

HOUSE BILL NO. 1

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE JOHNSON

Introduced: 2/20/19

Referred: Health and Social Services, Labor and Commerce

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Department of Health and Social Services; relating to in-home**
2 **personal care services agencies; establishing the In-Home Personal Care Services**
3 **Advisory Board; and providing for an effective date."**

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

5 *** Section 1.** AS 47.32.010(b) is amended to read:

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

- 8 (1) ambulatory surgical centers;
9 (2) assisted living homes;
10 (3) child care facilities;
11 (4) child placement agencies;
12 (5) foster homes;
13 (6) free-standing birth centers;
14 (7) home health agencies;

1 (8) hospices, or agencies providing hospice services or operating
2 hospice programs;

3 (9) hospitals;

4 (10) **in-home personal care services agencies**;

5 **(11)** intermediate care facilities for individuals with an intellectual
6 disability or related condition;

7 **(12)** [(11)] maternity homes;

8 **(13)** [(12)] nursing facilities;

9 **(14)** [(13)] residential child care facilities;

10 **(15)** [(14)] residential psychiatric treatment centers;

11 **(16)** [(15)] runaway shelters;

12 **(17)** [(16)] rural health clinics.

13 * **Sec. 2.** AS 47.32.020 is amended by adding a new subsection to read:

14 (d) If an entity is providing personal care services under the medical assistance
15 program or for veterans as authorized by federal law, the entity is exempt from the
16 licensing requirements for in-home personal care services agencies under this chapter
17 and AS 47.34 when operating the program.

18 * **Sec. 3.** AS 47.32.900(2) is amended to read:

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), or (13);

7 * **Sec. 4.** AS 47.32.900 is amended by adding new paragraphs to read:

8 (22) "in-home personal care services agency" means an entity that
 9 provides personal care services, including attendant care, homemaker services, and
 10 companion care, for compensation to an individual in the individual's home to enable
 11 the individual to remain in the home; "in-home personal care services agency" does
 12 not include an entity that exclusively provides house cleaning services or that is a
 13 home health agency, hospital, or long-term care facility licensed under this chapter;

14 (23) "personal care services" includes

15 (A) attendant care for assistance with bathing, dressing,
 16 ambulation, transfers, toileting, and other activities of daily living for which an
 17 individual license is not required;

18 (B) homemaker services for assistance with meal preparation,
 19 light housekeeping, shopping, and other household tasks;

20 (C) companionship care for assistance with transportation,
 21 companionship, memory, and other related needs.

22 * **Sec. 5.** AS 47 is amended by adding a new chapter to read:

23 **Chapter 34. In-Home Personal Care Services.**

24 **Sec. 47.34.010. Establishment of advisory board; composition.** (a) The
 25 In-Home Personal Care Services Advisory Board is established in the department for
 26 the purpose of advising the department on the development of regulations for the
 27 standards of in-home personal care services agencies.

28 (b) The board consists of five members appointed by the governor as follows:

29 (1) two members of the in-home personal care services industry;

30 (2) two members who represent clients of in-home personal care
 31 services agencies; and

1 (3) one member who is employed by the department.

2 (c) Members appointed under (b) of this section

3 (1) serve staggered terms of three years, until reappointed or replaced;

4 (2) serve at the pleasure of the governor; and

5 (3) may be reappointed.

6 (d) If a member appointed under (b) of this section no longer meets the
7 qualifications prescribed in (b) of this section or if a vacancy occurs for any reason
8 other than the expiration of a member's term, the governor shall, within 30 days after
9 the occurrence of the vacancy, make an appointment, effective immediately, for the
10 unexpired portion of the term. A member appointed by the governor under this
11 subsection to fill an unexpired term must meet the requirements of (b) of this section.

12 **Sec. 47.34.020. Compensation.** Members of the board serve without
13 compensation but are entitled to per diem and travel expenses authorized under
14 AS 39.20.180.

15 **Sec. 47.34.030. Duties; meetings.** (a) The board shall provide input and
16 recommendations to the department for the development of regulations for the
17 standards for in-home personal care services agencies.

18 (b) The board shall meet at least annually, at the request of the department, at
19 the request of the majority of the members, or at a regularly scheduled time as
20 determined by a majority of the members.

21 (c) The board shall keep a record of its proceedings and issue an annual report
22 to the department on the status of the development and implementation of proposed
23 regulations.

24 **Sec. 47.34.040. Practice of in-home personal care services by an agency**
25 **without a license.** A person may not operate an in-home personal care services
26 agency for compensation or advertise as an in-home personal care services agency
27 without being licensed under AS 47.32 or AS 47.34.070.

