

**CONF.**

**COMM.**

**SB**

**125**

# ALASKA STATE LEGISLATURE



Senator Dyson  
Senator Huggins  
Senator Davis

Representative Anderson  
Representative McGuire  
Representative Gara

## Conference Committee SB 125

May 10, 2005

To: Senator Ben Stevens, Senate President  
Representative John Harris, House Speaker

From: SB 125 Conference Committee Members

Re: Request limited power of free conference

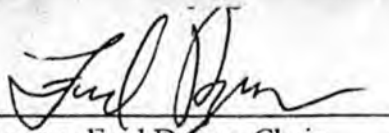
The Conference Committee considering CS SB 125 (JUD) "An Act relating to the licensing, regulation, enforcement, and appeal rights of ambulatory surgical centers, assisted living homes, child care facilities, child placement agencies, foster homes, free-standing birth centers, home health agencies, hospices or agencies providing hospice services or operating hospice programs, hospitals, intermediate care facilities for the mentally retarded, maternity homes, nursing facilities, residential child care facilities, residential psychiatric treatment centers, runaway shelters, and rural health clinics; relating to possession of a firearm at licensed entities and facilities; 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."

and

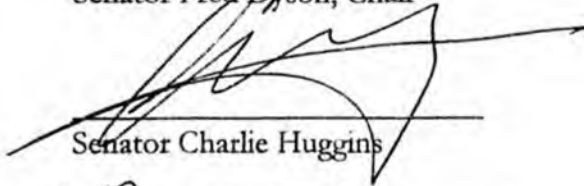
HCS CS SB 125 (FIN) am H "An Act relating to the licensing, regulation, enforcement, and appeal rights of ambulatory surgical centers, assisted living homes, child care facilities, child placement agencies, foster homes, free-standing birth centers, home health agencies, hospices or agencies providing hospice services or operating hospice programs, hospitals, intermediate care facilities for the mentally retarded, maternity homes, nursing facilities, residential child care facilities, residential psychiatric treatment centers, runaway shelters, and rural health clinics; relating to possession of a firearm at licensed entities and facilities; relating to criminal history requirements, and a registry, regarding certain licenses, certifications, approvals, and authorizations by the Department of Health and Social Services; relating to public assistance for health facilities and assisted living homes, to rates charged by an assisted living home, and to the liability of recipients of home or community-based services to pay for those services; making conforming amendments; and providing for an effective date."

requests limited powers of Free Conference on the following specific points:

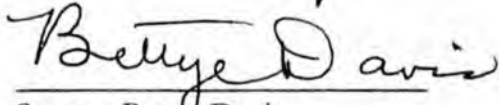
Adding uncodified law to relating to personal needs allowances for persons residing in assisted living facilities replacing section 20 and section 21 of HCS CS SB 125 (FIN) am H dealing with the same subject matter.



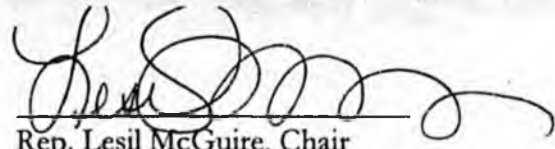
Senator Fred Dyson, Chair



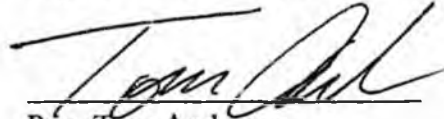
Senator Charlie Huggins



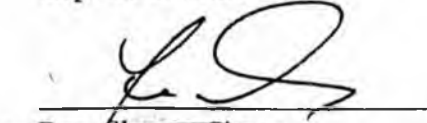
Senator Bettye Davis



Rep. Lesil McGuire, Chair



Rep. Tom Anderson



~~Rep. [unclear]~~

R. Les Gara

Received in the Senate: \_\_\_\_\_  
(Date/Time)

Received in the House: \_\_\_\_\_  
(Date/Time)

### CONFERENCE COMMITTEE REPORT

Date: 5/10/05  
(Reported out of committee)

MR. PRESIDENT: MR. SPEAKER:

The CONFERENCE COMMITTEE  with limited powers of free conference considering:

•Senate Version:  without limited powers of free conference considering:

CS FOR SENATE BILL NO. 125(JUD)

"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 or operating hospice programs, hospitals, intermediate care facilities for the mentally retarded, maternity homes, nursing facilities, residential child care facilities, residential psychiatric treatment centers, runaway shelters, and rural health clinics; relating to possession of a firearm at licensed entities and facilities; 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."

and

•House Version:

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

"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 or operating hospice programs, hospitals, intermediate care facilities for the mentally retarded, maternity homes, nursing facilities, residential child care facilities, residential psychiatric treatment centers, runaway shelters, and rural health clinics; relating to possession of a firearm at licensed entities and facilities; relating to criminal history requirements, and a registry, regarding certain licenses, certifications, approvals, and authorizations by the Department of Health and Social Services; relating to public assistance or health facilities and assisted living homes, to rates charged by an assisted living home, and to the liability of recipients of home or community-based services to pay for those services; making conforming amendments; and providing for an effective date."

(title change resolution HCR 21)

Recommends the:

CCS SB 125 be adopted.

