

HB

193

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB193CS(HES)-DHSS-DHCS-04-20-05

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 Health Care Services
 Component Medical Assistance Admin.

Sponsor (RLS) BY REQUEST OF THE GOVERNOR

Requester HOUSE (HES)

Component No. 242

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	198.2	198.2	198.2	198.2	198.2	198.2
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	198.2	198.2	198.2	198.2	198.2	198.2

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	99.1	99.1	99.1	99.1	99.1	99.1
1003 GF Match	99.1	99.1	99.1	99.1	99.1	99.1
1004 GF						
1037 GF/Mental Health						
1007 Inter/Agency Receipts						
Other(Specify Type-do not abbreviate)						
TOTAL	198.2	198.2	198.2	198.2	198.2	198.2

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)

This fiscal note assumes that the department will have to purchase the services of one full time lawyer and all associated costs from the Department of Law due to the provisions in this bill.

Sec 21 (f) This section appears to apply to all facilities as well as assisted living homes, the language is unlike anything that is currently used for setting other facility rates and could create boundless opportunity for litigation in the hospital and nursing facility rate setting area. The language seems to calculate a percentage but does not tell us what the percentage is to be applied to, this seems to be an attempt to write regulations into statute and usually results in years of litigation. (Continued on Page 2)

Prepared by: Janet Clarke
 Division: Finance and Management Services
 Approved by: Joel S. Gilbertson, Commissioner
 Agency: Department of Health and Social Services

Phone 465-1630
 Date/Time 04/20/2005
 Date 04/20/2005

**FISCAL NOTE
FN #**

**STATE OF ALASKA
2005 LEGISLATIVE SESSION**

BILL NO. HB193CS(HES)-DHSS-DHCS-04-20-05

ANALYSIS CONTINUATION

Analysis Continued:

Breakdown of costs: \$177.7 personal services (1,900 hours of legal services at an average cost of \$93.54/hr based on \$107.99 per attorney hour and \$77.93 per paraprofessional hour); \$20.5 direct case costs (case specific travel, outside contracts, transcription fees).

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB193CS(HES)-DHSS-DSDS-04-20-05

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 HOUSE (HES)

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	32,161.6	74,501.6	127,097.0	142,895.9	147,203.5	151,640.2
Miscellaneous						
TOTAL OPERATING	32,161.6	74,501.6	127,097.0	142,895.9	147,203.5	151,640.2

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
1002 Federal Receipts	16,425.0	37,595.0	63,892.7	71,792.1	73,946.0	76,164.3
1003 GF Match	15,736.6	36,906.6	63,204.3	71,103.8	73,257.5	75,475.9
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	32,161.6	74,501.6	127,097.0	142,895.9	147,203.5	151,640.2

Estimate of any current year (FY2006) 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)

Sec 23 of this bill proposes adding a new subsection (e) which would allow for "companion services" to eligible waiver recipients if the services are "necessary and will result in cost savings compared to the cost of institutionalization". Companion services are defined as "nonmedical care, supervision and socialization provided to a functionally impaired adult in accordance with a therapeutic goal in the recipient's plan of care".

con't on page 2

Prepared by: Steve Ashman, Director
 Division Division of Senior and Disability Services
 Approved by: Joel S. Gilbertson, Commissioner
 Agency Department of Health and Social Services

Phone 465-3819
 Date/Time 04/20/2005
 Date 04/20/2005

FISCAL NOTE
FN #

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. HB193CS(HES)-D ISS-DSDS-04-20-05

ANALYSIS CONTINUATION

Virtually all waiver recipients would be eligible for the new companion services as waiver eligibility is based on avoidance of institutional care.

Based on experience with the PCA program, the department estimates that there would be heavy use of companion services. Currently, there are approximately 2,500 waiver recipients. The fiscal note cost estimate is based on 20% of the waiver population utilizing companion services the first year, increasing to 40% the second year, and 60% the third year (and thereon) as people become aware of the availability of the service.

