license or license renewal until after the
 22 time period set by the department in its final administrative order under
 23 AS 47.32.130(c), this section, or AS 47.32.150, as applicable. If a time period has not
 24 been set, a final administrative order against the entity has the effect of a permanent
 25 revocation and the entity may not apply for a license or license renewal. If the
 26 ownership, control, or management of an entity changes, the department may allow
 27 the entity to seek licensure if the entity submits documents showing the change.

28 (k) Assessment of a civil fine under this section does not preclude imposition
 29 of a criminal penalty under AS 47.32.170.

30 **Sec. 47.32.150. Hearings.** (a) Upon receipt of a timely request for a hearing
 31 by an entity regarding an enforcement action under AS 47.32.130(a) or

1 47.32.140(d)(3), (5), (6), (7), or (9), the department shall request the chief
 2 administrative law judge appointed under AS 44.64.020 to appoint an administrative
 3 law judge employed or retained by the office of administrative hearings to preside
 4 over a hearing conducted under this section. AS 44.64.060 applies to the hearing.

5 (b) Upon receipt of a timely request for a hearing by an entity regarding an
 6 enforcement action under AS 47.32.070 or 47.32.140(d)(1), (2), (4), (8), (10), (11),
 7 (12), or (13), the department shall conduct a hearing in front of an officer appointed by
 8 the commissioner. A hearing under this subsection may be conducted on the record,
 9 in an informal manner, and shall not be conducted under AS 44.62 or AS 44.64. The
 10 appointed hearing officer may be a state employee.

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

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

17 **Sec. 47.32.160. Immunity.** (a) The department, its employees, and its agents
 18 are not liable for civil damages as a result of an act or omission in the licensure
 19 process, the monitoring of a licensed entity, or any activities under this chapter.

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

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

31 **Sec. 47.32.170. Criminal penalty.** A person who intentionally or with

1 criminal negligence violates a provision of this chapter or a regulation adopted under
 2 this chapter related to the health and safety of persons served by an entity required to
 3 comply with this chapter is guilty of a class B misdemeanor.

4 **Sec. 47.32.180. Confidentiality; release of certain information.** (a) Except
 5 as otherwise provided by law, the following are confidential and may not be disclosed
 6 to the public without a court order: complaints; investigations; inspections; records
 7 related to a complaint, investigation, or inspection; and the identity of a complainant
 8 and of individuals receiving services from an entity.

9 (b) With the exception of information that identifies a complainant or a
 10 recipient of services from an entity, a copy of the department's report of investigation
 11 or inspection under AS 47.32.120, an entity's written response to the report, and
 12 information regarding any department imposition of an enforcement action under
 13 AS 47.32.130 or 47.32.140 are public records under AS 40.25. The department shall
 14 make this information available to the public for inspection and copying within
 15 timeframes specified in AS 40.25 or regulations adopted under AS 40.25 after the

16 (1) entity receives its copy of the report of investigation under
 17 AS 47.32.120, if the department has determined that an enforcement action under AS
 18 47.32.130 or 47.32.140 will not be taken regarding the entity;

19 (2) department's notice of enforcement action under AS 47.32.130 or
 20 47.32.140 becomes a final administrative order without a hearing under
 21 AS 47.32.130(c) or 47.32.140(i); or

22 (3) issuance of a decision following a hearing under AS 47.32.150.

23 **Sec. 47.32.190. Access to information.** Notwithstanding any contrary
 24 provision of law, the divisions of the department assigned public health and public
 25 assistance functions shall have access to any information compiled or retained by
 26 other divisions within the department, regardless of the nature of the information or
 27 whether the information is considered confidential, in order to assist in administering
 28 the provisions of this chapter.

29 **Sec. 47.32.200. Notice of changes from an entity.** (a) An entity shall
 30 provide the department with written notice of a change of mailing address at least 14
 31 days before the effective date of the change.

1 (b) An entity shall notify the department within 24 hours after having
 2 knowledge that an administrator, employee, volunteer, or household member, as
 3 required by the type of entity under department regulations, has been

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

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

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

14 (d) Not less than 20 days before the effective date of a decision to relinquish
 15 the entity's license, the entity shall notify the department of the decision.