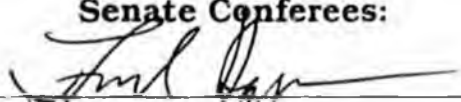
New Title (tech. - see attached)  Same Title as:  Senate Version  House Version

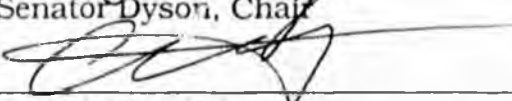
- or - Recommends the:  Senate Version  House Version be adopted.

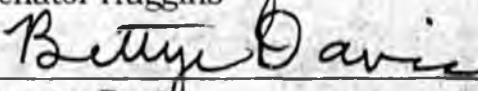
Letter of Intent attached.

FN #	List by Dept(s)	New Fiscal Note	Previous Fiscal Note	Fiscal Impact	Indet.	Zero
2	HSS		x			x
4	HSS	x		x		

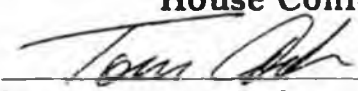
#### Senate Conferees:

  
Senator Dyson, Chair

  
Senator Huggins

  
Senator Davis

#### House Conferees:

  
Representative Anderson

  
Representative McGuire

  
Representative Gara

Return Conference Bill and attachments to the Senate Secretary's Office.

# FISCAL NOTE

**STATE OF ALASKA  
2005 LEGISLATIVE SESSION**

Fiscal Note Number: 4  
 Bill Version: SB125CCS-DHSS-DSDS-05-09-05  
 ( S ) Publish Date: 3/2/05  
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title: RELATING TO LICENSING FUNCTIONS OF  
THE DEPT. OF HEALTH AND SOCIAL  
SERVICES

RDU: Senior and Disabilities Svcs

Component: Senior/Disabilities Medicaid Svc

Sponsor: (RLS) BY REQUEST OF THE  
GOVERNOR

Requester:

Component No.: 2662

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	363.5	363.5	363.5	363.5	363.5	363.5
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>363.5</b>	<b>363.5</b>	<b>363.5</b>	<b>363.5</b>	<b>363.5</b>	<b>363.5</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES (0)</b>						
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts	209.3	209.3	209.3	209.3	209.2	209.3
1003 GF Match	154.2	154.2	154.2	154.2	154.2	154.2
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
<b>TOTAL</b>	<b>363.5</b>	<b>363.5</b>	<b>363.5</b>	<b>363.5</b>	<b>363.5</b>	<b>363.5</b>

Estimate of any current year (FY2005) cost:

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

Conference Committee Substitute for SB 125 directs the department to adopt new regulations establishing a personal needs allowance for recipients residing in an assisted living facility equal to the monthly income level set in AS 47.07.02.(b)6 minus \$260.

The effect of the legislation is to reverse regulation changes effective on 6/28/04 and allows for higher room and board charges to those Medicaid waiver recipients who fall under the 300% of SSI eligibility category. The increased room and board charges will reduce the amount waiver recipients have available to offset Medicaid costs. Costs are estimated at 57.58% FMAP for federal participation. (Cont. on Page 2)

Prepared by: Sherry Hill, Special Assistant  
 Division: Office of the Commissioner  
 Approved by: Joel S. Gilbertson, Commissioner  
 Agency: Department of Health and Social Services

Phone: 465-1618  
 Date/Time: 05/09/2005  
 Date: 05/09/2005

FISCAL NOTE  
FN # 2

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

BILL NO. SB125CCS-DHSS-DSDS-05-09-05

ANALYSIS CONTINUATION

Below is an outline of the recent history of the department's Medicaid personal needs allowance policies for waiver recipients under the 300% of SSI eligibility category and the cost impact of the proposed legislation.

Prior to 6/28/04 Regulation Change:

- Medicaid waiver recipients under the 300% of SSI eligibility category were allowed to keep \$1,656 as a personal needs allowance, which includes room and board.
- Assisted living homes charged these residents up to \$1,556 for room and board.
- Assisted living homes let residents retain at least \$100/month for other personal expenses.

After Regulation Change

- Medicaid waiver recipients under the 300% category are allowed to keep \$679/month ( $\$100 +$  SSI payment standard, currently \$579) as a personal needs allowance, which includes room and board.
- Assisted living homes charge individuals \$579 for room and board.
- Assisted living homes let residents retain \$100 for other personal expenses.
- Assisted living homes received an additional \$8.65/day, about \$260/month, in Medicaid payment for each resident.
- Resident income in excess of personal needs allowance is used to offset Medicaid charges.

Reversing the Impact of the Regulation Change:

- Medicaid waiver recipients under the 300% category are allowed to keep \$1,396/month as a personal needs allowance, which includes room and board ( $\$1,656 - \$260 = \$1,396$ ).
- Assisted living homes can charge individuals up to \$1,296/month for room and board.
- Assisted living homes let residents retain at least \$100/month for other personal expenses.
- Assisted living homes continue to receive an additional \$8.65/day, about \$260/month, in Medicaid payment for each resident.
- Assisted living homes can collect up to \$1,556/month in room and board and Medicaid rate increase ( $\$1,296 + 260 = \$1,556$ ).
- Resident income in excess of personal needs allowance is used to offset Medicaid charges. (Cont. on page 3.)

FISCAL NOTE  
FN # 2

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

BILL NO. SB125CCS-DHSS-DSDS-05-09-05

ANALYSIS CONTINUATION

Cost impact of the Reversing Change to 300%ers:

577 adults in assisted living homes on Medicaid waivers

30 percent are 300%ers

50 percent of 300%ers live in homes that have higher room and board charges for 300%ers than for APA recipients.