The bill does not stipulate a limitation on the number of hours of companion services that a waiver recipient may receive. Some recipients may request overnight companionship for 8 hrs or, potentially, a recipient may request 24 hours of companionship. The fiscal note costs are estimated at an average of 9 hrs per day the first year, increasing by an hour per day per year and leveling-off at an estimated average of 12 hours per day in fiscal year 2009. Costs are also based on \$20 per hour with a 3% inflationary increase per year.

The fiscal note also reflects the reverse of a transfer of 688.4 GF made in the FY05 budget to APA to pay for assisted living home rate increases.

Fiscal Note for CSHB 193 - DSDS Medicald portion						Revised
Avg # Waiver Recipients in FY04 & 05	20% 2006	40% 2007	60% 2008	60% 2009	60% 2010	60% 2011
2500	500	1000	1500	1500	1500	1500
# of Hrs p/day	9	10	11	12	12	12
Hrs x 365 days p/yr	3285	3650	4015	4380	4380	4380
Cost p/Hr	20.00	20.60	21.22	21.85	22.51	23.19
Cost of Companion Svc	32,850,000	75,190,000	127,785,405	143,584,328	147,891,858	152,328,613
Less Reverse of GF T/F to APA in FY05	(688,400)	(688,400)	(688,400)	(688,400)	(688,400)	(688,400)
Total Cost	32,161,600	74,501,600	127,097,005	142,895,928	147,203,458	151,640,213
50% Fed	16,425,000	37,595,000	63,892,703	71,792,164	73,945,929	76,164,307
50% GF less GF T/F	15,736,600	36,906,600	63,204,303	71,103,764	73,257,529	75,475,907
Check	32,161,600	74,501,600	127,097,005	142,895,928	147,203,458	151,640,213

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB193CS(HES)-DHSS-DBH-04-20-05

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 Behavioral Health
 Component Svcs/Chronically Mentally Ill

Sponsor (RLS) BY REQUEST OF THE GOVERNOR

Requester HOUSE (HES) Component No. 800

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	(395.8)	(395.8)	(395.8)	(395.8)	(395.8)	(395.8)
Miscellaneous						
TOTAL OPERATING	(395.8)	(395.8)	(395.8)	(395.8)	(395.8)	(395.8)

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	(395.8)	(395.8)	(395.8)	(395.8)	(395.8)	(395.8)
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	(395.8)	(395.8)	(395.8)	(395.8)	(395.8)	(395.8)

Estimate of any current year (FY2006) 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)

This bill will reverse the Adult Public Assistance (APA) refinancing that was included in the FY05 budget and so the funding is added back to the APA component. This decrease in the Behavioral Health Services to the Seriously Mentally Ill (SSMI) component reflects a portion of the increase in the APA component.

In the FY05 budget, a GF reduction and transfers were made based on the reduction of APA payments to residents of assisted living homes to \$100 per month (the maximum amount residents could retain for their personal needs). The transfer of \$548.1 GF from APA to the SSMI component was to offset the resulting increase in expenditures that would need to be paid by SSMI to assisted living facilities as the state's share of an individual's cost of care when their income was reduced. (Continued on page 2)

Prepared by: Janet Clarke, Assistant Commissioner Phone 465-1630
 Division Finance and Management Services Date/Time 04/20/2005
 Approved by: Joel S. Gilbertson, Commissioner Date 04/20/2005
 Agency Department of Health and Social Services

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB193CS(HES)-DHSS-DSDS2-04-20-01
 () Publish Date: _____
 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: Protection, Comm Svcs & Admin

Sponsor: (RLS) BY REQUEST OF THE GOVERNOR

Requester: HOUSE (HES) Component No. 2673

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	(548.1)	(548.1)	(548.1)	(548.1)	(548.1)	(548.1)
Miscellaneous						
TOTAL OPERATING	(548.1)	(548.1)	(548.1)	(548.1)	(548.1)	(548.1)

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	(548.1)	(548.1)	(548.1)	(548.1)	(548.1)	(548.1)
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	(548.1)	(548.1)	(548.1)	(548.1)	(548.1)	(548.1)

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)

This bill will reverse the Adult Public Assistance (APA) refinancing that was included in the FY05 budget and so the funding is added back to the APA component. This decrease in the Senior and Disabilities Services, Protection Community Services and Administration (SDS PCSA) component reflects a portion of the increase in the APA component.