16 (e) Not more than one day after signing a contract for sale of the licensed
 17 entity, the entity shall notify the department of the sale.

18 (f) Not less than 30 days before an entity wishes to change the location of the
 19 entity, the entity shall notify the department of the change.

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

21 (1) "ambulatory surgical center"

22 (A) means a facility that

23 (i) is not a part of a hospital or a physician's general
 24 medical practice; and

25 (ii) operates primarily for the purpose of providing
 26 surgical services to patients who do not require hospitalization; and

27 (B) includes a facility that performs invasive diagnostic or
 28 therapeutic services;

29 (2) "assisted living home"

30 (A) means a residential facility that serves three or more adults
 31 who are not related to the owner by blood or marriage, or that receives state or

1 federal payment for services regardless of the number of adults served; the
 2 department shall consider a facility to be an assisted living home if the facility

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

4 (ii) offers to provide or obtain for its residents
 5 assistance with activities of daily living; or

6 (iii) provides or offers any combination of these
 7 services;

8 (B) does not include

9 (i) a correctional facility;

10 (ii) an emergency shelter;

11 (iii) a program licensed under AS 47.10.310 for
 12 runaway minors;

13 (iv) a type of entity listed in AS 47.32.010(b)(5), (8),
 14 (9), (10), (11), or (12);

15 (3) "child placement agency" means an agency that arranges for
 16 placement of a child

17 (A) in a foster home, residential child care facility, or adoptive
 18 home; or

19 (B) for guardianship purposes;

20 (4) "commissioner" means the commissioner of health and social
 21 services;

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

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

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

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

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

31 (10) "home health agency" means a public agency or private

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

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

8 (B) "subdivision" means a component of a multi-function
 9 facility or home health agency, such as the home health care division of a
 10 hospital or the division of a public agency, that independently meets the
 11 requirements for licensure as a home health agency;

12 (11) "hospice" or "agency providing hospice services or operating
 13 hospice programs" means a program that provides hospice services;

14 (12) "hospice services" means a range of interdisciplinary palliative
 15 and supportive services

16 (A) provided in a home or at an inpatient facility to persons
 17 who are terminally ill and to those persons' families in order to meet their
 18 physical, psychological, social, emotional, and spiritual needs; and

19 (B) based on hospice philosophy; for purposes of this
 20 subparagraph "hospice philosophy" means a philosophy that is life affirming,
 21 recognizes dying as a normal process of living, focuses on maintaining the
 22 quality of remaining life, neither hastens nor postpones death, strengthens the
 23 client's role in making informed decisions about care, and stresses the delivery
 24 of services in the least restrictive setting possible and with the least amount of
 25 technology necessary by volunteers and professionals who are trained to help a
 26 client with the physical, social, psychological, spiritual, and emotional issues
 27 related to terminal illness so that the client can feel better prepared for the
 28 death that is to come;

29 (13) "hospital" means a public or private institution or establishment
 30 devoted primarily to providing diagnosis, treatment, or care over a continuous period
 31 of 24 hours each day for two or more unrelated individuals suffering from illness,

1 physical or mental disease, injury or deformity, or any other condition for which
 2 medical or surgical services would be appropriate; "hospital" does not include a
 3 frontier extended stay clinic;

4 (14) "intermediate care facility for the mentally retarded" has the
 5 meaning given in 42 C.F.R. 440.150;

6 (15) "licensed entity" means an entity that has a license issued under
 7 this chapter;

8 (16) "maternity home" means a place of residence the primary function
 9 of which is to give care, with or without compensation, to pregnant individuals,
 10 regardless of age, or that provides care, as needed, to mothers and their newborn
 11 infants;

12 (17) "nursing facility" means a facility that is primarily engaged in
 13 providing skilled nursing care and related services for those who, because of their
 14 mental or physical condition, require care and services above the level of room and
 15 board; "nursing facility" does not include a facility that is primarily for the care and
 16 treatment of mental diseases;

