

ALASKA STATE LEGISLATURE
HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES STANDING COMMITTEE

April 7, 2005

3:36 p.m.

MEMBERS PRESENT

Representative Peggy Wilson, Chair
Representative Paul Seaton, Vice Chair
Representative Vic Kohring
Representative Sharon Cissna
Representative Berta Gardner

MEMBERS ABSENT

Representative Tom Anderson
Representative Lesil McGuire

COMMITTEE CALENDAR

HOUSE BILL NO. 193

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

- HEARD AND HELD

HOUSE BILL NO. 13

"An Act relating to reimbursement of municipal bonds for school construction; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

CONFIRMATION HEARING(S)

Teaching Practices Commission

Bonnie C. Gaborik - North Pole

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 193

SHORT TITLE: LICENSING MEDICAL OR CARE FACILITIES

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

| | | |
|----------|-----|---------------------------------|
| 03/02/05 | (H) | READ THE FIRST TIME - REFERRALS |
| 03/02/05 | (H) | HES, JUD, FIN |
| 03/15/05 | (H) | HES AT 3:00 PM CAPITOL 106 |
| 03/15/05 | (H) | Scheduled But Not Heard |
| 03/17/05 | (H) | HES AT 3:00 PM CAPITOL 106 |
| 03/17/05 | (H) | Heard & Held |
| 03/17/05 | (H) | MINUTE(HES) |
| 04/07/05 | (H) | HES AT 3:30 PM CAPITOL 106 |

BILL: HB 13

SHORT TITLE: SCHOOL CONSTRUCTION BOND REIMBURSEMENT

SPONSOR(S): REPRESENTATIVE(S) GATTO, GRUENBERG

| | | |
|----------|-----|---|
| 01/10/05 | (H) | PREFILE RELEASED 12/30/04 |
| 01/10/05 | (H) | READ THE FIRST TIME - REFERRALS |
| 01/10/05 | (H) | EDU, HES, FIN |
| 01/25/05 | (H) | EDU AT 11:00 AM CAPITOL 106 |
| 01/25/05 | (H) | -- Meeting Canceled -- |
| 02/01/05 | (H) | EDU AT 11:00 AM CAPITOL 106 |
| 02/01/05 | (H) | Heard & Held |
| 02/01/05 | (H) | MINUTE(EDU) |
| 02/22/05 | (H) | EDU AT 11:00 AM CAPITOL 106 |
| 02/22/05 | (H) | -- Meeting Canceled -- |
| 03/03/05 | (H) | EDU AT 11:00 AM CAPITOL 106 |
| 03/03/05 | (H) | Moved Out of Committee |
| 03/03/05 | (H) | MINUTE(EDU) |
| 03/04/05 | (H) | EDU RPT 5DP |
| 03/04/05 | (H) | DP: GARA, GATTO, WILSON, THOMAS, NEUMAN |
| 03/15/05 | (H) | HES AT 3:00 PM CAPITOL 106 |
| 03/15/05 | (H) | Scheduled But Not Heard |
| 03/22/05 | (H) | HES AT 3:00 PM CAPITOL 106 |
| 03/22/05 | (H) | <subcommittee meeting> |
| 03/29/05 | (H) | HES AT 3:00 PM CAPITOL 106 |
| 03/29/05 | (H) | Heard & Held |
| 03/29/05 | (H) | MINUTE(HES) |
| 04/05/05 | (H) | HES AT 3:00 PM CAPITOL 106 |
| 04/05/05 | (H) | Heard & Held |

04/05/05 (H) MINUTE(HES)
04/07/05 (H) HES AT 3:30 PM CAPITOL 106

WITNESS REGISTER

RICHARD MANDSAGER, M.D., Director
Division of Public Health
Department of Health and Social Services
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 193 and provided relevant information on behalf of the Division of Public Health and Department of Health and Social Services.

VIRGINIA STONKUS, Chief
Division of Certification and Licensing
Division of Public Health
Department of Health and Social Services
Juneau, Alaska

POSITION STATEMENT: Provided relevant information on behalf of the Division of Public Health regarding HB 193.

ACTION NARRATIVE

CHAIR PEGGY WILSON reconvened the House Health, Education and Social Services Standing Committee meeting of April 5, 2005, to order at [3:36:09 PM](#). Representatives Seaton, Cissna, and Gardner were present at the call to order. Representative Kohring arrived as the meeting was in progress.