In the FY05 budget, a GF reduction and transfers were made based on the reduction of APA payments to residents of assisted living homes to \$100 per month (the maximum amount residents could retain for their personal needs). The transfer of \$548.1 GF from APA to SDS PCSA was to offset the resulting increase in expenditures that would need to be paid by PCSA to assisted living facilities as the state's share of an individual's cost of care when their income was reduced. (Continued on page 2)

Prepared by: Janet Clarke, Assistant Commissioner Phone 465-1630
 Division: Finance and Management Services Date/Time 04/20/2005
 Approved by: Joel S. Gilbertson, Commissioner Date 04/20/2005
 Agency: Department of Health and Social Services

**FISCAL NOTE
FN #**

**STATE OF ALASKA
2005 LEGISLATIVE SESSION**

BILL NO. HB193CS(HES)-DHSS-DSDS2-04-20-05

ANALYSIS CONTINUATION

Analysis Continued:

§- 548.1 GF To reflect the cost increase to APA due to the provision in new subsection Section 21 (d) in this bill, this fiscal note represents reversal of the FY05 transfer to Senior & Disabilities Services Protection & Community Services for cost of care of non-Medicaid recipients in General Relief Assisted Living Home Subsidies.

There are related fiscal notes reversing the FY05 transfers and decrement in the APA, SDS Medicaid and DBH Service to Seriously Mentally Ill components.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB193CS(HES)-DHSS-04-20-05
 () Publish Date: _____
 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 Public Assistance

Component Adult Public Assistance

Sponsor (RLS) BY REQUEST OF THE GOVERNOR

Requester HOUSE (HES)

Component No. 222

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	2,595.8	2,595.8	2,595.8	2,595.8	2,595.8	2,595.8
Miscellaneous						
TOTAL OPERATING	2,595.8	2,595.8	2,595.8	2,595.8	2,595.8	2,595.8

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	2,595.8	2,595.8	2,595.8	2,595.8	2,595.8	2,595.8
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	2,595.8	2,595.8	2,595.8	2,595.8	2,595.8	2,595.8

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)

This bill will reverse the Adult Public Assistance (APA) refinancing that was included in the FY05 budget and so the funding is added back to the APA component.

In the FY05 budget, a decrement of \$963.5 GF and transfers totalling \$1,632.3 GF were made based on the reduction of APA payments to residents of assisted living homes to \$100 per month (the maximum amount residents could retain for their personal needs). The transfers to Senior and Disabilities Services and Behavioral Health were to offset the resulting increase in expenditures that would need to be paid to assisted living facilities from those components as the state's share of an individual's cost of care when their income was reduced. There are related fiscal notes reducing the \$1,632.3 (transfer) portion of this transaction in the SDS and DBH components. The table on page 2 summarizes these transactions.

Prepared by: Janet Clarke, Assistant Commissioner
 Division: Finance and Management Services
 Approved by: Joel S. Gilbertson, Commissioner
 Agency: Department of Health and Social Services

Phone 465-1630
 Date/Time 04/20/2005
 Date 04/20/2005

ANALYSIS CONTINUATION

Analysis Continued:

\$ 395.8 GF reversal of transfer to Behavioral Health Services to Seriously Mentally Ill component for cost of care of non-Medicaid recipients Assisted Living Home Subsidies

\$ 548.1 GF reversal of transfer to Senior & Disabilities Services Protection & Community Services for cost of care of non-Medicaid recipients in General Relief Assisted Living Home Subsidies

\$ 688.4 GF reversal of transfer to SDS Medicaid component for cost of care for Medicaid waiver recipients

\$ 963.5 GF reversal of decrement to APA program due to refinancing cost savings due to cost shifting to Medicaid for those residents on Medicaid waiver services.

