

**HOUSE CS FOR CS FOR SENATE BILL NO. 125(FIN) am H**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 5/8/05

Offered: 5/8/05

Sponsor(s): SENATE 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 possession of a firearm at licensed  
8 entities and facilities; relating to criminal history requirements, and a registry,  
9 regarding certain licenses, certifications, approvals, and authorizations by the  
10 Department of Health and Social Services; relating to public assistance for health  
11 facilities and assisted living homes, to rates charged by an assisted living home, and to  
12 the liability of recipients of home or community-based services to pay for those services;

1 **making conforming amendments; and providing for an effective date."**

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

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

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

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

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

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

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

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

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

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

30 (2) violates AS 11.61.200(a)(1) and is within the grounds of or on a

1 parking lot immediately adjacent to

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

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

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

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

11 (B) a dwelling.

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

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

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

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

19 (i) immediately inform the peace officer of that  
20 possession; or

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

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

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

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

1 (4) knowingly possesses a firearm

2 (A) within the grounds of or on a parking lot immediately  
3 adjacent to **an entity** [A CENTER], other than a private residence, licensed **as**  
4 **a child care facility** under **AS 47.32** [AS 47.33 OR AS 47.35] or recognized  
5 by the federal government for the care of children, **except that a person 21**  
6 **years of age or older may possess an unloaded firearm in the trunk of a**  
7 **motor vehicle or encased in a closed container of a motor vehicle;**

8 (B) within a

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

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

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

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

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

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

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

23 \* **Sec. 7.** AS 18.20.130 is amended to read:

24 **Sec. 18.20.130. Definitions.** In **AS 18.20.075 - 18.20.130** [AS 18.20.010 -  
25 18.20.130],

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

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

29 (3) "hospital" means an institution or establishment, public or private,  
30 devoted primarily to providing diagnosis, treatment, or care over a continuous period  
31 of 24 hours each day for two or more nonrelated 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.

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

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

13 (1) ban the admission of new residents to the nursing facility;

14 (2) as provided in AS 18.20.320, deny payment under AS 47.07 and  
15 AS 47.25.120 - 47.25.300 for any Medicaid or general relief-medical resident admitted  
16 to the nursing facility after notice by the department of denial of payment; residents  
17 who are eligible for Medicaid or general relief-medical are not responsible for  
18 payment when the department takes action under this paragraph;

19 (3) assess a civil fine in accordance with AS 18.20.340;

20 (4) suspend or terminate the nursing facility's participation in the  
21 Medicaid program;

22 (5) suspend, revoke, or refuse to renew the nursing facility's license  
23 issued under this chapter;

24 (6) seek an appointment of temporary administration as provided in  
25 AS 18.20.360 or of a receiver under AS 18.20.370;

26 (7) in case of an emergency, seek an order from the court either to  
27 close the nursing facility or to transfer residents from that facility, or both.

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

29 (3) "health care provider" means an acupuncturist licensed under  
30 AS 08.06; a chiropractor licensed under AS 08.20; a dental hygienist licensed under  
31 AS 08.32; a dentist licensed under AS 08.36; a nurse licensed under AS 08.68; a

1 dispensing optician licensed under AS 08.71; an optometrist licensed under AS 08.72;  
 2 a pharmacist licensed under AS 08.80; a physical therapist or occupational therapist  
 3 licensed under AS 08.84; a physician licensed under AS 08.64; a podiatrist; a  
 4 psychologist and a psychological associate licensed under AS 08.86; a hospital as  
 5 defined in AS 47.32.900 [AS 18.20.130], including a governmentally owned or  
 6 operated hospital; and an employee of a health care provider acting within the course  
 7 and scope of employment;

8 \* **Sec. 10.** AS 18.26.220 is amended to read:

9 **Sec. 18.26.220. Facility compliance with health and safety laws and**  
 10 **licensing requirements.** A medical facility constructed, acquired, improved,  
 11 financed, or otherwise under the provisions of this chapter and all actions of the  
 12 authority are subject to AS 18.07, AS 47.32 [AS 18.20], and any other present or  
 13 future state licensing requirements for the facilities or services provided under this  
 14 chapter. A medical facility issued a certificate of need under sec. 4, ch. 275, SLA  
 15 1976, by virtue of being in existence or under construction before July 1, 1976, must  
 16 fully meet the requirements of AS 18.07 in order to be eligible for funding under this  
 17 chapter.

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

19 (4) "child adoption agency" means a child adoption agency licensed as  
 20 a child placement agency under AS 47.32 or former AS 47.35;

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

22 (c) Nothing in this section relieves a health maintenance organization that  
 23 wishes to exercise the power described in (a)(1) of this section from the requirements  
 24 of

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

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

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

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

29 (c) A child adoption agency licensed under former AS 47.35 and a child  
 30 placement agency licensed under AS 47.32 shall maintain records of the information  
 31 required to be furnished to the court under this section or under regulations of the

1 commissioner implementing this section. If a child adoption agency **or child**  
 2 **placement agency** ceases to place persons for adoption, it shall transfer its records to  
 3 the commissioner.

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

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

7 \* **Sec. 15.** AS 44.62.330(a) is amended by adding a new paragraph to read:

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

10 \* **Sec. 16.** AS 44.64.030(a) is amended by adding a new paragraph to read:

11 (36) AS 47.32 (licensing by the Department of Health and Social  
 12 Services).