HB 193-LICENSING MEDICAL OR CARE FACILITIES

CHAIR WILSON announced that the first order of business would be HOUSE BILL NO. 193 "An Act relating to the licensing, regulation, enforcement, and appeal rights of ambulatory surgical centers, assisted living homes, child care facilities, child placement agencies, foster homes, free-standing birth centers, home health agencies, hospices or agencies providing hospice services, hospitals, intermediate care facilities for the mentally retarded, maternity homes, nursing facilities, residential child care facilities, residential psychiatric treatment centers, and rural health clinics; relating to criminal history requirements, and a registry, regarding certain licenses, certifications, approvals, and authorizations by the Department of Health and Social Services; making conforming amendments; and providing for an effective date."

[3:37:41 PM](#)

RICHARD MANDSAGER, M.D., Director, Division of Public Health, Department of Health and Social Services, (Department), explained that HB 193 is a governor's bill and that there will be an emphasis to make necessary amendments and move it forward before the end of the legislative session. He said that he has received comments of support and ideas for possible amendments for HB 193 from eight or nine [human service] organizations.

DR. MANDSAGER pointed out that there are written amendments for HB 193 included in the committee packet. He added that the intent of HB 193 is to consolidate the various licensing and certification activities of the Department including licensing hospitals and assisted living homes. HB 193 mandates a background check process to industries regulated by the Department and an employee misconduct registry, he related. He said:

[A centralized registry] exists today with certified nurse aids, presently administered by the Board of Nursing and the registry concept that's in this bill is modeled very heavily on what exists today for certified nurse aids ... the employee misconduct registry deals with civil issues of abuse, neglect or exploitation and the criminal background check deals with criminal activities a person may have been involved in ... the complexity that has developed in statute and regulation ... that these types of industries have developed ... [have] grown up with some mixture of statute and regulation all individually developed. [The] Department of Law gets to try and interpret this every time we have an appeal or administrative hearing and has to figure out where this activity fits and the organizations that do more than one type of work ... they may have assisted living homes, they may have psychiatric treatment centers, they may have other social service functions, some organizations might have hospitals and nursing homes; they have to keep track of all of these different state rules for their different parts of work. ... the reason for the bill is to try to put into one statute the various rules ... and then have regulations that are as much similar as possible ... then regulations can be adapted to problems as we go forward over time ... that's why we are here today on this journey that is going to be somewhat laborious.

DR. MANDSAGER referred to HB 193 [Version 24-GH1016\A] and addressed page 27, line 26 where [Section 47.05.330] the centralized registry is defined. He related that the centralized registry is based on the current certified nurse aid registry but expands it to all employees. He explained, "The purpose is to get at people who have committed exploitation, abuse or neglect and then, as we develop this registry, this then becomes a barrier to their employment in another industry." He said that he has received calls from two different executives from different organizations who have retold stories of employees that they fired for Medicaid fraud, who were then rehired by sister organizations that were unaware of their [criminal] history. He pointed out that the employee misconduct registry would be public and available to executives or employee organizations.

CHAIR WILSON inquired as to who has access to [the proposed employee misconduct registry].

DR. MANDSAGER explained that the state would be providing that information to the employer. He said that the criminal information [registry] is available [to the public] through the court system.

[3:47:11 PM](#)

REPRESENTATIVE SEATON inquired as to the registry being available to the general public.

DR. MANDSAGER said that the employee misconduct registry is modeled on the current certified nurse aid registry, which is available to the public. He added that the Department is looking for advice from the House Health, Education and Social Services Standing Committee in terms of the availability of the [employee misconduct] registry.

[3:48:00 PM](#)

REPRESENTATIVE SEATON inquired as to what will be included on the [employee misconduct] registry. He specifically asked if offenses that are not proven will be included.

[3:48:57 PM](#)

DR. MANDSAGER stated that what is envisioned is a registry in which the employers would make reports but the Department would have to have findings to which an employee would be able to

contest and have administrative hearings, before their name would go in some kind of an activity that doesn't have a court action. He referred to page 28, line 5 of HB 193 and said that there are orders, judgments and adjudications that the employee has committed abuse, neglect, or exploitation under certain statutes and they are listed.

CHAIR WILSON commented that HB 193 will pass in the House Judiciary Standing Committee next, and said that she would like this section to be looked at closely by the members of that committee.