\$2,595.8 GF Total cost increase to APA due to the provision in new subsection Section 21 (d) in this bill.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB193-LAW-HS-02-28-0
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title "An Act relating to the licensing, regulation, enforcement, and appeal rights of certain ... facilities" RDU CIVIL
Sponsor House Rules Component Human Services
Requester Governor Component No. _____

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

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)

This bill would centralize almost all DHSS licensing statutes under a new chapter to AS 47. Currently, there are 12 different statutory schemes for the licensure of different entities by the DHSS. By centralizing these disparate procedures into a streamlined licensing process under a uniform statutory framework, the DHSS hopes to be able to administer these functions in a much more efficient and cost effective manner. Significant revisions to the corresponding regulations will be required and will result in a fiscal impact to the Department of Law in the first year or two following passage of this legislation. The Department of Health and Social Services has received a federal grant, requested in the Division of Public Health's FY 2006 budget, that will allow centralization to occur. The grant includes the funds needed by Department of Law for regulation revision and review.

Prepared by: Kathryn Daughhete, Director Phone 465-3673
Division Administrative Services Date/Time 4/12/05 3:48 PM
Approved by: Kathryn Daughhete for David Marquez, Attorney General Date 4/12/2005
Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB193CS(HES)-DHSS-DSDS-04-26-05
 () Publish Date: _____
 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 HOUSE (HES)

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	10,759.6	23,671.2	26,038.3	28,642.1	31,506.3	34,657.0
Miscellaneous						
TOTAL OPERATING	10,759.6	23,671.2	26,038.3	28,642.1	31,506.3	34,657.0

CAPITAL EXPENDITURES						
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	6,195.4	13,629.9	14,992.9	16,492.1	18,141.3	19,955.5
1003 GF Match	4,564.2	10,041.3	11,045.4	12,150.0	13,365.0	14,701.5
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	10,759.6	23,671.2	26,038.3	28,642.1	31,506.3	34,657.0

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)

Revisions to CS HB 193 provide for expansion of reimbursable waiver services for Older Alaskans (OA) and Adults with Physical Disabilities (AD) to include Adult Companion Services.

The addition of Adult Companion Services is intended to restore non-medical care, supervision and socialization services formerly provided as a part of Respite Services.

Con't on page 2

Prepared by: Janet Clarke, Assistant Commissioner
 Division: Finance and Management Services
 Approved by: Joel S. Gilbertson, Commissioner
 Agency: Department of Health and Social Services

Phone 465-1630
 Date/Time 04/25/2005
 Date 04/26/2005

CS HB 193 - Companion Services Fiscal Note Calculation - Revised 4/25/05

	Work Related Supervision	Overnight Supervision	Basic Services	Total
# Recipients	135	135	1085	
Cost Per Hour	\$19.72	\$19.72	\$19.72	
# Hrs Per Week	n/a	n/a	10	
# Hrs Per Day	10	9	n/a	
# Days Per Week	5	3	n/a	
# Weeks Per Yr	50	52	52	
Total	6,655,500	3,737,729	11,126,024	21,519,253

	1/2 Year FY06	Full Yr Plus 10% - FY07	Plus 10% - FY08	Plus 10% - FY09	Plus 10% - FY10	Plus 10% - FY11
Cost	10,759,626	23,671,178	26,038,296	28,642,125	31,506,338	34,656,972
Fed	6,195,393	13,629,864	14,992,851	16,492,136	18,141,349	19,955,484
GF	4,564,234	10,041,314	11,045,445	12,149,990	13,364,989	14,701,487

General Relief Assisted Living Payment vs. Medicaid/Room and Board Payments

Under AS 47.25.195(e), General Relief payments made to assisted living homes must be at least \$70 per day per resident. This payment is inclusive of room, board, and assistive services provided. The department has the discretion to pay more than \$70 per day if the resident's care needs justify it.

Under the Medicaid home and community-based waiver, Medicaid pays for the assisted services and residents pay for room and board. Medicaid rates vary more because providers can obtain cost-based rates. But the combined room and board/cost-based Medicaid payments range from \$93 per day to over \$250 per day, with an average of about \$138 per day.