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

20 (19) "residential psychiatric treatment center" means a secure or semi-
 21 secure facility, or an inpatient program in another facility, that provides, under the
 22 direction of a physician, psychiatric diagnostic, evaluation, and treatment services on a
 23 24-hour-a-day basis to children with severe emotional or behavioral disorders;

24 (20) "runaway shelter" means a facility housing a runaway child;

25 (21) "rural health clinic"

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

28 (B) includes a frontier extended stay clinic;

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

31 * **Sec. 36.** AS 47.32.010, added by sec. 35 of this Act, is amended by adding a new

1 subsection to read:

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

5 * **Sec. 37.** AS 47.33.010 is amended to read:

6 **Sec. 47.33.010. Applicability.** (a) Except as provided in (b) of this section,
7 this chapter applies to residential facilities operated in the state that serve three or
8 more adults who are not related to the owner of the facility by blood or marriage by

9 (1) providing housing and food service to its residents; and
10 (2) providing or obtaining, or offering to provide or obtain for its
11 residents

12 (A) assistance with the activities of daily living;

13 (B) personal assistance; or

14 (C) a combination of services under (A) and (B) of this
15 paragraph.

16 (b) Notwithstanding (a) of this section, this chapter does not apply to

17 (1) a correctional facility;

18 (2) a facility for treatment of alcoholism that is regulated under
19 AS 47.37;

20 (3) an emergency shelter;

21 (4) a medical facility, including a nursing home, licensed under
22 AS 47.32 [AS 18.20];

23 (5) a program for runaway minors licensed under AS 47.10.310; or

24 (6) a maternity home licensed under AS 47.32 [AS 47.35].

25 * **Sec. 38.** AS 47.33.070(a) is amended to read:

26 (a) An assisted living home shall maintain, for each resident of the home, a
27 file that includes

28 (1) the name and birth date, and, if provided by the resident, the social
29 security number of the resident;

30 (2) the name, address, and telephone number of the resident's closest
31 relative, service coordinator, if any, and representative, if any;

1 (3) a statement of what actions, if any, the resident's representative is
2 authorized to take on the resident's behalf;

3 (4) a copy of the resident's assisted living plan;

4 (5) a copy of the residential services contract between the home and
5 the resident;

6 (6) a notice, as required under AS 47.33.030, regarding the depository
7 in which the resident's advance payment money is being held;

8 (7) written acknowledgment by the resident or the resident's
9 representative that the resident has received a copy of and has read, or has been read
10 the

11 (A) resident's rights under AS 47.33.300;

12 (B) resident's right to pursue a grievance under AS 47.33.340;

13 (C) resident's right to protection from retaliation under
14 AS 47.33.350;

15 (D) provisions of AS 47.32.160 [AS 47.33.510], regarding
16 immunity; and

17 (E) home's house rules;

18 (8) an acknowledgment and agreement relating to home safekeeping
19 and management of the resident's money, as required by AS 47.33.040;

20 (9) a copy of the resident's living will, if any, or an advance health care
21 directive made under AS 13.52, if any; and

22 (10) a copy of a power of attorney or other written designation,
23 including an advance health care directive made under AS 13.52, of an agent,
24 representative, or surrogate by the resident.

25 * **Sec. 39.** AS 47.40.021 is amended to read:

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

29 * **Sec. 40.** AS 47.40.110 is amended to read:

30 **Sec. 47.40.110. Licensing and supervision.** A person providing services
31 purchased by the Department of Health and Social Services under AS 47.40.100 -

1 47.40.120 shall, if required to be licensed under AS 47.32 [AS 47.35], be licensed and
 2 supervised in the same manner as foster homes and maternity homes under AS 47.32
 3 [AS 47.35].

4 * **Sec. 41.** AS 47.55.010(d) is amended to read:

5 (d) The department may employ the necessary subordinate officers and
 6 employees, and shall prescribe methods for operation of the homes, standards of care
 7 and service to home residents, and rules governing personnel. The methods for
 8 operation and standards of care and services to residents prescribed under this
 9 subsection shall be the same as the methods for operation and standards of care
 10 established by the department for an assisted living home licensed under AS 47.32
 11 [AS 47.33].