[3:50:19 PM](#)

VIRGINIA STONKUS, Acting Chief, Division of Certification and Licensing, Division of Public Health, Department of Health and Social Services, clarified that the employee misconduct registry is based only on action taken that has been through a decision, an adjudication, or a hearing and proven that someone has abused, neglected, or exploited someone in that field that is not necessarily of a criminal nature. She explained:

If you are applying for a job in this field for the first time, there would be no reason to ever be on that registry. If you are in that field and there is a finding ... reported by an assisted living home provider, or through the course of an inspection ... and it does go through a hearing or process that we can, in fact, substantiate, that's when ... [it could] go on the registry. The other issues right now, in terms of what would go on the registry, would be enough information only to identify the person through name and, perhaps, birthdate, and some indication ... that there was, in fact, something found and that would be the only information that would be available on that registry.

[3:51:54 PM](#)

REPRESENTATIVE GARDNER inquired as to the adjudication and whether issues such as this would be dealt with by the Department or in court.

MS. STONKUS said, "Whether it has to go through a full, formal hearing process or ... the hearing would have to be initiated by the Department, through the process that we would explore if

someone chose ... to challenge that, and want to have a hearing, then we would do that."

3:52:53 PM

REPRESENTATIVE CISSNA inquired as to how the Department plans to deal with "problem" employees that possibly have charges against them or that have had cases cleared out of court, but are likely to "offend" again.

DR. MANDSAGER pointed out that the provider's responsibility is to report a concern, a suspicion, or a known activity and the Department's responsibility is to investigate and conduct some kind of a process to reach a finding.

3:54:49 PM

REPRESENTATIVE CISSNA stated that the concern of the House Health, Education and Social Services Standing Committee is focused on the quality of health services. She remarked that [HB 193] can offer better enforcement of quality care for children and adults that are in vulnerable situations in Alaska and through licensure the private sector can be affected.

DR. MANDSAGER stated that the [Alaska State Legislature] will have to define the statute related to these issues.

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REPRESENTATIVE CISSNA expressed her concern in letting the next committee of reference deal with HB 193 when there are many issues of health and social welfare that are not yet resolved.

CHAIR WILSON stated that she is open to adding any necessary amendments and encouraged Representative Cissna to make changes to HB 193.

REPRESENTATIVE CISSNA said that she would like to spend more time discussing HB 193 in the House Health, Education and Social Services Standing Committee. She offered that [future] amendments could include defining the "screening" process.

DR. MANDSAGER referred to page 28, line 23 of HB 193 and explained that the information contained in the registry is available to the public.

REPRESENTATIVE CISSNA said "[if] you're talking about doing something else that isn't in here, that ought to be left to another bill."

DR. MANDSAGER addressed Representative Cissna and said that he wanted to clarify his statement, in case he didn't effectively make his point. He said:

What we are talking about is ... in regulation, defining this, because it's clearly going to have to be much better defined ... but, if the Legislature wants more detail and more in statute ... that is possible. We, currently, are working on language that could either be in statute, if the Legislature wants it that way, or could be in regulation to define how this process will work.

REPRESENTATIVE SEATON inquired as to the intent of the registry and if it serves as a preliminary background check for employers to utilize.

[4:00:30 PM](#)

DR. MANDSAGER said:

What I envision that an employee misconduct registry does is if I am an employer, [an applicant] comes in and wants to apply for work, I can quickly type into my computer, [to] see if Joe Smith has committed any of these activities ... if so, I don't need to receive an employment application from Joe Smith ... most people won't be on this registry, because they won't have committed these activities ... [if] Joe Smith does apply [and isn't listed on the registry] ... then, we go through the process of doing a criminal background check ... by the time they are employed, both parts of their past are known.

[4:01:15 PM](#)

REPRESENTATIVE SEATON opined that there is an expense associated to having the registry when it is only listing adjudicated items and the full background check is required when a new employee is hired. He said he is concerned with Section 47.05.330 [of HB 193, Version 24-GH1016\A], Subsection (e). He stated that the liability of putting in information that hasn't been adjudicated

as a barrier to employment, could be [a huge liability] for the State of Alaska.

4:03:03 PM

DR. MANDSAGER clarified that the employee misconduct registry deals with civil issues and the criminal background check deals with criminal issues. He said that information that is unverified, unsubstantiated, or unadjudicated should not be incorporated into an applicant's record.