Technical Concerns about Proposed Amendments to HB 193

Assisted Living Issues

- The amendments change or add provisions to AS 47.07.070, which is the Medicaid facility rate setting statute. This statute is not used to set assisted living home rates. Combining hospital and nursing home rate-setting with assisted living payment provisions could have unintended consequences. It could impose very restrictive, administratively burdensome facility rate-setting requirements on assisted living homes; it would also apply concepts used in assisted living rate setting (like administrative and general costs) to hospitals and nursing homes. At the very least, the amendments as written would create significant ambiguity, probably leading to facility-rate setting litigation. (Sec. 20, Sec. 21, Sec. 52).
- Proposed Section 21 would establish a minimum daily reimbursement rate under Medicaid for assisted living home room and board. Under federal law, Medicaid cannot pay a fee for room and board. In fact, while it seems to be the intention of the bill, no provision specifically reverses APA payment reduction or provides APA recipients with the ability to pay \$28 per day in room and board.
- Proposed Section 56 would repeal the Medicaid cost of care regulations establishing a lower personal needs standard to reflect the APA refinance (7 AAC 43.1058(j) and 7 AAC 43.1058(k)(1)(B)). However, it does not repeal 7 AAC 43.1058(l), which provides an \$8.65 per day increase in Medicaid payments to assisted living home providers. This would have the effect not simply of restoring the cost of care change, but giving providers an \$8.65 per day raise for people above the APA income level.

Retroactive Effective Dates

It would be difficult to retroactively reverse the payment policy for assisted living homes, since it involves giving residents more money for room and board, providers collecting that extra money from residents, and repaying Medicaid for the rate increase. Since the increase would be all general funds, it might be simpler to establish a one-time grant program to providers for the retroactive period.

The Department probably cannot calculate and make retroactive payments until early FY 06.

Companion Services

Companion services would be added to other services available to Medicaid waiver recipients; they do not inherently replace other services. The proposed service has a very broad definition, including nonmedical care, supervision, and socialization for adult recipients as long as it is in accordance with a therapeutic goal. It includes nighttime

care. It would be very difficult to apply utilization controls with this explicitly permissive statutory language.

While the proposed amendments would link the use of companion services to situations where there are cost savings, the language implies that the savings are in comparison to institutional services, not to services the recipient would otherwise receive under the waiver. Because of the high cost of nursing home care in Alaska, recipients could receive substantial amounts of companion services in addition to their existing waiver services, and still meet this institutional cost neutrality test. However, the net effect would be a substantial increase in Medicaid waiver expenditures.

_____ Other service definition (Specify): _____

n. _____ Adult companion services:

_____ Non-medical care, supervision and socialization, provided to a functionally impaired adult. Companions may assist or supervise the individual with such tasks as meal preparation, laundry and shopping, but do not perform these activities as discrete services. The provision of companion services does not entail hands-on nursing care. Providers may also perform light housekeeping tasks which are incidental to the care and supervision of the individual. This service is provided in accordance with a therapeutic goal in the plan of care, and is not purely diversional in nature.

_____ Other service definition (Specify): _____

o. _____ Private duty nursing:

_____ Individual and continuous care (in contrast to part time or intermittent care) provided by licensed nurses within the scope of State law. These services are provided to an individual at home.

_____ Other service definition (Specify): _____

p. _____ Family training:

_____ Training and counseling services for the families of individuals served on this waiver. For purposes of this service, "family" is defined as the persons who live with or provide care to a person served on the waiver, and may include a parent, spouse, children, relatives, foster family, or in-laws. "Family" does not include individuals who are employed to care for the consumer. Training includes instruction about treatment regimens and use of equipment specified in the plan of care, and shall include updates as necessary to safely maintain the individual at home. All family training must be included in the individual's written plan of care.

_____ Other service definition (Specify): _____

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 110601
JUNEAU, ALASKA 99811-0601
PHONE: (907) 465-3030
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March 3, 2005

Honorable Peggy Wilson, Chair
House Health, Education and
Social Services Committee
Alaska State Capitol, Rm. 108
Juneau, AK 99801

Dear Representative Wilson,

The Department of Health and Social Services respectfully requests a hearing in the House Health, Education, and Social Services Committee on House Bill 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."

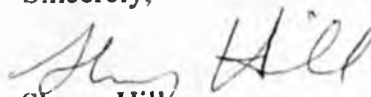
The proposed bill will streamline the department's licensing processes by consolidating virtually all of the licensing functions related to standards, enforcement, and appeal rights into a single chapter of the Alaska Statutes.