On average, Medicaid offset is reduced by \$350/month, or \$4,200/year, per resident.

Total Cost =  $577 \times 30\% \times 50\% \times \$4,200 = \$363.5$  total funds

GF Cost = \$154.2 at 57.58% FMAP

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: SB 125  
 ( S ) Publish Date: 3/2/05  
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title: RELATING TO LICENSING BY THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES RDU Public Health  
 Component: Certification and Licensing

Sponsor: (RLS) BY REQUEST OF THE GOVERNOR

Requester: GOVERNOR Component No. 245

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES (0)</b>						
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2005) cost: \_\_\_\_\_  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

Because the purpose of this legislation is to streamline the licensing process to achieve those goals of efficiency and cost effectiveness by consolidating virtually all of the licensing functions related to standards, enforcement, and appeal rights in DHSS, no additional costs or staff resources within the department are anticipated.

Prepared by: Richard Mandsager, MD Phone 465-3139  
 Division: Public Health Date/Time 02/17/2005  
 Approved by: Joel S. Gilbertson, Commissioner Date 02/28/2005  
 Agency: Department of Health and Social Services

## Conference Committee Report

In the event that one body (House) does not concur in the changes by the other body (Senate) to their bill (House), the presiding officer from each body will appoint three members to meet in a conference committee to work out the differences. See Uniform Rule 42.

Conference committee reports on House bills are prepared by the Chief Clerk's office and are returned to the Chief Clerk's office upon completion by the conference committee. See Appendices IX and X for samples of conference committee reports. The Senate Secretary's office prepares the conference committee reports on Senate bills.

Once the conference committee is appointed, the committee will determine if there is mutual agreement on previously adopted amendments. If the conference committee requires additional changes, the committee submits an identical written report to each body listing the specific points of disagreement and requests the conference committee be granted limited powers of free conference. See Appendices XI and XII for sample letters requesting limited powers of free conference.

The presiding officers **must grant the powers during session before the committee can continue their business.** The conference committee can then proceed to make changes to the designated versions and return the approved final Conference CS (CCS) and attachments to the appropriate body. The original body will duplicate and submit copies to each body for adoption.

When a conference committee is appointed to consider an appropriation bill, the bill may not be voted on until at least 24 hours after the report has been delivered to the Chief Clerk's or Senate Secretary's office for duplication and distribution to each member. The Chief Clerk or Senate Secretary will note the time of delivery of the report for recording in the journal. See Uniform Rule 42(c).

*Note: This was prepared for the House but the procedures are the same.*



SENATOR FRED DYSON

**MEMORANDUM**

May 10, 2005

To: Senator Ben Stevens, Senate President  
Representative John Harris, House Speaker

From: Senator Fred Dyson,  
Chair, SB 125 Conference Committee

Re: SB 125 Letter of Legislative Intent

The Conference Committee considering CS SB 125 (JUD) "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 or operating hospice programs, hospitals, intermediate care facilities for the mentally retarded, maternity homes, nursing facilities, residential child care facilities, residential psychiatric treatment centers, runaway shelters, and rural health clinics; relating to possession of a firearm at licensed entities and facilities; 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."

and

HCS CS SB 125 (FIN) am H "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 or operating hospice programs, hospitals, intermediate care facilities for the mentally retarded, maternity homes, nursing facilities, residential child care facilities, residential psychiatric treatment centers, runaway shelters, and rural health clinics; relating to possession of a firearm at licensed entities and facilities; relating to criminal history requirements, and a registry, regarding certain licenses, certifications, approvals, and authorizations by the Department of Health and Social Services; relating to public assistance for



SENATOR FRED DYSON

health facilities and assisted living homes, to rates charged by an assisted living home, and to the liability of recipients of home or community-based services to pay for those services; making conforming amendments; and providing for an effective date."

recommends a letter of intent to accompany Conference Committee Substitute for SB 125 as follows:

(a) It is the intent of the legislature that the Department of Health and Social Services repeal 7 AAC 43.105(k)(1)(B).

(b) It is further the intent of the legislature that the Department of Health and Social Services is not responsible for paying any refunding of cost-of-care contributions received under (a) of this section. In addition, any cost-of-care contributions currently outstanding as the result of errors and omissions by a Medicaid recipient, a Medicaid recipient's responsible party, or an assisted living home shall be considered as unattainable and classified as Unrealized Cost Containment for the fiscal year ending June 30, 2005.

(c) It is further the intent of the legislature that the Department of Health and Social Services adopt new emergency regulations establishing a personal needs allowance for recipients residing in an assisted living facility equal to the monthly income limit set in AS 47.07.020(b)(6) minus \$260. Until the Department of Health and Social Services adopts the emergency regulations at 7 AAC 43.1058(k)(1)(B), the Department of Health and Social Services shall apply personal needs allowance for recipients residing in an assisted living facility equal to the monthly income limit set in AS 47.07.020(b)(6) minus \$260. This meets the requirements for a finding of a public health, safety, and welfare emergency under AS 44.62.250.



SENATOR FRED DYSON

(d) It is further the intent of the legislature that the sum of \$363,500 of appropriations made in fiscal year 2006 to the Department of Health and Social Services be used to further the intent specified in (a) – (c) of this section.

