

HOUSE BILL NO. 366

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE JOHNSON

Introduced: 2/21/18

Referred: Health and Social Services, Labor and Commerce

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to in-home care licensing; and relating to in-home care providers and
2 agencies."

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

4 * **Section 1.** AS 08 is amended by adding a new chapter to read:

5 **Chapter 58. In-home Care.**

6 **Sec. 08.58.010. Practice of in-home personal care services without license**
7 **prohibited.** A person may not provide personal care services for compensation if the
8 person is not licensed under this chapter or AS 47.32.

9 **Sec. 08.58.020. Application and license to provide in-home personal care**
10 **services.** (a) The department shall issue an in-home care provider license to a person
11 who

- 12 (1) applies to the department on a form provided by the department;
13 (2) meets the requirements established in regulation by the department;
14 (3) pays the licensing fees established by the department;

1 (4) is of good moral character;

2 (5) has been fingerprinted and has provided the fees required by the
3 Department of Public Safety under AS 12.62.160 for criminal justice information and
4 a national criminal history record check; the fingerprints and fees shall be forwarded
5 to the Department of Public Safety to obtain a report of criminal justice information
6 under AS 12.62 and a national criminal history record check under AS 12.62.400;

7 (6) submits to a prelicensing drug test;

8 (7) passes a proficiency examination based on minimum competencies
9 in the areas of infection mitigation and control, patient mobility procedures, patient
10 hygiene procedures, patient nutrition administration, domestic environment
11 administration, proper patient documentation, effective communication, and
12 emergency procedures;

13 (8) has a current cardiopulmonary resuscitation certificate and a
14 current first aid card; the certificate and card must be issued by the American Red
15 Cross or a similar organization;

16 (9) does not have a disciplinary proceeding or unresolved complaint
17 pending at the time of application; and

18 (10) has not had a license to provide personal care services suspended
19 or revoked in this state or in another jurisdiction.

20 (b) A person who is licensed to provide in-home personal care services under
21 this chapter shall display proof of licensure to a patient on request.

22 (c) A license issued under this section is valid for two years and expires on
23 December 31 of the second year.

24 **Sec. 08.58.030. Application and license for an agency.** (a) The department
25 shall issue an in-home care agency license to an agency that

26 (1) applies to the department on a form provided by the department;

27 (2) meets the requirements established in regulation by the department;

28 (3) pays the licensing fees established by the department; and

29 (4) submits information to the department, including

30 (A) the full name and proposed business name of the applicant;

31 (B) the address of the applicant's principal place of business

1 and branch offices;

2 (C) the names and addresses of the applicant and those
3 associated with the applicant; if the applicant is a corporation or association,
4 the application must contain the names of the officers of the corporation or
5 association;

6 (D) the names and residential addresses of the applicant's
7 operators;

8 (E) additional information that the department by regulation
9 requires.

10 (b) A natural person applying for an in-home care agency license must be 19
11 years of age or older at the time of making application.

12 (c) A license granted under this section is not transferrable or assignable.

13 (d) A license issued under this section is valid for two years and expires on
14 December 31 of the second year.

15 **Sec. 08.58.040. Renewal of license.** (a) The department may renew an in-
16 home care provider license under this chapter if the applicant

17 (1) submits the required renewal fees;

18 (2) provides proof satisfactory to the department of continued
19 competence as an in-home care provider; and

20 (3) is in compliance with the requirements of this chapter and
21 regulations adopted under this chapter.

22 (b) The department may renew an in-home care agency license if the agency

23 (1) has paid all required fees for renewal of the license;

24 (2) continues to meet the standards for license issuance; and

25 (3) is in compliance with the requirements of this chapter and
26 regulations adopted under this chapter.

27 (c) If an applicant fails to satisfy renewal requirements under this section, the
28 license expires at the end of the period for which the license was issued. The
29 department may adopt by regulation procedures for the reinstatement of an expired
30 license.