4:03:57 PM

REPRESENTATIVE SEATON clarified that the [employee misconduct registry] will include civil cases.

4:04:34 PM

REPRESENTATIVE GARDNER said:

I have a constituent who brought this issue to me ... [he] has ... [a] large [business], he employs a lot of people who provide services to frail adults, elderly, disabled people ... in their homes. He has, over time, had a lot of situations in which he had to fire an employee, for mistreatment of any sort, for fraud, where they've billed for hours that they didn't actually work ... as an employer, not only does he fire the person but he is also responsible for repaying that money, and so, he has a liability ... then, he would find ... these people that he fired for whatever reason, were now working for another provider down the street ... there was no legal way for him to tell them [to watch out for misconduct] ...

REPRESENTATIVE GARDNER continued:

What's the threshold of proof [for this registry] ... the state can't afford to have a trial for all of these things ... one question that is absolutely legal, ... is, "Would you hire this person again?" ... and the state doesn't have to have any panel or adjudication, nobody's open to lawsuits, we simply say, as an employer, "it is my responsibility if I want to protect all of the people that I am caring for, to just call their previous employer and ask them."

CHAIR WILSON said that there are cases where personalities conflict. She pointed out that some employers would not rehire someone based on basic personality differences.

[4:07:34 PM](#)

MS. STONKUS said:

As a licensing agency, we are responsible for assuring that the programs that we fund meet the standards that are set. The issue of the registry would be, if there is a report ... they would report to us, a concern for abuse, neglect, or exploitation, but that would be part of our investigation ... to substantiate, and assure, that we found enough information based on that investigation to support a concern ... the individual would be notified that we have come up ... with substantial findings ... they would have an opportunity to request a full review ... making sure that it wasn't just a personality issue ... if they declined ... then the decisions would be made that they would be eligible for their name going on that registry. If they chose to do the hearing and we went through that process and that finding was upheld, then we have the adjudication, and the support ... to put that individual's name on the registry.

MS. STONKUS continued:

Throughout the whole process ... [there would be] ... the chance to go back and challenge that there was a finding that they thought was done in error ... I think our concern and consideration, here, is wanting to be respectful of the folks who would be on that registry ... there are enough situations where we could not legally, or through the court process, or through the criminal process, find that capacity ... there's legal precedent to have this in place.

REPRESENTATIVE SEATON inquired as to the necessity of making the registry public and available. He opined that if the registry is public, the names on it could be published in the newspaper or made available in a number of ways that could be problematic.

[4:11:27 PM](#)

DR. MANDSAGER related that there are several options when it comes to creating the registry. The first option, he said, is that the registry is open to the public. The registry could also be set up so that employers have to sign up and passwords are assigned to qualified individuals to view [the registry], he explained. He pointed out another scenario where an employer could call [the Department], and ask a staff member for registry information.

[4:12:31 PM](#)

REPRESENTATIVE CISSNA remarked that the [employment misconduct registry] seems more like a criminal background check than anything else. She inquired as to how the registry would function, who would make the decisions as to who was included on it and how appeals would be managed. She asked about other states [that utilize similar registry's] and how those registry's function. She added that to utilize a registry costs money and takes time. She requested information pertaining to the attached fiscal note.

DR. MANDSAGER addressed Representative Cissna's concerns and explained that the more rights that are given to individuals for appeals will create a higher cost and the fiscal note will increase. The amendment process related to this bill, he said, will have to help balance these types of issues.

[4:15:43 PM](#)

MS. STONKUS explained that this [registry] is part of the process of assuring that the folks that are regulated meet the standards that they are supposed to. She added that this allows them another opportunity to take concerns that they find and assure that they will not happen again.

[4:16:55 PM](#)

REPRESENTATIVE CISSNA expressed that she is very interested in this legislation and in making necessary amendments. She inquired as to the process of creating the registry and why the legislature was not included in it's development.

[4:17:47 PM](#)

DR. MANDSAGER said, "The formal answer ... is that, at least until a bill got submitted, there wasn't really something for you to work with. The informal answer ... we [could] have

invited some of the legislators to work on this process ... maybe we should have."

CHAIR WILSON asked Representative Cissna if she would like to represent the [House Health, Education and Social Services Standing Committee] with the [Department] as they go through that process.

REPRESENTATIVE CISSNA said that she would be thrilled.