12 * **Sec. 42.** AS 47.62.090(2) is amended to read:

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

16 * **Sec. 43.** AS 47.80.140 is repealed and reenacted to read:

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

20 (b) A certificate of need is required as a prerequisite for the licensing of a
 21 residential facility established after July 1, 1978, and not otherwise provided for in
 22 AS 18.07.031 - 18.07.111. A certificate shall be issued and regulated in the same
 23 manner as provided in AS 18.07.031 - 18.07.111 for certificates of need for health
 24 care facilities. This subsection does not apply to an assisted living home licensed
 25 under AS 47.32.

26 * **Sec. 44.** AS 14.43.148(h)(1)(B)(iii) is repealed.

27 * **Sec. 45.** AS 18.05.040(a)(10); AS 18.18.005, 18.18.010, 18.18.020, 18.18.030,
 28 18.18.040, 18.18.100, 18.18.200, 18.18.300, 18.18.310, 18.18.320, 18.18.330, 18.18.340,
 29 18.18.350, 18.18.390, 18.18.410, 18.18.420, 18.18.430, 18.18.440, 18.18.450, 18.18.460,
 30 18.18.470, and 18.18.490 are repealed.

31 * **Sec. 46.** AS 18.20.010, 18.20.020, 18.20.030, 18.20.040, 18.20.050, 18.20.060,

1 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,
2 18.20.260, and 18.20.302 are repealed.

3 * **Sec. 47.** AS 44.62.330(a)(15), 44.62.330(a)(17), and 44.62.330(a)(41) are repealed.

4 * **Sec. 48.** AS 44.64.030(a)(15), 44.64.030(a)(16), 44.64.030(a)(33), and 44.64.030(a)(34)
5 are repealed.

6 * **Sec. 49.** AS 47.33.100, 47.33.400, 47.33.410, 47.33.420, 47.33.430, 47.33.500,
7 47.33.510, 47.33.520, 47.33.530, 47.33.540, 47.33.550, 47.33.560, 47.33.570, 47.33.910,
8 47.33.920, 47.33.990(8), 47.33.990(11), and 47.33.990(14) are repealed.

9 * **Sec. 50.** AS 47.35.005, 47.35.010, 47.35.015, 47.35.017, 47.35.019, 47.35.021,
10 47.35.022, 47.35.023, 47.35.025, 47.35.027, 47.35.029, 47.35.033, 47.35.037, 47.35.039,
11 47.35.043, 47.35.045, 47.35.047, 47.35.048, 47.35.085, 47.35.105, 47.35.110, 47.35.120,
12 47.35.130, 47.35.132, 47.35.140, 47.35.800, 47.35.810, 47.35.820, and 47.35.900 are
13 repealed.

14 * **Sec. 51.** AS 47.37.270(2) and 47.37.270(3) are repealed.

15 * **Sec. 52.** The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

17 **APPLICABILITY REGARDING CERTAIN SECTIONS; DEPARTMENT ACTION.**

18 (a) The changes made by secs. 1 - 15, 17 - 19, 21 - 35, 37 - 42, and 44 - 51 of this Act apply
19 to

20 (1) applications or requests submitted within the 90 days before, or submitted
21 on or after, the effective dates of sec. 35 of this Act for initial licensure, certification, or other
22 approval of an entity listed in AS 47.32.010(b), enacted by sec. 35 of this Act; and

23 (2) applications submitted within the 90 days before, or submitted on or after,
24 the effective date of secs. 1 - 15, 17 - 19, 21 - 35, 37 - 42, and 44 - 51 of this Act for renewal
25 of a license issued before the effective date of secs. 1 - 15, 17 - 19, 21 - 35, 37 - 42, and 44 -
26 51 of this Act under a statute repealed or amended by this Act, and regarding a type of entity
27 listed in AS 47.32.010(b), enacted by sec. 35 of this Act.

28 (b) The Department of Health and Social Services may not make a final determination
29 regarding an application or request described in (a) of this section earlier than the effective
30 date of secs. 1 - 15, 17 - 19, 21 - 35, 37 - 42, and 44 - 51 of this Act.