31 **Sec. 08.58.050. Scope of practice of in-home care providers.** (a) The

1 practice of an in-home care provider includes the performance of or assistance with

2 (1) personal care services; and

3 (2) nontechnical medical services that do not require a license or
4 certification under another provision of state law to be performed.

5 (b) A person who provides in-home personal care services may not

6 (1) prescribe or recommend a

7 (A) prescription drug;

8 (B) controlled substance;

9 (C) poison;

10 (2) provide services that require a license or certification under another
11 provision of state law; or

12 (3) engage in surgery.

13 **Sec. 08.58.060. Disclosure.** (a) A person who provides in-home personal care
14 services shall disclose that the person's training and practice are in the area of personal
15 care services

16 (1) to each patient; and

17 (2) on all material used in the practice of providing in-home personal
18 care services and made available to patients or to the public.

19 (b) A person who provides in-home personal care services without being
20 covered by malpractice insurance shall disclose to each patient that the person does
21 not have the insurance.

22 **Sec. 08.58.070. Grounds for imposition of disciplinary sanctions.** After a
23 hearing, the department may impose a disciplinary sanction on a person licensed under
24 this chapter when the department finds that the licensee

25 (1) secured a license through deceit, fraud, or intentional
26 misrepresentation;

27 (2) engaged in deceit, fraud, or intentional misrepresentation in the
28 course of providing professional services or engaging in professional activities;

29 (3) advertised professional services in a false or misleading manner;

30 (4) has been convicted of a felony or other crime that affects the
31 licensee's ability to continue to practice competently and safely;

1 (5) intentionally or negligently engaged in patient care, or permitted
 2 the performance of patient care by persons under the licensee's supervision, that does
 3 not conform to minimum professional standards regardless of whether actual injury to
 4 the patient occurred;

5 (6) failed to comply with this chapter, with a regulation adopted under
 6 this chapter, or with an order of the department;

7 (7) continued to practice after becoming unfit due to
 8 (A) incompetence;
 9 (B) failure to keep informed of current practice standards;
 10 (C) addiction to or severe dependency on alcohol or other drugs
 11 that impairs the ability to practice safely; or
 12 (D) physical or mental disability; or

13 (8) engaged in lewd or immoral conduct in connection with the
 14 delivery of personal care services to patients.

15 **Sec. 08.58.080. Penalty.** A person who violates this chapter or a regulation
 16 adopted under this chapter is guilty of a class B misdemeanor.

17 **Sec. 08.58.090. Regulations.** The department may adopt regulations to
 18 implement this chapter, including regulations establishing

19 (1) standards for the practice of providing in-home personal care
 20 services;
 21 (2) standards for continuing education and training;
 22 (3) a code of ethics for providing in-home personal care services;
 23 (4) liability insurance policy requirements for in-home care agencies;
 24 (5) reporting requirements for in-home care agencies; and
 25 (6) employment requirements for in-home care agencies.

26 **Sec. 08.58.100. Definitions.** In this chapter,

27 (1) "agency" means a corporation, limited liability company,
 28 partnership, sole proprietorship, nonprofit corporation exempt from taxation under 26
 29 U.S.C. 501(c)(3), or other legally organized operation whose partial or sole purpose is
 30 the provision of in-home care services through the employment and provision of in-
 31 home care providers;

1 (2) "personal care services" means
2 (A) services of a nontechnical nature that are provided to a
3 patient whose needs would otherwise require placement in a hospital or
4 nursing home and that enable the patient to remain safely in the patient's home;
5 (B) services ordered by a physician and designed to improve or
6 delay deterioration of a patient's health;
7 (C) assistance with activities of daily living, bathing, dressing,
8 meal preparation, light housekeeping, and shopping assistance;
9 (3) "provider" means any person who is employed either individually
10 or by an in-home care agency to provide in-home personal care services.
11 * **Sec. 2.** AS 12.62.400(a) is amended by adding a new paragraph to read:
12 (19) licensure or license renewal as an in-home care provider under
13 AS 08.58.