\_\_\_\_\_  
Senator Fred Dyson, Chair

\_\_\_\_\_  
Rep. Lesil McGuire, Chair

\_\_\_\_\_  
Senator Charlie Huggins

\_\_\_\_\_  
Rep. Tom Anderson

\_\_\_\_\_  
Senator Bettye Davis

\_\_\_\_\_  
~~Rep. Les Gara~~

Rep. Les Gara

**Limbo File Comparison for SB125 (omnibus licensing bill)**

**Sponsor:** Governor (Department of Health and Social Services)  
**Current Version:** HCS CSSB125(FIN) Am 1  
**Contact:** Dick Mandsager, DPH Director, 465-3090, 321-0638  
**Date:** May 9, 2005

**Short title:**

"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 or operating hospice programs, hospitals, intermediate care facilities for the mentally retarded, maternity homes, nursing facilities, residential child care facilities, residential psychiatric treatment centers, runaway shelters, and rural health clinics."

**Summary of changes made in House Finance to SB125 (DHSS agrees with these amendments):**

1. Added a reference to the background check immunity section in the section dealing with complaints and investigations in the licensing chapter (AS 47.32.090).
2. Made technical changes to a transition section of the bill [sec. 54(b)].
3. Changed the reference to "volunteer" in the background check and registry section to "unsupervised volunteer."
4. Added a requirement that an individual be notified that his or her name is being placed on the registry.
5. Added a requirement that there be no relation between information placed on the registry and the risk of harm to an entity's clientele before the Department of Health and Social Services may make changes or deletions to information on the registry at the request of the individual whose name appears on the registry.

**Amendments on House floor (DHSS does not agree with these amendments):**

**Amendment 1**

This amendment puts into statute a minimum daily rate of reimbursement of \$28 for recipients of "residential supported living services" in Assisted Living Homes licensed under AS 47.32.

This amendment will cost \$963.5 in new General Funds, and the transfer of \$1,632.3 GF among programs.

**Amendment 2**

The purpose of this amendment is to direct the Department of Health and Social Services to immediately apply for and seek approval for an amendment to its waiver program to provide a new Medicaid option, Companion Care Services. With this language the Department would have little ability to control the costs of the new services.

DHSS estimates that it will cost \$24 million annually, with \$10 million in General Funds. The Department projects that, by FY11, the cost will be over \$34 million total funds.

**Senator Gary Stevens recommends the Senate not concur with the floor amendments to HCS CSSB125(FIN) Am H**

# ALASKA STATE LEGISLATURE

Senator Dyson, Co-Chair  
Senator Huggins  
Senator Davis



Representative McGuire, Co-Chair  
Representative Anderson  
Representative Gara

## Conference Committee SB 125

The Conference Committee on SB 125 will meet:

Tuesday, May 3, 2005

8:30 am

Butrovich Room 205

# STATE OF ALASKA

Department of Health & Social Services  
Division of Public Health

FRANK H. MURKOWSKI, GOVERNOR  
P.O. Box 110610  
Juneau, Alaska 99811-0610  
Telephone: (907) 465-3090  
Telefax: (907) 586-1877

## Limbo File Comparison for SB125 (omnibus licensing bill)

**Sponsor:** Governor (Department of Health and Social Services)  
**Current Version:** HCS CSSB125(FIN) Am H  
**Contact:** Dick Mandsager, DPH Director, 465-3090, 321-0638  
**Date:** May 9, 2005

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### **Summary of changes made in House Finance to SB125 (DHSS agrees with these amendments):**

1. Added a reference to the background check immunity section in the section dealing with complaints and investigations in the licensing chapter (AS 47.32.090).
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4. Added a requirement that an individual be notified that his or her name is being placed on the registry.
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This amendment will cost \$963.5 in new General Funds, and the transfer of \$1,632.3 GF among programs.

**Amendment 2**

The purpose of this amendment is to direct the Department of Health and Social Services to immediately apply for and seek approval for an amendment to its waiver program to provide a new Medicaid option, Companion Care Services. With this language the Department would have little ability to control the costs of the new services.

DHSS estimates that it will cost \$24 million annually, with \$10 million in General Funds. The Department projects that, by FY11, the cost will be over \$34 million total funds.

**Senator Gary Stevens recommends the Senate not concur with the floor amendments to HCS CSSB125(FIN) Am H**

AMENDMENT

OFFERED IN THE CONFERENCE COMMITTEE

BY:

TO: HOUSE CS FOR CSSB 125 (FIN) am H

Page 1, following "Services;", through line 12:

Delete all material.

Page 16, lines 2 through 21:

Delete all material.

Renumber the following bill sections accordingly.

Page 41, line 3.

Delete all material.

Renumber the following bill sections accordingly.

Page 41, lines 13 - 16:

Delete all material.

Renumber the following bill sections accordingly.

Page 42, line 26 through page 43, line 25:

Delete all material.

Renumber the following bill sections accordingly.

Page 47, following line 14:

Insert new bill sections to read:

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

INTENT OF THE LEGISLATURE REGARDING PERSONAL NEEDS ALLOWANCE FOR ASSISTED LIVING HOMES. (a) It is the intent of the legislature that the Department of Health and Social Services repeal 7 AAC 43.105(k)(1)(B).

(b) It is further the intent of the legislature that the Department of Health and Social Services is not responsible for paying any refunding of cost-of-care contributions received under (a) of this section. In addition, any cost-of-care contributions currently outstanding as the result of errors and omissions by a Medicaid recipient, a Medicaid recipient's responsible party, or an assisted living home shall be considered as unattainable and classified as Unrealized Cost Containment for the fiscal year ending June 30, 2005.