13 \* **Sec. 17.** AS 47.05.010 is amended to read:

14 **Sec. 47.05.010. Duties of department.** The Department of Health and Social  
 15 Services shall

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

19 (2) adopt regulations necessary for the conduct of its business and for  
 20 carrying out federal and state laws granting adult public assistance, temporary cash  
 21 assistance, diversion payments, or self-sufficiency services for needy families under  
 22 the Alaska temporary assistance program, and other assistance;

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

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

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

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

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

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

11 (9) adopt regulations, not inconsistent with law, defining need,  
 12 prescribing the conditions of eligibility for assistance, and establishing standards for  
 13 determining the amount of assistance that an eligible person is entitled to receive; the  
 14 amount of the assistance is sufficient when, added to all other income and resources  
 15 available to an individual, it provides the individual with a reasonable subsistence  
 16 compatible with health and well-being; an individual who meets the requirements for  
 17 eligibility for assistance shall be granted the assistance promptly upon application for  
 18 it;

19 (10) grant to a person claiming or receiving assistance and who is  
 20 aggrieved because of the department's action or failure to act, reasonable notice and an  
 21 opportunity for a fair hearing by the department, and the department shall adopt  
 22 regulations relative to this;

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

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

29 (13) establish the divisions and local offices that are considered  
 30 necessary or expedient to carry out a duty or authority assigned to it and appoint and  
 31 employ the assistants and personnel that are necessary to carry on the work of the

1 divisions and offices, and fix the compensation of the assistants or employees except  
 2 that a person engaged in business as a retail vendor of general merchandise, or a  
 3 member of the immediate family of a person who is so engaged, may not serve as an  
 4 acting, temporary or permanent local agent of the department, unless the  
 5 commissioner of health and social services certifies in writing to the governor, with  
 6 relation to a particular community, that no other qualified person is available in the  
 7 community to serve as local welfare agent; for the purposes of this paragraph, a  
 8 "member of the immediate family" includes a spouse, child, parent, brother, sister,  
 9 parent-in-law, brother-in-law or sister-in-law;

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

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

16 \* **Sec. 18.** AS 47.05.055(a) is amended to read:

17 (a) If the department has reason to believe that a certified nurse aide employed  
 18 in a facility licensed by the department under AS 47.32 as a hospital or nursing  
 19 home [AS 18.20] has committed abuse, neglect, or misappropriation of property in  
 20 connection with the person's duties as a certified nurse aide at the facility, the  
 21 department shall investigate the matter. The department shall conduct proceedings to  
 22 determine whether [IF] a finding of abuse, neglect, or misappropriation of property  
 23 should be made. These proceedings shall be conducted under AS 44.62.330 -  
 24 44.62.630. A finding under this subsection that a certified nurse aide has committed  
 25 abuse, neglect, or misappropriation of property shall be reported by the department to  
 26 the Board of Nursing.

27 \* **Sec. 19.** AS 47.05 is amended by adding new sections to read:

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

29 **Sec. 47.05.300. Applicability.** (a) The provisions of AS 47.05.310 -  
 30 47.05.390 apply to any individual or entity that is required by statute or regulation to  
 31 be licensed or certified by the department or that is eligible to receive payments, in

1 whole or in part, from the department to provide for the health, safety, and welfare of  
2 persons who are served by the programs administered by the department.

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

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

6 (2) providers of home and community-based waiver services financed  
7 under AS 47.07.030(c); and

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

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

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

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

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

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

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

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

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

1 (1) individual has been found by a court or agency of this or another  
 2 jurisdiction to have neglected, abused, or exploited a child or vulnerable adult under  
 3 AS 47.10, AS 47.24, or AS 47.62 or a substantially similar provision in another  
 4 jurisdiction, or to have committed medical assistance fraud under AS 47.05.210 or a  
 5 substantially similar provision in another jurisdiction; or

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

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

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

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

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

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

23 (e) An individual for whom a release of information authorization has been  
 24 provided to the department shall submit the individual's fingerprints to the department,  
 25 with the fee established under AS 12.62.160, for a report of criminal justice  
 26 information under AS 12.62 and for submission by the Department of Public Safety to  
 27 the Federal Bureau of Investigation for a national criminal history record check. The  
 28 Department of Public Safety shall provide the report of criminal justice information  
 29 and the results of the national criminal history record check to the department for its  
 30 use in considering an application for a license, license renewal, certification, or  
 31 certification renewal, or in considering other approval or selection regarding an entity,

1 for compliance with the standards established in this section. For purposes of  
2 obtaining access to criminal justice information maintained by the Department of  
3 Public Safety under AS 12.62, the department is a criminal justice agency conducting  
4 a criminal justice activity. The department may waive the requirement for fingerprint  
5 submission if an individual is unable to provide fingerprints due to a medical or  
6 physical condition that is documented by a licensed physician.

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

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

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

15 (i) For purposes of (b) and (c) of this section, in place of nonissuance or  
16 nonrenewal of a license or certification, an entity or individual service provider that is  
17 not required to be licensed or certified by the department or a person wishing to  
18 become an entity or individual service provider that is not required to be licensed or  
19 certified by the department is instead ineligible to receive a payment, in whole or in  
20 part, from the department to provide for the health, safety, and welfare of persons who  
21 are served by the programs administered by the department if the entity, individual  
22 service provider, or person

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

26 (2) has been found by a court or agency of this or another jurisdiction  
27 to have neglected, abused, or exploited a child or vulnerable adult under AS 47.10,  
28 AS 47.24, or AS 47.62 or a substantially similar provision in another jurisdiction, or to  
29 have committed medical assistance fraud under AS 47.05.210 or a substantially  
30 similar provision in another jurisdiction; or

31 (3) appears on the centralized registry established under AS 47.05.330

1 or a similar registry of this state or another jurisdiction.