CHAIR WILSON stated that Representative Cissna is appointed to work with the Department on the employment misconduct registry.

[4:19:02 PM](#)

REPRESENTATIVE SEATON said that he would like to see Dr. Mandsager return to the House Health, Education and Social Services Standing Committee with a proposed amendment for the registry.

DR. MANDSAGER clarified that the proposed amendment that Representative Seaton was discussing would change [Section 47.05.330, Subsection (f)] of HB 193.

REPRESENTATIVE SEATON stated that is correct. He added that [Section 47.05.330, Subsection (e) in HB 193] could have clearer language, as well.

DR. MANDSAGER related that most of this bill [HB 193] has been created from "the best" of current statute.

REPRESENTATIVE SEATON said that he has heard so much [during the legislative session] from assisted living homes about the problems of current regulations and changes. He remarked that he wanted to make sure that this legislation does not create more of a problem.

DR. MANDSAGER emphasized that he would like to be notified of any current problems with statute or regulation.

DR. MANDSAGER brought attention to Amendment 1, labeled 24G-1, 4/4/2005 (9:32 AM), which read:

Page 2, lines 25 - 27:
Delete all material.

Page 15, line 20, following "center":

Page 17, line 9:
Delete "(12)"
Insert "(11)"

Page 17, line 17:
Delete "(13)"
Insert "(12)"

Page 17, line 22:
Delete "(14)"
Insert "(13)"

Page 17, line 28:
Delete "(15)"
Insert "(14)"

Page 17, line 30:
Delete "(16)"
Insert "(15)"

Page 18, line 1:
Delete "(17)"
Insert "(16)"

Page 18, line 5:
Delete "(18)"
Insert "(17)"

Page 18, line 10:
Delete "(19)"
Insert "(18)"

Page 18, line 13:
Delete "(20)"
Insert "(19)"

Page 18, line 17:
Delete "(21)"
Insert "(20)"

Page 31, following line 9:

Insert a new bill section to read:

"* **Sec. 29.** AS 47.32.010 is amended by adding a new subsection to read:

(c) The provisions of AS 47.05.300 - 47.05.390, regarding criminal history, criminal history checks, criminal history use standards, and a centralized registry,

apply to entities listed in (b) of this section as provided in AS 47.05.300."

Renumber the following bill sections accordingly.

Page 32, line 23:

Following "APPLICABILITY":

Insert "REGARDING CERTAIN SECTIONS"

Following "by":

Insert "secs. 1 - 16, 18 - 28, 30 - 32, and 34 - 40 of"

Page 32, line 26:

Delete "secs. 1 and 17"

Insert "sec. 1"

Page 32, line 27:

Delete "or selection as any of the following:"

Insert "of"

Page 32, lines 28 - 29:

Delete all material.

Page 32, line 30:

Delete "(B)"

Delete "Act,"

Insert "Act; and"

Page 32, line 31:

Delete all material.

Page 33, line 2:

Delete "1 - 31 and 33 - 39"

Insert : "1 - 16, 18 - 28, 30 - 32, and 34 - 40"

Page 33, line 3:

Delete "1 - 31 and 33 - 39"

Insert : "1 - 16, 18 - 28, 30 - 32, and 34 - 40"

Page 33, line 5:

Delete "; and"

Insert "."

Page 33, lines 6 - 10:

Delete all material.

Page 33, line 13:

Delete "1 - 31 and 33 - 39"

Insert : "1 - 16, 18 - 28, 30 - 32, and 34 - 40"

Page 33, lines 14 - 19:

Delete all material.

Page 33, following line 19:

Insert a new bill section to read:

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

APPLICABILITY REGARDING SEC. 17 OF THIS ACT; DEPARTMENT ACTION. (a) The changes made by sec. 17 of this Act apply to

(1) applications or requests submitted within the 30 days before, or submitted on or after, the effective date of sec. 17 of this Act for initial licensure, certification, or other approval or selection as any of the following:

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

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

(2) applications or requests submitted within the 30 days before, or submitted on or after, the effective date of sec. 17 of this Act, for renewal of a license, certification, or other approval or selection for an entity or individual service provider that is subject to AS 47.05.300 - 47.05.390, enacted by sec. 17 of this Act.

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

(c) In this section,

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

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

Renumber the following sections accordingly.