(c) It is further the intent of the legislature that the Department of Health and Social Services adopt new emergency regulations establishing a personal needs allowance for recipients residing in an assisted living facility equal to the monthly income limit set in AS 47.07.020(b)(6) minus \$260. Until the Department of Health and Social Services adopts the emergency regulations at 7 AAC 43.1058(k)(1)(B), the Department of Health and Social Services shall apply personal needs allowance for recipients residing in an assisted living facility equal to the monthly income limit set in AS 47.07.020(b)(6) minus \$260. This meets the requirements for a finding of a public health, safety, and welfare emergency under AS 44.62.250.

(d) It is further the intent of the legislature that the sum of \$363,500 of appropriations made in fiscal year 2006 to the Department of Health and Social Services be used to further the intent specified in (a) – (c) of this section.

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

RETROACTIVITY. Sec. 59(a) is retroactive to July 1, 2004.

\* Sec. 61. Sec. 59(c) is effective July 1, 2005.”

Renumber bill sections accordingly.

Page 47, line 15:

Delete “20, 21, 51, 55”

Renumber all internal references in accordance with this amendment.

# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: SB125CCS-DHSS-DSDS-05-03-05

Revision Date/Time (Note if correction): \_\_\_\_\_

( ) Publish Date: \_\_\_\_\_  
Dept. Affected: Health & Social Services

Title RELATING TO LICENSING FUNCTIONS OF THE DEPT. OF HEALTH AND SOCIAL SERVICES

RDU Senior and Disabilities Svcs  
Component Senior/Disabilities Medicaid Svc

Sponsor (RLS) BY REQUEST OF THE GOVERNOR

Requester \_\_\_\_\_ Component No. 2662

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	363.5	363.5	363.5	363.5	363.5	363.5
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>363.5</b>	<b>363.5</b>	<b>363.5</b>	<b>363.5</b>	<b>363.5</b>	<b>363.5</b>
<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES (0)</b>						

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	209.3	209.3	209.3	209.3	209.3	209.3
1003 GF Match	154.2	154.2	154.2	154.2	154.2	154.2
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
<b>TOTAL</b>	<b>363.5</b>	<b>363.5</b>	<b>363.5</b>	<b>363.5</b>	<b>363.5</b>	<b>363.5</b>

Estimate of any current year (FY2005) cost: \_\_\_\_\_

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

Conference Committee Substitute for SB 125 directs the department to adopt new regulations establishing a personal needs allowance for recipients residing in an assisted living facility equal to the monthly income level set in AS 47.07.02.(b)6 minus \$260.

The effect of the legislation is to reverse regulation changes effective on 6/28/04 and allows for higher room and board charges to those Medicaid waiver recipients who fall under the 300% of SSI eligibility category. The increased room and board charges will reduce the amount waiver recipients have available to offset Medicaid costs. Costs are estimated at 57.58% FMAP for federal participation. (Cont. on Page 2)

Prepared by: Sherry Hill, Special Assistant  
Division: Office of the Commissioner  
Approved by: Joel S. Gilbertson, Commissioner  
Agency: Department of Health and Social Services

Phone 465-1018  
Date/Time 05/09/2005  
Date 05/09/2005

FISCAL NOTE  
FN #

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

BILL NO. SB125CCS-DHSS-DSDS-05-09-05

ANALYSIS CONTINUATION

Below is an outline of the recent history of the department's Medicaid personal needs allowance policies for waiver recipients under the 300% of SSI eligibility category and the cost impact of the proposed legislation.

Prior to 6/28/04 Regulation Change:

- Medicaid waiver recipients under the 300% of SSI eligibility category were allowed to keep \$1,656 as a personal needs allowance, which includes room and board.
- Assisted living homes charged these residents up to \$1,556 for room and board.
- Assisted living homes let residents retain at least \$100/month for other personal expenses.

After Regulation Change

- Medicaid waiver recipients under the 300% category are allowed to keep \$679/month (\$100 + SSI payment standard, currently \$579) as a personal needs allowance, which includes room and board.
- Assisted living homes charge individuals \$579 for room and board.
- Assisted living homes let residents retain \$100 for other personal expenses.
- Assisted living homes received an additional \$8.65/day, about \$260/month, in Medicaid payment for each resident.
- Resident income in excess of personal needs allowance is used to offset Medicaid charges.

Reversing the Impact of the Regulation Change:

- Medicaid waiver recipients under the 300% category are allowed to keep \$1,396/month as a personal needs allowance, which includes room and board ( $\$1,656 - \$260 = \$1,396$ ).
- Assisted living homes can charge individuals up to \$1,296/month for room and board.
- Assisted living homes let residents retain at least \$100/month for other personal expenses.
- Assisted living homes continue to receive an additional \$8.65/day, about \$260/month, in Medicaid payment for each resident.
- Assisted living homes can collect up to \$1,556/month in room and board and Medicaid rate increase ( $\$1,296 + 260 = \$1,556$ ).
- Resident income in excess of personal needs allowance is used to offset Medicaid charges. (Cont. on page 3.)