28 **Sec. 47.34.050. Client rights.** (a) A client of an in-home personal care services
29 agency has the right to

30 (1) live in a safe and sanitary environment;

31 (2) be free from verbal, physical, and psychological abuse;

1 (3) be treated with consideration and respect for personal dignity,
2 personal property, and the need for privacy, including privacy in

3 (A) a medical examination or health-related consultation;

4 (B) bathing and toileting, except for assistance in those
5 activities that is specified in the client's service plan; and

6 (C) the maintenance of personal possessions;

7 (4) self-administer the client's own medications, unless specifically
8 provided otherwise in the client's service plan;

9 (5) receive the prior notice of the agency's intent to terminate the
10 services contract of the client;

11 (6) present to the agency grievances and recommendations for change
12 in the policies, procedures, or services of the agency;

13 (7) have reasonable access to files relating to the client.

14 (b) An in-home personal care services agency may not establish or apply a
15 policy, procedure, or rule that is inconsistent with or contrary to a right provided by
16 this section or by other law.

17 **Sec. 47.34.060. Client grievance procedure.** (a) An in-home personal care
18 services agency shall establish a written grievance procedure for handling complaints
19 of clients. At the time an individual begins receiving services from an in-home
20 personal care services agency, the agency shall give a copy of the grievance procedure
21 to the client and the client's representative, if any.

22 (b) The grievance procedure established under this section must provide that a
23 client and the client's representative have the right to

24 (1) present both a written and an oral explanation of the client's
25 grievance;

26 (2) have an advocate of the client's choice and the client's
27 representative, if any, attend meetings concerning the client's grievance; and

28 (3) be notified in writing, within 30 days after the filing of the
29 grievance, of the final decision of the agency regarding the grievance.

30 (c) The agency shall maintain all records related to a grievance and make them
31 available for inspection by the department on request.

1 **Sec. 47.34.070. Provisional licenses.** (a) If an applicant for licensure has not
 2 been previously licensed and the agency is not in operation at the time the application
 3 is submitted, the department may issue a provisional license to operate an in-home
 4 personal care services agency in this state.

5 (b) A provisional license issued under this section is initially valid for 120
 6 consecutive calendar days. Upon request of a licensee, the department shall extend a
 7 license issued under this section for 120 calendar days if, before the expiration of the
 8 initial 120-day license, the licensee submits to the department a completed application
 9 form and the fees required for licensure under AS 47.32, except that the department
 10 may refuse to grant a request for an extension for the same reasons the department
 11 may revoke a license. Provisional licenses and extensions of licenses issued to a
 12 licensee under this section are not valid for more than 240 calendar days during any
 13 consecutive 24 months.

14 **Sec. 47.34.080. Disclosure.** (a) A person who provides in-home personal care
 15 services shall disclose that the person's training and practice are in the area of personal
 16 care services

17 (1) to each client; and

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

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

23 **Sec. 47.34.090. Inspections and investigations.** (a) The department may
 24 conduct inspections and investigations of in-home personal care services agencies.
 25 Inspections and investigations may include direct observation of in-home care if
 26 consent is given by the client.

27 (b) An in-home personal care services agency shall investigate complaints
 28 made by a client or the client's representative regarding services provided or services
 29 that failed to be provided, lack of respect for the client's property by an employee of
 30 the in-home personal care services agency, or other client complaints.

31 **Sec. 47.34.100. Regulations.** The department may adopt regulations to

1 implement in-home personal care services agency requirements under AS 47.32 and
2 this chapter, including regulations establishing

3 (1) standards for the practice of providing in-home personal care
4 services;

5 (2) standards for continuing education and training;

6 (3) a code of ethics for providing in-home personal care services;

7 (4) liability insurance policy requirements for in-home personal care
8 services agencies;

9 (5) reporting requirements for in-home personal care services agencies;

10 (6) employment requirements for in-home care services agencies; and

11 (7) standards of competency in

12 (A) infection mitigation and control;

13 (B) client mobility procedures;

14 (C) client hygiene procedures;

15 (D) client nutrition administration;

16 (E) provision of homemaker services;

17 (F) client services documentation; and

18 (G) emergency procedures.

19 **Sec. 47.34.190. Definitions.** In this chapter,

20 (1) "agency" or "in-home personal care services agency" has the
21 meaning given to "in-home personal care services agency" in AS 47.32.900;

22 (2) "board" means the In-Home Personal Care Services Advisory
23 Board;

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

25 (4) "personal care services" has the meaning given in AS 47.32.900.

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

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

1 * **Sec. 7.** Section 6 of this Act takes effect immediately under AS 01.10.070(c).