The Governor's transmittal letter providing additional information about the bill and a fiscal note should be on file with the committee. The department will provide the committee with a sectional analysis of the bill in the next several days.

Honorable Peggy Wilson
Page 2

Your favorable consideration of this request will be appreciated.

Sincerely,



Sherry Hill
Special Assistant

cc: Kevin Jardell, Legislative Director
Office of the Governor

Dr. Richard Mandsager, Director
Division of Public Health

Lori Roland 11 pgs 11/17/15 465-2267

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CS FOR HOUSE BILL NO. 193()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

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

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

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

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

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

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

27 (2) violates AS 11.61.200(a)(1) and is within the grounds of or on a
28 parking lot immediately adjacent to

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

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

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

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

7 (B) a dwelling.

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

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

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

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

15 (i) immediately inform the peace officer of that
16 possession; or

17 (ii) allow the peace officer to secure the deadly weapon,
18 or fails to secure the weapon at the direction of the peace officer,
19 during the duration of the contact;

20 (B) that is concealed on the person within the residence of
21 another person unless the person has first obtained the express permission of
22 an adult residing there to bring a concealed deadly weapon within the
23 residence;

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

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

28 (4) knowingly possesses a firearm

29 (A) within the grounds of or on a parking lot immediately
30 adjacent to an entity [A CENTER], other than a private residence, licensed as
31 a child care facility under AS 47.32 [AS 47.33 OR AS 47.35] or recognized

1 by the federal government for the care of children;

2 (B) within a

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

4 (ii) courthouse that is occupied only by the Alaska

5 Court System and other justice-related agencies; or

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

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

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

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

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

17 * **Sec. 7.** AS 18.20.130 is amended to read:

18 **Sec. 18.20.130. Definitions.** In AS 18.20.075 - 18.20.130 [AS 18.20.010 -
19 18.20.130],

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

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

23 (3) "hospital" means an institution or establishment, public or private,
24 devoted primarily to providing diagnosis, treatment, or care over a continuous period
25 of 24 hours each day for two or more nonrelated individuals suffering from illness,
26 physical or mental disease, injury or deformity, or any other condition for which
27 medical or surgical services would be appropriate.

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

29 (a) If the department finds that a nursing facility, or a partner, officer, director,
30 owner of five percent or more of the nursing facility's assets, or managing employee of
31 the nursing facility substantially failed or refused to comply with AS 08.68.340 -

1 08.68.390, AS 08.70, AS 18.20.075 - 18.20.085 [AS 18.20.010 - 18.20.130],
2 AS 47.07, or with a regulation adopted under any of those statutes, or, for a nursing
3 facility that provides Medicaid services under AS 47.07, failed or refused to comply
4 with the Medicaid requirements of 42 U.S.C. 1396r (Title XIX of the Social Security
5 Act, as amended) or a regulation adopted under that statute, the department may take
6 the following actions:

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

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

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

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

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

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

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

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

23 (3) "health care provider" means an acupuncturist licensed under
24 AS 08.06; a chiropractor licensed under AS 08.20; a dental hygienist licensed under
25 AS 08.32; a dentist licensed under AS 08.36; a nurse licensed under AS 08.68; a
26 dispensing optician licensed under AS 08.71; an optometrist licensed under AS 08.72;
27 a pharmacist licensed under AS 08.80; a physical therapist or occupational therapist
28 licensed under AS 08.84; a physician licensed under AS 08.64; a podiatrist; a
29 psychologist and a psychological associate licensed under AS 08.86; a hospital as
30 defined in AS 47.32.900 [AS 18.20.130], including a governmentally owned or
31 operated hospital; and an employee of a health care provider acting within the course

1 and scope of employment;

2 * **Sec. 10.** AS 18.26.220 is amended to read:

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

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

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

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

16 (c) Nothing in this section relieves a health maintenance organization that
17 wishes to exercise the power described in (a)(1) of this section from the requirements
18 of

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

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

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

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

23 (c) A child adoption agency licensed under former AS 47.35 and a child
24 placement agency licensed under AS 47.32 shall maint. in records of the information
25 required to be furnished to the court under this section or under regulations of the
26 commissioner implementing this section. If a child adoption agency or child
27 placement agency ceases to place persons for adoption, it shall transfer its records to
28 the commissioner.