2 **Sec. 47.05.320. Criminal history use standards.** The department shall by  
3 regulation establish standards for the consideration and use by the department, an  
4 entity, or an individual service provider of the criminal history of an individual  
5 obtained under AS 47.05.310.

6 **Sec. 47.05.330. Centralized registry.** (a) The department shall by regulation  
7 provide for a centralized registry to facilitate the licensing or certification of entities  
8 and individual service providers, the authorization of payments to entities or  
9 individual service providers by the department, and the employment of individuals by  
10 entities and individual service providers.

11 (b) Except for the name of each victim being redacted before the information  
12 is placed on the registry, the registry shall consist of the following information for an  
13 entity or individual service provider, an applicant on behalf of an entity or individual  
14 service provider, or an employee or unsupervised volunteer of an entity or individual  
15 service provider:

16 (1) decisions, orders, judgments, and adjudications finding that the  
17 applicant, employee, or unsupervised volunteer committed

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

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

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

26 (c) As a condition for applying for licensure or certification of an entity or  
27 individual service provider, or for payment to an entity or individual service provider  
28 by the department, an applicant must agree to submit timely to the registry the  
29 information required under this section relating to the entity, any individual, the  
30 applicant, employees, and unsupervised volunteers of the entity or individual service  
31 provider.

1 (d) Within 24 hours of a court decision, order, judgment, or adjudication that  
 2 an entity, individual service provider, or employee or unsupervised volunteer of an  
 3 entity or individual service provider committed an act listed under (b) of this section,  
 4 the entity, individual service provider, or employee or unsupervised volunteer of an  
 5 entity or individual service provider shall report the court action to the department.

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

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

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

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

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

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

27 (2) submits information to the registry; or

28 (3) fails to hire or retain an employee or unsupervised volunteer  
 29 because the employee or unsupervised volunteer is included in the registry.

30 (j) A person about whom information is placed in the registry shall be notified  
 31 of the placement by the department and may request the department to delete or

1 modify the information to correct inaccuracies. The department shall investigate the  
 2 request and make necessary deletions or modifications if the department finds no  
 3 relationship between the information placed in the registry and the risk of harm to the  
 4 entity's clientele.

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

7 **Sec. 47.05.350. Use of information; immunity.** An entity or individual  
 8 service provider that obtains information about an employee under a criminal history  
 9 check under AS 47.05.310 may use that information only as provided for in  
 10 regulations adopted by the department under AS 47.05.320. However, if an entity or  
 11 individual service provider reasonably relies on the information provided under the  
 12 regulations adopted by the department to deny employment to an individual who was  
 13 selected for hire as an employee, including during a period of provisional  
 14 employment, the entity or individual service provider is not liable in an action brought  
 15 by the individual based on the employment determination resulting from the  
 16 information.

17 **Sec. 47.05.390. Definitions.** In AS 47.05.300 - 47.05.390, unless the context  
 18 otherwise requires,

- 19 (1) "criminal history records" has the meaning given in AS 12.64.010;  
 20 (2) "criminal justice activity" has the meaning given in AS 12.62.900;  
 21 (3) "criminal justice agency" has the meaning given in AS 12.62.900;  
 22 (4) "criminal justice information" has the meaning given in  
 23 AS 12.62.900;  
 24 (5) "department" means the Department of Health and Social Services;  
 25 (6) "entity" means an entity listed in AS 47.32.010(b) and includes an  
 26 owner, officer, director, member or partner of the entity;  
 27 (7) "individual service provider" means an individual described in  
 28 AS 47.05.300(a), and includes those listed in AS 47.05.300(b);  
 29 (8) "license" includes a provisional license;  
 30 (9) "unsupervised" means that an individual who is licensed under  
 31 AS 47.32, after submitting a criminal history background check, is not physically

1 present to observe the volunteer at the entity.

2 \* **Sec. 20.** AS 47.07.070(a) is amended to read:

3 (a) **Except as provided under (d) or (e) of this section, the** [THE]  
 4 department shall, by regulation, set rates of payments for health facilities under this  
 5 chapter and AS 47.25.120 – 47.25.300 in accordance with 42 U.S.C. 1396 (Title XIX,  
 6 Social Security Act, Medical Assistance) and this section. A rate established under  
 7 this section takes effect under AS 44.62 (Administrative Procedure Act) but not until  
 8 approved in writing by the commissioner. The commissioner may delegate the  
 9 performance of these functions.

10 \* **Sec. 21.** AS 47.07.070 is amended by adding new subsections to read:

11 (d) For residential support living services provided to an eligible recipient of  
 12 medical assistance living in an assisted living home licensed under AS 47.33, the  
 13 minimum daily reimbursement rate to the assisted living home for room and board  
 14 expenses is \$28.

15 (e) A calculation of the rate for administrative and general costs for a provider,  
 16 including an assisted living home, shall be determined in the same way as a  
 17 calculation for administrative and general cost rate for a Pioneers' Home. In this  
 18 subsection, "administrative and general costs" means those expenses that are common  
 19 to the overall operation of a provider providing home and community-based waiver  
 20 services and that are not directly assignable to or borne by a specific program or  
 21 recipient of a home and community-based service.