Page 33, line 25:

Delete "1 - 31 and 33 - 39"

Insert : "1 - 16, 18 - 28, 30 - 32, and 34 - 40"

Page 34, line 1:

Delete "1 - 31 and 33 - 39"

Insert : "1 - 16, 18 - 28, 30 - 32, and 34 - 40"

Page 34, line 18:

Delete "AND OTHER REQUESTS"

Page 34, line 21:

Delete "1 - 31 and 33 - 39"

Insert : "1 - 16, 18 - 28, 30 - 32, and 34 - 40"

Page 34, lines 22 - 23:

Delete "1 - 31 and 33 - 39"

Insert : "1 - 16, 18 - 28, 30 - 32, and 34 - 40"

Page 34, line 25:

Delete "1 - 31 and 33 - 39"

Insert : "1 - 16, 18 - 28, 30 - 32, and 34 - 40"

Page 34, line 30:

Delete "1 - 31 and 33 - 39"

Insert : "1 - 16, 18 - 28, 30 - 32, and 34 - 40"

Page 35, line 2:

Delete "1 - 31 and 33 - 39"

Insert : "1 - 16, 18 - 28, 30 - 32, and 34 - 40"

Delete all material.

Page 35, line 23:

Delete "(f)"

Insert "(e)"

Page 35, following line 25:

Insert a new bill section to read:

"* **Sec. 45.** The uncodified law of the State of Alaska is amended by adding a new section to read:

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

of this Act. In this subsection,

(1) "entity" means an entity that would be subject to AS 47.05.300 - 47.05.390, enacted by sec. 17 of this Act;

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

(b) In this section,

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

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

Renumber the following bill sections accordingly.

Page 35, line 28, following "REGULATIONS.":

Insert "(a)"

Page 35, line 29, following "implement":

Insert "secs. 1 - 16, 18 - 28, and 30 - 40 of"

Page 35, following line 31:

Insert the following new material:

"(b) The Department of Health and Social Services may proceed to adopt regulations necessary to implement secs. 17 and 29 of this Act. The regulations take effect under AS 44.62.

*** Sec. 47.** The uncodified law of the State of Alaska is amended by adding a new section to read:

CERTIFICATION OF EFFECTIVE DATE OF REGULATIONS. The lieutenant governor shall certify to the revisor of statutes the effective date of the regulations adopted by the Department of Health and Social Services under sec. 46(b) of this Act."

Renumber the following bill sections accordingly.

Page 36, line 1:

Delete "40, 42, and 43"

Insert "41, 42, and 44 - 47"

Page 36, line 3:

Delete "32"

Insert "33"

Page 36, following line 3:

Insert a new bill section to read:

**** Sec. 50.** Sections 17 and 29 of this Act take effect

(1) on the effective date of the regulations adopted by the Department of Health and Social Services under sec. 46(b) of this Act implementing sec. 17 of this Act, or March 1, 2006, whichever is earlier; but

(2) no earlier than July 2, 2005."
Renumber the remaining bill section accordingly.

Page 36, line 4:
Delete "44 and 45"
Insert "48 - 50"

DR. MANDSAGER explained:

Most of this ... has to do with renumbering ... the first issue ... is a dating issue. When this was drafted, it was envisioned that the criminal background check would start on July 1, 2005 ... by the time legislation finally gets passed, and regulation development ... most of Amendment 1 moves the effective date to the spring of 2006 ... or ... after the bill gets passed. The other issue ... is the last two lines of page 1 and you have to open up part of your bill to go with this, which is, page 15, line 24 ... on page 2 [of HB 193], it lists all of the entities that this applies to ... as medical technology changes, certain very complex stuff moves out of hospitals into free standing things and in many states in the country right now, there are three main kinds of these activities ... radiation treatment units ... for treating cancer with radiation ... chemotherapy units for treating cancer and the third is cardiac catheterization laboratories ... as they move out [of hospitals] ... [the] last two lines on page 1 ... [can] put some flexibility into the definition of an ambulatory surgical center ... the state could say that this entity, now, is going to become licensed and going to propose "regs" to propose licensing or regulating that entity.

In our state, there really is only one of those ... because of our small population ... there is a free standing cardiac catheterization lab in Anchorage that is outside the hospital and outside of any licensure or regulation at present ... this is about ... trying to find ... some language that would give some flexibility but would not be so broad that would be way too broad. If we can't come up with language then ... in the future, the whole statute should just be amended for some particular thing.