FISCAL NOTE  
FN #

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

BILL NO. SB125CCS-DHSS-DSDS-05-09-05

ANALYSIS CONTINUATION

Cost impact of the Reversing Change to 300%ers:

577 adults in assisted living homes on Medicaid waivers

30 percent are 300%ers

50 percent of 300%ers live in homes that have higher room and board charges for 300%ers than for APA recipients.

On average, Medicaid offset is reduced by \$350/month, or \$4,200/year, per resident.

Total Cost =  $577 \times 30\% \times 50\% \times \$4,200 = \$363.5$  total funds

GF Cost = \$154.2 at 57.58% FMAP

AMENDMENT

OFFERED IN THE CONFERENCE COMMITTEE

BY:

TO: HOUSE CS FOR CSSB 125 (FIN) am H

Page 1, line 10, following "Services;", through line 12:

Delete all material.

Page 16, lines 2 through 21:

Delete all material.

Renumber the following bill sections accordingly.

Page 41, line 3.

Delete a' material.

Renumber the following bill sections accordingly.

Page 41, lines 13 - 16:

Delete all material.

Renumber the following bill sections accordingly.

Page 42, line 26 through page 43, line 25:

Delete all material.

Renumber the following bill sections accordingly.

Page 47, following line 14:

Insert new bill sections to read:

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

INTENT OF THE LEGISLATURE REGARDING PERSONAL NEEDS

ALLOWANCE FOR ASSISTED LIVING HOMES. (a) It is the intent of the legislature that the Department of Health and Social Services repeal 7 AAC 43.105(k)(1)(B).

(b) It is further the intent of the legislature that the Department of Health and Social Services is not responsible for paying any refunding of cost-of-care contributions received under (a) of this section. In addition, any cost-of-care contributions currently outstanding as the result of errors and omissions by a Medicaid recipient, a Medicaid recipient's responsible party, or an assisted living home shall be considered as unattainable and classified as Unrealized Cost Containment for the fiscal year ending June 30, 2005.

(c) It is further the intent of the legislature that the Department of Health and Social Services adopt new emergency regulations establishing a personal needs allowance for recipients residing in an assisted living facility equal to the monthly income limit set in AS 47.07.020(b)(6) minus \$260. Until the Department of Health and Social Services adopts the emergency regulations at 7 AAC 43.1058(k)(1)(B), the Department of Health and Social Services shall apply personal needs allowance for recipients residing in an assisted living facility equal to the monthly income limit set in AS 47.07.020(b)(6) minus \$260. This meets the requirements for a finding of a public health, safety, and welfare emergency under AS 44.62.250.

(d) It is further the intent of the legislature that the sum of \$363,500 of appropriations made in fiscal year 2006 to the Department of Health and Social Services be used to further the intent specified in (a) – (c) of this section.

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

RETROACTIVITY. Sec. 59(a) is retroactive to July 1, 2004.

\* **Sec. 61.** Sec. 59(c) is effective July 1, 2005.”

Renumber bill sections accordingly.

Page 47, line 15:

Delete “20, 21, 51, 55”

Renumber all internal references in accordance with this amendment.



## ALASKA STATE LEGISLATURE

May 10, 2005

Mr. President,  
Mr. Speaker,

The Conference Committee considering CS SB 125 (JUD) "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 or operating hospice programs, hospitals, intermediate care facilities for the mentally retarded, maternity homes, nursing facilities, residential child care facilities, residential psychiatric treatment centers, runaway shelters, and rural health clinics; relating to possession of a firearm at licensed entities and facilities; 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."

and

HCS CS SB 125 (FIN) am H "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 or operating hospice programs, hospitals, intermediate care facilities for the mentally retarded, maternity homes, nursing facilities, residential child care facilities, residential psychiatric treatment centers, runaway shelters, and rural health clinics; relating to possession of a firearm at licensed entities and facilities; relating to criminal history requirements, and a registry, regarding certain licenses, certifications, approvals, and authorizations by the Department of Health and Social Services; relating to public assistance for health facilities and assisted living homes, to rates charged by an assisted living home, and to the liability of recipients of home or community-based services to pay for those services; making conforming amendments; and providing for an effective date."

requests limited powers of Free Conference on the following specific points:

Adding uncodified law relating to personal needs allowances for persons residing in assisted living facilities replacing section 20 and section 21 of HCS CS SB 125 (FIN) am H dealing with the same subject matter.

5/10/2005 8:08 AM

The detailed language on this request is attached.

\_\_\_\_\_  
Senator Fred Dyson, Chair

\_\_\_\_\_  
Rep. Lesil McGuire, Chair

\_\_\_\_\_  
Senator Charlie Huggins

\_\_\_\_\_  
Rep. Tom Anderson

\_\_\_\_\_  
Senator Bettye Davis

\_\_\_\_\_  
Rep. Sharon Cissna



## ALASKA STATE LEGISLATURE

May 10, 2005

Mr. President,  
Mr. Speaker,

The Conference Committee considering CS SB 125 (JUD) "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 or operating hospice programs, hospitals, intermediate care facilities for the mentally retarded, maternity homes, nursing facilities, residential child care facilities, residential psychiatric treatment centers, runaway shelters, and rural health clinics; relating to possession of a firearm at licensed entities and facilities; 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."

and

HCS CS SB 125 (FIN) am H "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 or operating hospice programs, hospitals, intermediate care facilities for the mentally retarded, maternity homes, nursing facilities, residential child care facilities, residential psychiatric treatment centers, runaway shelters, and rural health clinics; relating to possession of a firearm at licensed entities and facilities; relating to criminal history requirements, and a registry, regarding certain licenses, certifications, approvals, and authorizations by the Department of Health and Social Services; relating to public assistance for health facilities and assisted living homes, to rates charged by an assisted living home, and to the liability of recipients of home or community-based services to pay for those services; making conforming amendments; and providing for an effective date."

recommends a letter of intent to accompany Conference Committee Substitute for SB 125 as follows:

(a) It is the intent of the legislature that the Department of Health and Social Services repeal 7 AAC 43.105(k)(1)(B).