22 \* **Sec. 22.** AS 47.10.141(b) is amended to read:

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

27 (1) the peace officer shall

28 (A) return the minor to the minor's parent or guardian at the  
 29 parent's or guardian's residence if the residence is in the same community  
 30 where the minor was found and if the minor's parent or guardian consents to  
 31 the return, except that the officer may not use this option if the officer has

1 reasonable cause to believe that the minor has experienced physical or sexual  
2 abuse in the parent's or guardian's household;

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

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

10 (i) an office specified by the Department of Health and  
11 Social Services;

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

14 (iii) a shelter for runaways that has a permit from the  
15 department under AS 47.32 [AS 47.35.085] that agrees to shelter the  
16 minor;

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

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

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

27 (3) a minor under protective custody may not be housed in a jail or  
28 other detention facility but may be housed in a semi-secure portion of an office,  
29 program, shelter, or other facility under (1) (C) of this subsection;

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

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

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

7 \* **Sec. 23.** AS 47.10.392 is amended to read:

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

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

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

13 \* **Sec. 24.** AS 47.10.399(2) is amended to read:

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

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

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

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

24 \* **Sec. 25.** AS 47.10.990(10) is amended to read:

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

27 \* **Sec. 26.** AS 47.10.990(24) is amended to read:

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

30 \* **Sec. 27.** AS 47.12.990(14) is amended to read:

31 (14) "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. 28.** AS 47.24.013(a) is amended to read:

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

10 \* **Sec. 29.** AS 47.24.017(d) is amended to read:

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

18 \* **Sec. 30.** AS 47.25.071(b) is amended to read:

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

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

23 (2) participate in the day care assistance program under AS 47.25.001 -  
24 47.25.095; and

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

27 \* **Sec. 31.** AS 47.25.095(2) is amended to read:

28 (2) "child care facility" means an establishment licensed **as a child**  
29 **care facility** under **AS 47.32** [AS 47.35], including day care centers, family day care  
30 homes, and schools for preschool age children, that provides care for children not  
31 related by blood, marriage, or legal adoption to the owner, operator, or manager of the

1 facility;

2 \* **Sec. 32.** AS 47.25.095(4) is amended to read:

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

6 \* **Sec. 33.** AS 47.25.195(f)(1) is amended to read:

7 (1) "assisted living home" means an assisted living home licensed  
8 under AS 47.32 [AS 47.33];

9 \* **Sec. 34.** AS 47.30.915(5) is amended to read:

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

14 \* **Sec. 35.** AS 47.31.100(4) is amended to read:

15 (4) "evaluation facility" means a health care facility that has been  
16 designated by the department to perform the evaluations described in AS 47.30.670 -  
17 47.30.915, including a facility licensed under AS 47.32 [AS 18.20.020] or operated by  
18 the federal government;

19 \* **Sec. 36.** AS 47 is amended by adding a new chapter to read:

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

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

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

- 29 (1) ambulatory surgical centers;  
30 (2) assisted living homes;  
31 (3) child care facilities;

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

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

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

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

- 24 (1) administer and enforce the provisions of this chapter;  
 25 (2) coordinate and develop policies, programs, and planning related to  
 26 licensure and operation of entities listed in AS 47.32.010(b) as defined by regulation;  
 27 (3) adopt regulations necessary to carry out the purposes of this  
 28 chapter, including regulations that  
 29 (A) establish fees for licensing of each type of entity listed in  
 30 AS 47.32.010(b);  
 31 (B) impose requirements for licensure, including standards for

1 license renewal, that are in addition to the requirements of this chapter or of  
2 any other applicable state or federal statute or regulation;

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

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

9 (ii) record-keeping requirements;

10 (iii) reporting requirements; and

11 (iv) requirements and standards regarding health, safety,  
12 and sanitation;

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

17 (E) establish requirements for the operation of entities licensed  
18 under this chapter;

19 (4) investigate

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

21 (B) applicants for licensure, including individuals named in an  
22 application; and

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

28 (5) inspect and monitor licensed entities for compliance with this  
29 chapter, regulations adopted under this chapter, and any other applicable statutes or  
30 regulations;

31 (6) enter into contracts and agreements necessary to carry out the

1 functions, powers, and duties of the department under this chapter;

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

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

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

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

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

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

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

27 (c) The issuance of a license by the department does not obligate the  
28 department to place or maintain an individual in an entity or through an entity, or to  
29 provide financial support to an entity.

30 **Sec. 47.32.040. Application for license.** A person shall apply to the  
31 department for a license under this chapter. The application must be made to the

1 department on a form provided by the department or in a format approved by the  
2 department, and must be accompanied by

- 3 (1) any fee established by regulation; and
- 4 (2) documents and information required by regulation.

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

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

- 18 (1) the entity meets the requirements for biennial licensure established
- 19 in this chapter, regulations adopted under this chapter, and other applicable statutes
- 20 and regulations;
- 21 (2) a ground for nonrenewal of a license does not exist; and
- 22 (3) any applicable fee has been paid.

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

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

- 30 (1) all documents and information identified in regulation as being
- 31 required for renewal of the license; and

1 (2) any fee established by regulation.

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

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

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

10 (3) any applicable fee has been paid.

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

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

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

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

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

29 **Sec. 47.32.080. Posting of license; license not transferable.** (a) A license  
30 issued under this chapter shall be posted in a conspicuous place on the licensed  
31 premises. Any notice of a variance issued by the department shall be posted near the

1 license.

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

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

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

13 (c) A licensed entity may not take retaliatory action against a person who files  
14 a complaint. Except as provided in AS 47.05.350 and AS 47.32.160, a complainant  
15 against whom a retaliatory action has been taken may recover treble damages in a civil  
16 action upon a showing that the action was taken in retaliation for the filing of a  
17 complaint.