31 * **Sec. 53.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 APPLICABILITY REGARDING SEC. 20 OF THIS ACT; DEPARTMENT
3 ACTION. (a) The changes made by sec. 20 of this Act apply to

4 (1) applications or requests submitted within the 30 days before, or submitted
5 on or after, the effective date of sec. 20 of this Act for initial licensure, certification, or other
6 approval or selection as any of the following:

7 (A) an entity or individual service provided that is subject to
8 AS 47.05.300 - 47.05.390, enacted by sec. 20 of this Act;

9 (B) an entity listed in AS 47.32.010(b), enacted by sec. 35 of this Act,
10 that is not described in (A) of this paragraph; and

11 (2) applications or requests submitted within the 30 days before, or submitted
12 on or after, the effective date of sec. 20 of this Act, for renewal of a license, certification, or
13 other approval or selection for an entity or individual service provider that is subject to
14 AS 47.05.300 - 47.05.390, enacted by sec. 20 of this Act.

15 (b) The Department of Health and Social Services may not make a final determination
16 regarding an application or request described in (a) of this section earlier than the effective
17 date of sec. 20 of this Act.

18 (c) In this section,

19 (1) "entity" includes an entity subject to AS 47.05.300 - 47.05.390, enacted by
20 sec. 20 of this Act, and an entity listed in AS 47.32.010(b), enacted by sec. 35 of this Act, that
21 is not subject to AS 47.05.300 - 47.05.390, enacted by sec. 20 of this Act;

22 (2) "individual service provider" has the meaning given in AS 47.05.390,
23 enacted by sec. 20 of this Act.

24 * **Sec. 54.** The uncodified law of the State of Alaska is amended by adding a new section to
25 read:

26 MEDICAL ASSISTANCE WAIVER APPROVAL; LEGISLATIVE INTENT. (a)
27 The Department of Health and Social Services shall proceed immediately to seek federal
28 approval to amend the home and community based waiver program for the state under
29 Medicaid to add adult companion services for older Alaskans and for adults with physical
30 disabilities as a reimbursable service either as a separate service or as a service that may be
31 combined with other waivers, including respite or chore services or personal attendant

1 services. The services may be combined only if the combination results in greater efficiency
 2 in administering the program and is more beneficial to the recipient of waiver services.

3 (b) It is the intent of the legislature to restore nonmedical care, supervision, and
 4 socialization provided through companion services to functionally impaired adults who are
 5 eligible for home and community based waivers for older Alaskans and for adults with
 6 physical disabilities. Companion services were formerly provided as part of respite service
 7 before the amendments to 7 AAC 43.1040. Effective May 15, 2004, the Department of
 8 Health and Social Services was prohibited from paying for respite services that allow a
 9 primary caregiver of an eligible recipient to work under 7 AAC 43.049(d)(4)(A) or that are
 10 provided during sleeping or nighttime hours. Adult companion services shall be available
 11 under this Act, subject to other federal and state limits, as part of the recipient's approved plan
 12 of care to allow a primary caregiver to work, to allow a primary caregiver to sleep during
 13 normal nighttime hours when the recipient of care cannot be safely left unsupervised during
 14 the caregiver's sleep hours, and to allow supervision or monitoring of a recipient who is not
 15 otherwise safe while sleeping. The department shall enact regulations that are necessary to
 16 implement the legislative intent under this section.

17 (c) In this section, "adult companion services" means nonmedical care, supervision, or
 18 socialization, provided to a functionally impaired adult in accordance with a therapeutic goal
 19 in the recipient's plan of care under the home and community based waiver program; for
 20 purposes of this subsection, "therapeutic goal" means a goal that has the effect of delaying or
 21 avoiding placement of the recipient in a more restrictive environment, including an assisted
 22 living home or a nursing home, and that supports the vital needs for the primary caregiver of
 23 the recipient.