DR. MANDSAGER referred to Amendment 1, Version 24G-1, 4/4/2005 (9:32 AM), page 1, line 18 and stated that the word "facility" needs to be defined.

[4:29:20 PM](#)

CHAIR WILSON said that the entities listed in [Section 47.32.010] of HB 193 need to be regulated.

REPRESENTATIVE SEATON asked why the entities on page 2 of HB 193 have to be regulated. He said that these entities are medically technical and specific already, and doesn't see the need to put more regulations on them.

DR. MANDSAGER said, "there may be enough self-regulating mechanisms in place for those high end, medical, complex things between insurance, the cost of operations ... because the cost of development is going to be so high ... it very may well be that this idea we should just drop for now.

[4:31:29 PM](#)

REPRESENTATIVE CISSNA inquired as to the [American Medical Association's, AMA] involvement in issues related to the licensing of the aforementioned health facilities.

DR. MANDSAGER clarified that physician licensing is handled by the Board of Medicine. He said that Representative Seaton brought up the issue of the fact that physicians have enough regulations in place already that deal with "quality."

[The committee treated Amendment 1, Version 24G-1, 4/4/2005 (9:32 AM) as before it.]

[CHAIR WILSON turned the gavel over to Vice-Chair Seaton.]

VICE-CHAIR SEATON moved to adopt Amendment 1, to Amendment 1, labeled Version 24G-1, 4/4/2005 (9:32 AM), as follows:

Page 1, delete lines 18-21

There being no objection, it was so ordered.

REPRESENTATIVE SEATON moved to adopt Amendment 1, as amended. There being no objection, Amendment 1, as amended, Version 24G-1, 4/4/2005 (9:32 AM), was adopted.

The committee took an at-ease from 4:34:58 to 4:45:03.

[4:45:43 PM](#)

REPRESENTATIVE GARDNER moved to rescind the committee's action in adopting the amended Amendment 1, [Version 24G-1, 4/4/2005 (9:32 AM)]. There being no objection, [the amended] Amendment 1 was rescinded.

REPRESENTATIVE GARDNER moved to adopt Amendment 2, to Amendment 1, [Version 24G-1, 4/4/2005 (9:32 AM)], as follows:

[Page 1], delete lines 4-21

REPRESENTATIVE GARDNER moved to adopt Amendment 1, Version 24G-1, 4/4/2005 (9:32 AM), as amended. There being no objection, Amendment 1, Version 24G-1, as amended, was adopted.

[4:47:44 PM](#)

DR. MANDSAGER offered Amendment 2, labeled Version 24G-1, 4/4/2005 (2:43 PM), which read:

Page 9, line 24:
Delete "(e)"
Insert "(f)"

Page 9, line 28:
Delete "(e)"
Insert "(f)"

Page 10, line 10:
Delete "(e)"
Insert "(f)"

Page 10, line 18:
Delete "(e)"
Insert "(f)"

Page 10, line 27:
Delete "(e)"
Insert "(f)"

Page 11, following line 25:
Insert the following new material:
"(e) The department may not take action under
(d)(9) of this section unless the commissioner has

reasonable cause to believe that continued management by the entity while the entity is attempting to cure a violation would be injurious to the health, safety, or welfare of individuals receiving services from the entity."

Page 11, line 26:
Delete "(e)"
Insert "(f)"

Page 12, line 1:
Delete "(f)"
Insert "(g)"

Page 12, line 2:
Delete "(e)"
Insert "(f)"

Page 12, line 6:
Delete "(g)"
Insert "(h)"

Delete "(e)"
Insert "(f)"

Page 12, line 9:
Delete "(f)"
Insert "(g)"

Page 12, line 12:
Delete "(f)"
Insert "(g)"

Page 12, line 13:
Delete "(h)"
Insert "(i)"

Delete "(f)"
Insert "(g)"

Page 12, line 15:
Delete "(e)"
Insert "(f)"

Page 12, line 17:
Delete "(i)"
Insert "(j)"

Delete "(e)"
Insert "(f)"

Page 12, line 25:
Delete "(j)"
Insert "(k)"

Page 13, line 1:
Delete "does not apply"
Insert "applies"

Page 13, line 1, following "hearing.", through line 3:
Delete all material.