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

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

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

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

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

29 (2) to conduct a complaint investigation;

30 (3) to conduct a standard inspection;

31 (4) to inspect documents, including personnel records, accounts, the

1 building, or the premises;

2 (5) to interview staff or residents; or

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

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

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

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

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

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

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

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

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

27 (a) If the department's report of investigation or inspection under AS 47.32.120  
28 concludes that the department has reasonable cause to believe that a violation of an  
29 applicable statute or regulation has occurred that presents an immediate danger to the  
30 health, safety, or welfare of an individual receiving services from the entity, the  
31 department, without an administrative hearing and without providing an opportunity to

1 cure or correct the violation, may immediately revoke or suspend the entity's license  
 2 or, if the entity is not licensed under this chapter, may revoke the entity's ability to  
 3 become licensed under this chapter or to provide services as an entity exempted under  
 4 this chapter. A suspension or revocation under this subsection takes effect  
 5 immediately upon initial notice to the entity from the department, is in addition to any  
 6 enforcement action under AS 47.32.140, and continues until a final determination  
 7 under (c) of this section or AS 47.32.150.

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

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

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

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

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

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

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

31 **Sec. 47.32.140. Enforcement actions.** (a) If the department's report of

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

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

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

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

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

31 (2) modification of the term or scope of the entity's existing license,

1 including changing a biennial license to a provisional license or adding a condition to  
2 the license;

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

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

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

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

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

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

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

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

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

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

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

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

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

1 subsection may not exceed \$2,500 a day for each day of violation for a continuing  
2 violation or \$25,000 for a single violation.

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

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

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

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

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

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

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

29 **Sec. 47.32.150. Hearings.** (a) Upon receipt of a timely request for a hearing  
30 by an entity regarding an enforcement action under AS 47.32.130(a) or  
31 47.32.140(d)(3), (5), (6), (7), or (9), the department shall request the chief

1 administrative law judge appointed under AS 44.64.020 to appoint an administrative  
 2 law judge employed or retained by the office of administrative hearings to preside  
 3 over a hearing conducted under this section. AS 44.62.330 - 44.62.630 and  
 4 AS 44.64.060 apply 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 may 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 **Sec. 47.32.170. Criminal penalty.** A person who intentionally or with  
 25 criminal negligence violates a provision of this chapter or a regulation adopted under  
 26 this chapter related to the health and safety of persons served by an entity required to  
 27 comply with this chapter is guilty of a class B misdemeanor.

28 **Sec. 47.32.180. Confidentiality; release of certain information.** (a) Except  
 29 as otherwise provided by law, the following are confidential and may not be disclosed  
 30 to the public without a court order: complaints; investigations; inspections; records  
 31 related to a complaint, investigation, or inspection; and the identity of a complainant

1 and of individuals receiving services from an entity.

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

9 (1) entity receives its copy of the report of investigation under  
10 AS 47.32.120, if the department has determined that an enforcement action under AS  
11 47.32.130 or 47.32.140 will not be taken regarding the entity;

12 (2) department's notice of enforcement action under AS 47.32.130 or  
13 47.32.140 becomes a final administrative order without a hearing under  
14 AS 47.32.130(c) or 47.32.140(i); or

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

16 **Sec. 47.32.190. Access to information.** Notwithstanding any contrary  
17 provision of law, the divisions of the department assigned public health and public  
18 assistance functions shall have access to any information compiled or retained by  
19 other divisions within the department, regardless of the nature of the information or  
20 whether the information is considered confidential, in order to assist in administering  
21 the provisions of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

19 (2) "assisted living home"

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

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

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

27 (iii) offers personal assistance as defined in  
28 AS 47.33.990; or

29 (iv) provides or offers any combination of these  
30 services;

31 (B) does not include

- 1 (i) a correctional facility;
- 2 (ii) an emergency shelter;
- 3 (iii) a program licensed under AS 47.10.310 for  
4 runaway minors;
- 5 (iv) a type of entity listed in AS 47.32.010(b)(5), (8),  
6 (9), (10), (11), or (12);
- 7 (3) "child placement agency" means an agency that arranges for  
8 placement of a child
- 9 (A) in a foster home, residential child care facility, or adoptive  
10 home; or
- 11 (B) for guardianship purposes;
- 12 (4) "commissioner" means the commissioner of health and social  
13 services;
- 14 (5) "department" means the Department of Health and Social Services;
- 15 (6) "entity" means an entity listed in AS 47.32.010(b);
- 16 (7) "foster home" means a place where the adult head of household  
17 provides 24-hour care on a continuing basis to one or more children who are apart  
18 from their parents;
- 19 (8) "free-standing birth center" means a facility that is not a part of a  
20 hospital and that provides a birth service to maternal clients;
- 21 (9) "frontier extended stay clinic" means a rural health clinic that is  
22 authorized to provide 24-hour care to one or more individuals;
- 23 (10) "home health agency" means a public agency or private  
24 organization, or a subdivision of a public agency or private organization, that  
25 primarily engages in providing skilled nursing services in combination with physical  
26 therapy, occupational therapy, speech therapy, or services provided by a home health  
27 aide to an individual in the individual's home, an assisted living home, or another  
28 residential setting; in this paragraph,
- 29 (A) "public agency" means an agency operated by the state or a  
30 local government;
- 31 (B) "subdivision" means a component of a multi-function

1 facility or home health agency, such as the home health care division of a  
 2 hospital or the division of a public agency, that independently meets the  
 3 requirements for licensure as a home health agency;