(b) It is further the intent of the legislature that the Department of Health and Social Services is not responsible for paying any refunding of cost-of-care contributions received under (a) of this section. In addition, any cost-of-care contributions currently outstanding as the result of errors and omissions by a Medicaid recipient, a Medicaid recipient's responsible party, or an assisted living home shall be considered as unattainable and classified as Unrealized Cost Containment for the fiscal year ending June 30, 2005.

(c) It is further the intent of the legislature that the Department of Health and Social Services adopt new emergency regulations establishing a personal needs allowance for recipients residing in an assisted living facility equal to the monthly income limit set in AS 47.07.020(b)(6) minus \$260. Until the Department of Health and Social Services adopts the emergency regulations at 7 AAC 43.1058(k)(1)(B), the Department of Health and Social Services shall apply personal needs allowance for recipients residing in an assisted living facility equal to the monthly income limit set in AS 47.07.020(b)(6) minus \$260. This meets the requirements for a finding of a public health, safety, and welfare emergency under AS 44.62.250.

(d) It is further the intent of the legislature that the sum of \$363,500 of appropriations made in fiscal year 2006 to the Department of Health and Social Services be used to further the intent specified in (a) – (c) of this section.

Mr. President  
Mr. Speaker  
Conference Committee on SB 125  
Page 3

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Senator Fred Dyson, Chair

---

Rep. Lesil McGuire, Chair

---

Senator Charlie Huggins

---

Rep. Tom Anderson

---

Senator Bettye Davis

---

Rep. Sharon Cissna

# Alaska State Legislature

## House of Representatives

Session address:  
Alaska State Capitol  
Juneau, Alaska 99801-1182  
1-888-465-2647 (toll free)  
1-907-465-3518 (fax)



Interim address:  
716 West 4th Avenue  
Anchorage, Alaska 99501-2133  
1-907-269-0106  
1-907-269-0109 (fax)

## Representative Les Gara

May 9, 2005

Stacie Kraly  
Assistant Attorney General  
P.O. Box 110300  
Juneau, AK 99811-0300  
Via Fax: (907) 465-2539

Commissioner Joel Gilbertson  
Dept. of Health and Social Services  
P.O. Box 110601  
Juneau, AK 99811  
Via Fax: (907) 465-3068

Dear Ms. Kraly & Commissioner Gilbertson:

Thank you for your letter today. It unfortunately fails to answer the question I've had every time I've raised this issue with the Department of Health and Social Services. I asked the question at least 3 times in the past day, and in writing twice last summer. I'd appreciate an answer.

You contend it is legal for Assisted Living Homes to use Medicaid Funding to cover the \$200 of Room and Board payments formerly paid indirectly through the Adult Public Assistance program. I'd like you to promise, in writing, that you will stand behind your position. That is, ***I would like an assurance that you will hold any Assisted Living Home harmless, and cover their liability, if the Federal Government seeks reimbursement of the Medicaid funds you've authorized them to use.***

The federal government has been quite clear in the past that Medicaid cannot be used to pay for room and board. If you are taking the position that your new regulations allowing this use of Medicaid by Assisted Living Homes are legal, you should offer our Assisted Living Homes the assurance that they will not be held liable for following your instructions. If you are not willing to stand behind your new regulations by doing this, then I will continue to seek a complete reversal of those regulations. Without a hold harmless promise, you will continue to leave Assisted Living Homes at their financial peril for using Medicaid funds for room and board, and for accepting your assurance on this matter.


E-mail: [Representative\\_Les\\_Gara@legis.state.ak.us](mailto:Representative_Les_Gara@legis.state.ak.us)



Stacie Kraly, Commissioner Gilbertson  
May 9, 2005  
Page 2

Reading between the lines of your many responses to me to date, my belief is that unless you provide this assurance, it is your concession that your new regulations replacing APA funds with Medicaid Funding are of questionable legality.

Sincerely,

  
Representative Les Gara

cc: Reps. McGuire, Hawker & Anderson

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

FRANK H. MURKOWSKI, GOVERNOR

LEGISLATION & REGULATIONS SECTION  
P.O. BOX 110300  
DIMOND COURT HOUSE, 5<sup>TH</sup> FLOOR  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3600  
FAX: (907) 465-2539

May 9, 2005

The Honorable Les Gara  
House of Representatives  
Alaska State Capitol, Room 418  
Juneau, AK 99801-1182

Re: HCS CSSB 125(FIN) am H Licensing of Medical or Care Facilities  
Our file: 773-05-0016

Dear Representative Gara:

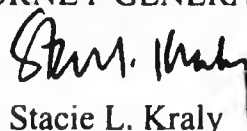
You asked the Department of Law to provide an opinion regarding whether the refinance of the waiver program related to the payments to assisted living homes in 2004 violates federal Medicaid law. The Department of Law reviewed a number of regulations related to the Adult Public Assistance Program and the Home and Community-Based Waiver program during the spring of 2004. The department opined during those reviews that there were no legal problems in the proposed regulations and encouraged that the regulations be adopted. Additionally, Jean Mischel opined in a memorandum to Rep. Coghill dated August 5, 2004, that there was no violation of the Medicaid program under these proposed regulations. We concur with her analysis.