24 * **Sec. 55.** The uncodified law of the State of Alaska is amended by adding a new section to
 25 read:

26 **TRANSITION: CURRENTLY LICENSED OR APPROVED FACILITIES.** (a)
 27 Notwithstanding AS 47.32.020, enacted by sec. 35 of this Act, a facility that is a type of entity
 28 listed in AS 47.32.010(b), enacted by sec. 35 of this Act, and that on the effective date of secs.
 29 1 - 15, 17 - 19, 21 - 35, 37 - 42, and 44 - 51 of this Act is being operated under a valid license
 30 or under an approval issued by the department under a statute repealed or amended by this
 31 Act, may continue to be operated under that license or approval as provided in this section.

1 (b) References to AS 47.32 in the following sections are interpreted to include, until
2 June 30, 2006, the relevant former licensing provision repealed in this Act:

- 3 (1) AS 11.61.195(a), as amended by sec. 4 of this Act;
- 4 (2) AS 11.61.220(a), as amended by sec. 5 of this Act;
- 5 (3) AS 25.27.244(s)(2), as amended by sec. 14 of this Act;
- 6 (4) AS 47.05.010, as amended by sec. 18 of this Act;
- 7 (5) AS 47.05.055(a), as amended by sec. 19 of this Act;
- 8 (6) AS 47.10.141(b), as amended by sec. 21 of this Act;
- 9 (7) AS 47.10.392, as amended by sec. 22 of this Act;
- 10 (8) AS 47.10.399(2), as amended by sec. 23 of this Act;
- 11 (9) AS 47.10.990, as amended by secs. 24 and 25 of this Act;
- 12 (10) AS 47.24.013(a), as amended by sec. 27 of this Act;
- 13 (11) AS 47.24.017(d), as amended by sec. 28 of this Act;
- 14 (12) AS 47.25.071(b), as amended by sec. 29 of this Act;
- 15 (13) AS 47.25.095(2), as amended by sec. 30 of this Act;
- 16 (14) AS 47.25.095(4), as amended by sec. 31 of this Act;
- 17 (15) AS 47.25.195(f)(1), as amended by sec. 32 of this Act;
- 18 (16) AS 47.30.915(5), as amended by sec. 33 of this Act;
- 19 (17) AS 47.31.100(4), as amended by sec. 34 of this Act;
- 20 (18) AS 47.33.070(a), as amended by sec. 38 of this Act; and
- 21 (19) AS 47.55.010(d), as amended by sec. 41 of this Act.

22 (c) Until renewal or expiration of a current license under (d) or (e) of this section, the
23 requirements and standards, including department oversight, monitoring, and enforcement
24 actions, regarding operation of a facility that is authorized to continuing operating under this
25 section are those that were in effect in statute or regulation on the day before the effective date
26 of secs. 1 - 15, 17 - 19, 21 - 35, 37 - 42, and 44 - 51 of this Act.

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

31 (e) Application for license renewal must be made under AS 47.32.060, enacted by

1 sec. 35 of this Act, by the date required by that statute, for a facility described in (a) of this
 2 section for which renewal of licensure is desired before expiration of the facility's current
 3 license. For purposes of renewal of a license under this subsection and AS 47.32.060, enacted
 4 by sec. 35 of this Act, the current license for the facility is considered to be a biennial license
 5 under AS 47.32.

6 (f) In this section,

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

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

10 * **Sec. 56.** The uncodified law of the State of Alaska is amended by adding a new section to
 11 read:

12 **TRANSITION: CERTAIN APPLICATIONS PENDING FOR MORE THAN 90**
 13 **DAYS.** (a) An application for licensure or approval regarding a facility that is a type of
 14 entity listed in AS 47.32.010(b), enacted by sec. 35 of this Act, that was submitted more than
 15 90 days before the effective date of secs. 1 - 15, 17 - 19, 21 - 35, 37 - 42, and 44 - 51 of this
 16 Act under a statute repealed or amended by this Act and that is pending department action on
 17 the effective date of secs. 1 - 15, 17 - 19, 21 - 35, 37 - 42, and 44 - 51 of this Act shall
 18 continue to be processed, and either granted or denied, by the department under the applicable
 19 statutes and regulations that were in effect on the day before the effective date of secs. 1 - 15,
 20 17 - 19, 21 - 35, 37 - 42, and 44 - 51 of this Act.