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

6 (12) "hospice services" means a range of interdisciplinary palliative  
 7 and supportive services

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

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

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

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

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

31 (16) "maternity home" means a place of residence the primary function

1 of which is to give care, with or without compensation, to pregnant individuals,  
 2 regardless of age, or that provides care, as needed, to mothers and their newborn  
 3 infants;

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

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

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

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

17 (21) "rural health clinic"

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

20 (B) includes a frontier extended stay clinic;

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

23 \* **Sec. 37.** AS 47.32.010, added by sec. 36 of this Act, is amended by adding a new  
 24 subsection to read:

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

28 \* **Sec. 38.** AS 47.33.010 is amended to read:

29 **Sec. 47.33.010. Applicability.** (a) Except as provided in (b) of this section,  
 30 this chapter applies to assisted living homes as defined in AS 47.32.900  
 31 [RESIDENTIAL FACILITIES OPERATED IN THE STATE THAT SERVE THREE

1 OR MORE ADULTS WHO ARE NOT RELATED TO THE OWNER OF THE  
2 FACILITY BY BLOOD OR MARRIAGE BY

3 (1) PROVIDING HOUSING AND FOOD SERVICE TO ITS  
4 RESIDENTS; AND

5 (2) PROVIDING OR OBTAINING, OR OFFERING TO PROVIDE  
6 OR OBTAIN FOR ITS RESIDENTS

7 (A) ASSISTANCE WITH THE ACTIVITIES OF DAILY  
8 LIVING;

9 (B) PERSONAL ASSISTANCE; OR

10 (C) A COMBINATION OF SERVICES UNDER (A) AND (B)  
11 OF THIS PARAGRAPH].

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

13 (1) a correctional facility;

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

16 (3) an emergency shelter;

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

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

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

21 \* **Sec. 39.** AS 47.33.070(a) is amended to read:

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

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

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

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

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

31 (5) a copy of the residential services contract between the home and

1 the resident;

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

4 (7) written acknowledgment by the resident or the resident's  
5 representative that the resident has received a copy of and has read, or has been read  
6 the

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

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

9 (C) resident's right to protection from retaliation under  
10 AS 47.33.350;

11 (D) provisions of AS 47.32.160 [AS 47.33.510], regarding  
12 immunity; and

13 (E) home's house rules;

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

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

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

21 \* **Sec. 40.** AS 47.40.021 is amended to read:

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

25 \* **Sec. 41.** AS 47.40.110 is amended to read:

26 **Sec. 47.40.110. Licensing and supervision.** A person providing services  
27 purchased by the Department of Health and Social Services under AS 47.40.100 -  
28 47.40.120 shall, if required to be licensed under AS 47.32 [AS 47.35], be licensed and  
29 supervised in the same manner as foster homes and maternity homes under AS 47.32  
30 [AS 47.35].

31 \* **Sec. 42.** AS 47.55.010(d) is amended to read:

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

8 \* **Sec. 43.** AS 47.62.090(2) is amended to read:

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

12 \* **Sec. 44.** AS 47.80.140 is repealed and reenacted to read:

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

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

22 \* **Sec. 45.** AS 14.43.148(h)(1)(B)(iii) is repealed.

23 \* **Sec. 46.** AS 18.05.040(a)(10); AS 18.18.005, 18.18.010, 18.18.020, 18.18.030,  
 24 18.18.040, 18.18.100, 18.18.200, 18.18.300, 18.18.310, 18.18.320, 18.18.330, 18.18.340,  
 25 18.18.350, 18.18.390, 18.18.410, 18.18.420, 18.18.430, 18.18.440, 18.18.450, 18.18.460,  
 26 18.18.470, and 18.18.490 are repealed.

27 \* **Sec. 47.** AS 18.20.010, 18.20.020, 18.20.030, 18.20.040, 18.20.050, 18.20.060,  
 28 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,  
 29 18.20.260, and 18.20.302 are repealed.

30 \* **Sec. 48.** AS 25.27.244(s)(2)(B)(ii) is repealed.

31 \* **Sec. 49.** AS 44.62.330(a)(15), 44.62.330(a)(17), and 44.62.330(a)(41) are repealed.

1 \* **Sec. 50.** AS 44.64.030(a)(15), 44.64.030(a)(16), 44.64.030(a)(33), and 44.64.030(a)(34)  
2 are repealed.

3 \***Sec. 51.** AS 47.07.070(c) is repealed.

4 \* **Sec. 52.** AS 47.33.100, 47.33.400, 47.33.410, 47.33.430, 47.33.500, 47.33.510,  
5 47.33.520, 47.33.530, 47.33.540, 47.33.550, 47.33.560, 47.33.570, 47.33.910, 47.33.920,  
6 47.33.990(8), 47.33.990(11), and 47.33.990(14) are repealed.

7 \* **Sec. 53.** AS 47.35.005, 47.35.010, 47.35.015, 47.35.017, 47.35.019, 47.35.021,  
8 47.35.022, 47.35.023, 47.35.025, 47.35.027, 47.35.029, 47.35.033, 47.35.037, 47.35.039,  
9 47.35.043, 47.35.045, 47.35.047, 47.35.048, 47.35.085, 47.35.105, 47.35.110, 47.35.120,  
10 47.35.130, 47.35.132, 47.35.140, 47.35.800, 47.35.810, 47.35.820, and 47.35.900 are  
11 repealed.

12 \* **Sec. 54.** AS 47.37.270(2) and 47.37.270(3) are repealed.