Page 13, line 8, following "AS 44.62":
Insert "or AS 44.64"

Page 14, line 20:
Delete "47.32.150(h)"
Insert "47.32.150(i)"

Page 24, following line 5:
Insert a new bill section to read:
"* **Sec. 15.** AS 44.64.030(a)(33) is amended to
read:
 (33) **AS 47.32 (Department of Health and
Social Services licensing)** [AS 47.33 (ASSISTED LIVING
HOMES)];"

Re-number the following bill sections accordingly.

Page 32, following line 11:
Insert a new bill section to read:
"* **Sec. 38.** AS 44.64.030(a)(15), 44.64.030(a)(16),
and 44.64.030(a)(34) are repealed."

Re-number the following bill sections accordingly.

Page 32, line 26:
Delete "17"
Insert "18"

Page 32, line 29:
Delete "17"
Insert "18"

Page 33, line 2:
Delete "1 - 31 and 33 - 39"
Insert "1 - 32 and 34 - 41"

Page 33, line 3:
Delete "1 - 31 and 33 - 39"
Insert "1 - 32 and 34 - 41"

Page 33, line 7:
Delete "17"
Insert "18"

Page 33, line 9:
Delete "17"
Insert "18"

Page 33, line 13:
Delete "1 - 31 and 33 - 39"
Insert "1 - 32 and 34 - 41"

Page 33, line 16:
Delete "17"
Insert "18"

Page 33, line 17:
Delete "17"
Insert "18"

Page 33, line 19:
Delete "17"
Insert "18"

Page 33, line 25:
Delete "1 - 31 and 33 - 39"
Insert "1 - 32 and 34 - 41"

Page 34, line 1:
Delete "1 - 31 and 33 - 39"
Insert "1 - 32 and 34 - 41"

Page 34, line 21:
Delete "1 - 31 and 33 - 39"
Insert "1 - 32 and 34 - 41"

Page 34, lines 22 - 23:
Delete "1 - 31 and 33 - 39"
Insert "1 - 32 and 34 - 41"

Page 34, line 25:
Delete "1 - 31 and 33 - 39"
Insert "1 - 32 and 34 - 41"

Page 34, line 30:
Delete "1 - 31 and 33 - 39"
Insert "1 - 32 and 34 - 41"

Page 35, line 2:
Delete "1 - 31 and 33 - 39"
Insert "1 - 32 and 34 - 41"

Page 35, line 13:
Delete "17"
Insert "18"

Page 35, line 14:
Delete "17"
Insert "18"

Page 35, line 15:
Delete "17"
Insert "18"

Page 35, line 17:
Delete "17"
Insert "18"

Page 35, line 19:
Delete "17"
Insert "18"

Page 35, line 22:
Delete "17"
Insert "18"

Page 36, line 1:
Delete "40, 42, and 43"
Insert "42, 44, and 45"

Page 36, line 3:
Delete "32"
Insert "33"

Page 36, line 4:
Delete "44 and 45"

Insert "46 and 47"

DR. MANDSAGER related that the [Alaska State Hospital and Nursing Home Association, ASHNHA] raised concerns about this amendment, specifically, on page 2, lines 2-5. He said that ASHNHA was concerned about the Department's proposal to take over management of institutions in cases of immediate risk to life and safety and that they consider this a high risk endeavor. ASHNHA suggested that the Commissioner [of the Department of Health and Social Services] be involved when these decisions are considered.

DR. MANDSAGER said:

And then the second issue is, down at the bottom of page three of the amendment, starting at line 25, and this is to fix a drafting error on page 13 of [HB 193], and it has to do with administrative hearings ... line 1 of page 13 said that AS 44.64.060 does not apply and then there's a sentence about the parts of the administrator procedure act that do apply ... that's wrong ... this amendment changes, "does not apply" to "applies" and deletes the second sentence ...

[4:49:25 PM](#)

REPRESENTATIVE GARDNER moved Amendment 2, Version 24G-1, 4/4/2005 (2:43 PM) [text previously provided]. There being no objections, Amendment 2, Version 24G-1, 4/4/2005 (2:43 PM), was adopted.

[4:50:29 PM](#)

REPRESENTATIVE SEATON returned the gavel to Chair Wilson.

[HB 193 was held over.]

ADJOURNMENT

There being no further business before the committee, the House Health, Education and Social Services Standing Committee meeting was adjourned at [4:53:54 PM](#).