If you need additional information, please let me know.

Sincerely,

DAVID W. MARQUEZ  
ATTORNEY GENERAL

By:



Stacie L. Kraly  
Assistant Attorney General

SLK/mkb

cc: Kevin Jardell, Legislative Director, Office of the Governor  
Randy Ruaro, Acting Legislative Contact, Department of Law  
Sherry Hill, Legislative Contact, Department of Health and Social Services  
Deborah E. Behr, Chief Assistant Attorney General, Department of Law



**CONFIDENTIAL  
FACSIMILE TRANSMISSION  
COVER SHEET**

*Attorney General's Office  
Human Services  
123 4th Street, 5th Floor  
P.O. Box 110300  
Juneau, AK 99811-0300*

**PHONE: (907) 465-3600 FAX: (907) 465-2539**

**To: Jean Mischel (2029)**  
**From: Stacie L. Kraly**  
**Date: May 10, 2005**  
**Number Of Pages Including This Sheet: 4**

Amendment to insert in the conference committee substitute to CSSB  
125(FIN) am H.

Please work from house version, which keeps the finance amendments that  
everyone likes and wants incorporated in the bill.

Call with questions/clarification/whatever.

Thanks.

The information contained in this FAX is confidential and/or privileged. This FAX is intended to be reviewed initially by only the individual named above. If the reader of this TRANSMITTAL PAGE is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of this FAX or the information contained herein is prohibited. If you have received this FAX in error, please immediately notify and shred/destroy it. Thank you.

**PLEASE INFORM ME IMMEDIATELY IF YOU DO NOT RECEIVE THIS  
TRANSMISSION IN FULL: (907) 465-4164 ASK FOR STACIE**

Henriksen  
05/10/05  
4:15 pm

AMENDMENT

OFFERED IN THE CONFERENCE COMMITTEE

BY:

TO: HOUSE CS FOR CSSB 125 (FIN) am H

Page 1, line 10, following "Services;" through line 12:

Delete all material, and insert "relating to the personal needs allowance of assisted

Page 16, lines 2 through 21:

*living homes, and authorizing emergency regulations;"*

Delete all material.

Re-number the following bill sections accordingly.

Page 41, line 3.

Delete all material.

Re-number the following bill sections accordingly.

Page 41, lines 13 - 16:

Delete all material.

Re-number the following bill sections accordingly.

Page 42, line 26 through page 43, line 25:

Delete all material.

Re-number the following bill sections accordingly.

Page 47, following line 14:

Insert new bill sections to read:

Henriksen  
05/10/05  
4:15 pm

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

**INTENT OF THE LEGISLATURE REGARDING PERSONAL NEEDS ALLOWANCE FOR ASSISTED LIVING HOMES. (a) It is the intent of the legislature that the Department of Health and Social Services repeal 7 AAC 43.105(k)(1)(B).**

**(b) It is further the intent of the legislature that the Department of Health and Social Services is not responsible for paying any refunding of cost-of-care contributions received under (a) of this section. In addition, any cost-of-care contributions currently outstanding as the result of errors and omissions by a Medicaid recipient, a Medicaid recipient's responsible party, or an assisted living home shall be considered as unattainable and classified as Unrealized Cost Containment for the fiscal year ending June 30, 2005.**

**(c) It is further the intent of the legislature that the Department of Health and Social Services adopt new emergency regulations establishing a personal needs allowance for recipients residing in an assisted living facility equal to the monthly income limit set in AS 47.07.020(b)(6) minus \$260. Until the Department of Health and Social Services adopts the emergency regulations at 7 AAC 43.1058(k)(1)(B), the Department of Health and Social Services shall apply personal needs allowance for recipients residing in an assisted living facility equal to the monthly income limit set in AS 47.07.020(b)(6) minus \$260. This meets the requirements for a finding of a public health, safety, and welfare emergency under AS 44.62.250.**

Henriksen  
05/10/05  
4:16 pm

(d) It is further the intent of the legislature that the sum of \$363,500 of appropriations made in fiscal year 2006 to the Department of Health and Social Services be used to further the intent specified in (a) – (c) of this section.

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

RETROACTIVITY. Sec. 59(a) is retroactive to July 1, 2004.

\* Sec. 61. Sec. 59(c) is effective July 1, 2005.”

Renumber bill sections accordingly.

Page 47, line 15:

Delete “20, 21, 51, 55”

Renumber all internal references in accordance with this amendment.

**Summary of changes made in House Finance to SB125 (DHSS agrees with these amendments):**

1. Added a reference to the background check immunity section in the section dealing with complaints and investigations in the licensing chapter (AS 47.32.090).
2. Made technical changes to a transition section of the bill [sec. 54(b)].
3. Changed the reference to "volunteer" in the background check and registry section to "unsupervised volunteer."
4. Added a requirement that an individual be notified that his or her name is being placed on the registry.
5. Added a requirement that there be no relation between information placed on the registry and the risk of harm to an entity's clientele before the Department of Health and Social Services may make changes or deletions to information on the registry at the request of the individual whose name appears on the registry.