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

15 REGULATIONS ANNULLED. 7 AAC 43.1058(j) and 7 AAC 43.1058(k)(1)(B) are  
16 annulled.

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

19 APPLICABILITY REGARDING CERTAIN SECTIONS; DEPARTMENT ACTION.

20 (a) The changes made by secs. 1 - 14, 16 - 18, 22 - 36, 38 - 43, and 45 - 54 of this Act apply  
21 to

22 (1) applications or requests submitted within the 90 days before, or submitted  
23 on or after, the effective dates of sec. 36 of this Act for initial licensure, certification, or other  
24 approval of an entity listed in AS 47.32.010(b), enacted by sec. 36 of this Act; and

25 (2) applications submitted within the 90 days before, or submitted on or after,  
26 the effective date of secs. 1 - 14, 16 - 18, 22 - 36, 38 - 43, and 45 - 54 of this Act for renewal  
27 of a license issued before the effective date of secs. 1 - 14, 16 - 18, 22 - 36, 38 - 43, and 45 -  
28 54 of this Act under a statute repealed or amended by this Act, and regarding a type of entity  
29 listed in AS 47.32.010(b), enacted by sec. 36 of this Act.

30 (b) The Department of Health and Social Services may not make a final determination  
31 regarding an application or request described in (a) of this section earlier than the effective

1 date of secs. 1 - 14, 16 - 18, 22 - 36, 38 - 43, and 45 - 54 of this Act.

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

4 APPLICABILITY REGARDING SECS. 19 AND 37 OF THIS ACT;  
5 DEPARTMENT ACTION. (a) The changes made by secs. 19 and 37 of this Act apply to

6 (1) applications or requests submitted within the 30 days before, or submitted  
7 on or after, the effective date of secs. 19 and 37 of this Act for initial licensure, certification,  
8 or other approval or selection as any of the following:

9 (A) an entity or individual service provider that is subject to  
10 AS 47.05.300 - 47.05.390, enacted by sec. 19 of this Act;

11 (B) an entity listed in AS 47.32.010(b), enacted by sec. 36 of this Act,  
12 that is not described in (A) of this paragraph; and

13 (2) applications or requests submitted within the 30 days before, or submitted  
14 on or after, the effective date of secs. 19 and 37 of this Act, for renewal of a license,  
15 certification, or other approval or selection for an entity or individual service provider that is  
16 subject to AS 47.05.300 - 47.05.390, enacted by sec. 19 of this Act.

17 (b) The Department of Health and Social Services may not make a final determination  
18 regarding an application or request described in (a) of this section earlier than the effective  
19 date of secs. 19 and 37 of this Act.

20 (c) In this section,

21 (1) "entity" includes an entity subject to AS 47.05.300 - 47.05.390, enacted by  
22 sec. 19 of this Act, and an entity listed in AS 47.32.010(b), enacted by sec. 36 of this Act, that  
23 is not subject to AS 47.05.300 - 47.05.390, enacted by sec. 19 of this Act;

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

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

28 MEDICAL ASSISTANCE WAIVER APPROVAL; LEGISLATIVE INTENT. (a)  
29 The Department of Health and Social Services shall proceed immediately to seek federal  
30 approval to amend the home and community based waiver program for the state under  
31 Medicaid to add adult companion services for older Alaskans and for adults with physical

1 disabilities as a reimbursable service either as a separate service or as a service that may be  
 2 combined with other waivers, including respite or chore services or personal attendant  
 3 services. The services may be combined only if the combination results in greater efficiency  
 4 in administering the program and is more beneficial to the recipient of waiver services.

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

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

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

28 **TRANSITION: CURRENTLY LICENSED OR APPROVED FACILITIES.** (a)  
 29 Notwithstanding AS 47.32.020, enacted by sec. 36 of this Act, a facility that is a type of entity  
 30 listed in AS 47.32.010(b), enacted by sec. 36 of this Act, and that on the effective date of secs.  
 31 1 - 14, 16 - 18, 22 - 36, 38 - 43, and 45 - 54 of this Act is being operated under a valid license

1 or under an approval issued by the department under a statute repealed or amended by this  
2 Act, may continue to be operated under that license or approval as provided in this section.

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

- 5 (1) AS 11.61.195(a), as amended by sec. 4 of this Act;
- 6 (2) AS 11.61.220(a), as amended by sec. 5 of this Act;
- 7 (3) AS 47.05.010, as amended by sec. 17 of this Act;
- 8 (4) AS 47.05.055(a), as amended by sec. 18 of this Act;
- 9 (5) AS 47.10.141(b), as amended by sec. 22 of this Act;
- 10 (6) AS 47.10.392, as amended by sec. 23 of this Act;
- 11 (7) AS 47.10.399(2), as amended by sec. 24 of this Act;
- 12 (8) AS 47.10.990, as amended by secs. 25 and 26 of this Act;
- 13 (9) AS 47.24.013(a), as amended by sec. 28 of this Act;
- 14 (10) AS 47.24.017(d), as amended by sec. 29 of this Act;
- 15 (11) AS 47.25.071(b), as amended by sec. 30 of this Act;
- 16 (12) AS 47.25.095(2), as amended by sec. 31 of this Act;
- 17 (13) AS 47.25.095(4), as amended by sec. 32 of this Act;
- 18 (14) AS 47.25.195(f)(1), as amended by sec. 33 of this Act;
- 19 (15) AS 47.30.915(5), as amended by sec. 34 of this Act;
- 20 (16) AS 47.31.100(4), as amended by sec. 35 of this Act;
- 21 (17) AS 47.33.010, as amended by sec. 38 of this Act;
- 22 (18) AS 47.33.070(a), as amended by sec. 39 of this Act;
- 23 (19) AS 47.40.021, as amended by sec. 40 of this Act;
- 24 (20) AS 47.40.110, as amended by sec. 41 of this Act;
- 25 (21) AS 47.55.010(d), as amended by sec. 42 of this Act; and
- 26 (22) AS 47.62.090(2), as amended by sec. 43 of this Act.