21 (b) Until renewal or expiration of the license or approval under (c) or (d) of this
 22 section, the requirements and standards, including department oversight, monitoring, and
 23 enforcement actions, regarding operation of a facility licensed or approved as provided in (a)
 24 of this section are those that were in effect in statute or regulation on the day before the
 25 effective date of secs. 1 - 15, 17 - 19, 21 - 35, 37 - 42, and 44 - 51 of this Act.

26 (c) Unless an enforcement action taken by the department as provided in (b) of this
 27 section affects the validity of the license or approval, a license or approval issued by the
 28 department on or after the effective date of secs. 1 - 15, 17 - 19, 21 - 35, 37 - 42, and 44 - 51
 29 of this Act under the provisions of (a) of this section expires June 30, 2006.

30 (d) Application must be made under AS 47.32.060, enacted by sec. 35 of this Act, by
 31 the date required by that statute, for a facility described in (a) of this section for which a

1 license or approval was issued under (a) of this section and for which renewal of a license is
 2 desired, before expiration of the license or approval issued under (a) of this section. For
 3 purposes of renewal of a license under this subsection and AS 47.32.060, enacted by sec. 35
 4 of this Act, the license or approval issued under (a) of this section regarding the facility is
 5 considered to be a biennial license under AS 47.32.

6 (e) In this section,

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

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

9 * **Sec. 57.** The uncodified law of the State of Alaska is amended by adding a new section to
 10 read:

11 TRANSITION: PENDING APPLICATIONS AND OTHER REQUESTS
 12 REGARDING SEC. 20 OF THIS ACT. (a) An application or other request for licensure,
 13 certification, or other approval or selection as an entity or individual service provider that
 14 would be subject to AS 47.05.300 - 47.05.390, enacted by sec. 20 of this Act, that was
 15 submitted more than 30 days before the effective date of sec. 20 of this Act and is pending
 16 department action on the effective date of sec. 20 of this Act shall continue to be processed,
 17 and either granted or denied, by the department under the applicable statutes and regulations
 18 that were in effect on the day before the effective date of sec. 20 of this Act. In this
 19 subsection,

20 (1) "entity" means an entity that would be subject to AS 47.05.300 -
 21 47.05.390, enacted by sec. 20 of this Act;

22 (2) "individual service provider" has the meaning given in AS 47.05.390,
 23 enacted by sec. 20 of this Act.

24 (b) In this section,

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

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

27 * **Sec. 58.** The uncodified law of the State of Alaska is amended by adding a new section to
 28 read:

29 TRANSITION: REGULATIONS. (a) The Department of Health and Social Services
 30 may proceed to adopt regulations necessary to implement secs. 1 - 15, 17 - 19, 21 - 35, 37 -
 31 42, and 44 - 51 of this Act. The regulations take effect under AS 44.62 (Administrative

1 Procedure Act), but not before the effective date of the statutory changes.

2 (b) The Department of Health and Social Services may proceed to adopt regulations
3 necessary to implement secs. 16, 20, and 36 of this Act. The regulations take effect under
4 AS 44.62 (Administrative Procedure Act).

5 * **Sec. 59.** The uncodified law of the State of Alaska is amended by adding a new section to
6 read:

7 CERTIFICATION OF EFFECTIVE DATE OF REGULATIONS. The lieutenant
8 governor shall certify to the revisor of statutes the effective date of the regulations adopted by
9 the Department of Health and Social Services under sec. 58 of this Act.

10 * **Sec. 60.** Sections 52 - 59 of this Act take effect immediately under AS 01.10.070(c).

11 * **Sec. 61.** Section 43 of this Act takes effect July 1, 2006.

12 * **Sec. 62.** Sections 16, 20, and 36 of this Act take effect on the effective date of the
13 regulations adopted by the Department of Health and Social Services under sec. 58(b) of this
14 Act, or March 1, 2006, whichever is earlier, but in no event earlier than July 2, 2005.

15 * **Sec. 63.** Except as provided in secs. 60 - 62 of this Act, this Act takes effect July 2, 2005.