27 (c) Until renewal or expiration of a current license under (d) or (e) of this section, the  
28 requirements and standards, including department oversight, monitoring, and enforcement  
29 actions, regarding operation of a facility that is authorized to continuing operating under this  
30 section are those that were in effect in statute or regulation on the day before the effective date  
31 of secs. 1 - 14, 16 - 18, 22 - 36, 38 - 43, and 45 - 54 of this Act.

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

5 (e) Application for license renewal must be made under AS 47.32.060, enacted by  
 6 sec. 36 of this Act, by the date required by that statute, for a facility described in (a) of this  
 7 section for which renewal of licensure is desired before expiration of the facility's current  
 8 license. For purposes of renewal of a license under this subsection and AS 47.32.060, enacted  
 9 by sec. 36 of this Act, the current license for the facility is considered to be a biennial license  
 10 under AS 47.32.

11 (f) In this section,

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

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

15 \* **Sec. 60.** The uncodified law of the State of Alaska is amended by adding a new section to  
 16 read:

17 **TRANSITION: CERTAIN APPLICATIONS PENDING FOR MORE THAN 90**  
 18 **DAYS.** (a) An application for licensure or approval regarding a facility that is a type of  
 19 entity listed in AS 47.32.010(b), enacted by sec. 36 of this Act, that was submitted more than  
 20 90 days before the effective date of secs. 1 - 14, 16 - 18, 22 - 36, 38 - 43, and 45 - 54 of this  
 21 Act under a statute repealed or amended by this Act and that is pending department action on  
 22 the effective date of secs. 1 - 14, 16 - 18, 22 - 36, 38 - 43, and 45 - 54 of this Act shall  
 23 continue to be processed, and either granted or denied, by the department under the applicable  
 24 statutes and regulations that were in effect on the day before the effective date of secs. 1 - 14,  
 25 16 - 18, 22 - 36, 38 - 43, and 45 - 54 of this Act.

26 (b) Until renewal or expiration of the license or approval under (c) or (d) of this  
 27 section, the requirements and standards, including department oversight, monitoring, and  
 28 enforcement actions, regarding operation of a facility licensed or approved as provided in (a)  
 29 of this section are those that were in effect in statute or regulation on the day before the  
 30 effective date of secs. 1 - 14, 16 - 18, 22 - 36, 38 - 43, and 45 - 54 of this Act.

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

1 section affects the validity of the license or approval, a license or approval issued by the  
 2 department on or after the effective date of secs. 1 - 14, 16 - 18, 22 - 36, 38 - 43, and 45 - 54  
 3 of this Act under the provisions of (a) of this section expires June 30, 2006.

4 (d) Application must be made under AS 47.32.060, enacted by sec. 36 of this Act, by  
 5 the date required by that statute, for a facility described in (a) of this section for which a  
 6 license or approval was issued under (a) of this section and for which renewal of a license is  
 7 desired, before expiration of the license or approval issued under (a) of this section. For  
 8 purposes of renewal of a license under this subsection and AS 47.32.060, enacted by sec. 36  
 9 of this Act, the license or approval issued under (a) of this section regarding the facility is  
 10 considered to be a biennial license under AS 47.32.

11 (e) In this section,

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

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

14 \* **Sec. 61.** The uncodified law of the State of Alaska is amended by adding a new section to  
 15 read:

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

25 (1) "entity" means an entity that would be subject to AS 47.05.300 -  
 26 47.05.390, enacted by sec. 19 of this Act;

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

29 (b) In this section,

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

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

1     \* **Sec. 62.** The uncodified law of the State of Alaska is amended by adding a new section to  
2 read:

3           TRANSITION: REGULATIONS. (a) The Department of Health and Social Services  
4 may proceed to adopt regulations necessary to implement secs. 1 - 14, 16 - 18, 22 - 36, 38 -  
5 43, and 45 - 54 of this Act. The regulations take effect under AS 44.62 (Administrative  
6 Procedure Act), but not before the effective date of the statutory changes.

7           (b) The Department of Health and Social Services may proceed to adopt regulations  
8 necessary to implement secs. 15, 19, and 37 of this Act. The regulations take effect under  
9 AS 44.62 (Administrative Procedure Act).

10    \* **Sec. 63.** The uncodified law of the State of Alaska is amended by adding a new section to  
11 read:

12           CERTIFICATION OF EFFECTIVE DATE OF REGULATIONS. The lieutenant  
13 governor shall certify to the revisor of statutes the effective date of the regulations adopted by  
14 the Department of Health and Social Services under sec. 62 of this Act.

15    \* **Sec. 64.** Sections 20, 21, 51, 55, 56, 60, and 62 of this Act take effect immediately under  
16 AS 01.10.070(c).

17    \* **Sec. 65.** Sections 15, 19, and 37 of this Act take effect on the effective date of the  
18 regulations adopted by the Department of Health and Social Services under sec. 62(b) of this  
19 Act, or March 1, 2006, whichever is earlier, but in no event earlier than July 2, 2005.

20    \* **Sec. 66.** Except as provided in secs. 64 and 65 of this Act, this Act takes effect July 2,  
21 2005.