29 * **Sec. 14.** AS 25.27.244(s)(2) is amended to read:

30 (2) "license"

31 (A) means, except as provided in (B) of this paragraph, a

1 license, certificate, permit, registration, or other authorization that, at the time
2 of issuance, will be valid for more than 150 days and that may be acquired
3 from a state agency to perform an occupation, including the following:

4 (i) license relating to boxing or wrestling under
5 AS 05.10;

6 (ii) authorization to perform an occupation regulated
7 under AS 08;

8 (iii) teacher certificate under AS 14.20;

9 (iv) authorization under AS 18.08 to perform
10 emergency medical services;

11 (v) asbestos worker certification under AS 18.31;

12 (vi) boiler operator's license under AS 18.60.395;

13 (vii) certificate of fitness under AS 18.62;

14 (viii) hazardous painting certification under AS 18.63;

15 (ix) security guard license under AS 18.65.400 -
16 18.65.490;

17 (x) license relating to insurance under AS 21.27;

18 (xi) employment agency permit under AS 23.15.330 -
19 23.15.520;

20 (xii) registration as a broker-dealer, an agent, a state
21 investment adviser, or an investment adviser representative under
22 AS 45.55.030;

23 (xiii) certification as a pesticide applicator under
24 AS 46.03.320;

25 (xiv) certification as a storage tank worker or contractor
26 under AS 46.03.375;

27 (xv) certification as a water and wastewater works
28 operator under AS 46.30;

29 (xvi) commercial crewmember fishing license under
30 AS 16.05.480 other than an entry permit or interim-use permit under
31 AS 16.43;

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- (xvi.) fish transporter permit under AS 16.05.671;
- (xviii) sport fishing operator license under AS 16.40.260;
- (xix) sport fishing guide license under AS 16.40.270;
- (B) does not include
 - (i) a vessel license issued under AS 16.05.490 or 16.05.30;
 - (ii) a license issued to a child care facility under AS 47.32 [AS 47.35];
 - (iii) a business license issued under AS 43.70;
 - (iv) an entry permit or interim-use permit issued under AS 16.43; or
 - (v) a driver's license issued under AS 28.15;

* Sec. 15. AS 37.05.146(c)(67) is amended to read:

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

* Sec. 16. AS 44.62.330(a) is amended by adding a new paragraph to read:

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

* Sec. 17. AS 44.64.030(a) is amended by adding a new paragraph to read:

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

* Sec. 18. AS 47.05.010 is amended to read:

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

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

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

1 the Alaska temporary assistance program, and other assistance;

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

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

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

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

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

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

21 (9) adopt regulations, not inconsistent with law, defining need,
22 prescribing the conditions of eligibility for assistance, and establishing standards for
23 determining the amount of assistance that an eligible person is entitled to receive; the
24 amount of the assistance is sufficient when, added to all other income and resources
25 available to an individual, it provides the individual with a reasonable subsistence
26 compatible with health and well-being; an individual who meets the requirements for
27 eligibility for assistance shall be granted the assistance promptly upon application for
28 it;

29 (10) grant to a person claiming or receiving assistance and who is
30 aggrieved because of the department's action or failure to act, reasonable notice and an
31 opportunity for a fair hearing by the department, and the department shall adopt

1 regulations relative to this;

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

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

8 (13) establish the divisions and local offices that are considered
9 necessary or expedient to carry out a duty or authority assigned to it and appoint and
10 employ the assistants and personnel that are necessary to carry on the work of the
11 divisions and offices, and fix the compensation of the assistants or employees except
12 that a person engaged in business as a retail vendor of general merchandise, or a
13 member of the immediate family of a person who is so engaged, may not serve as an
14 acting, temporary or permanent local agent of the department, unless the
15 commissioner of health and social services certifies in writing to the governor, with
16 relation to a particular community, that no other qualified person is available in the
17 community to serve as local welfare agent: for the purposes of this paragraph, a
18 "member of the immediate family" includes a spouse, child, parent, brother, sister,
19 parent-in-law, brother-in-law or sister-in-law;

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

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

26 * Sec. 19. AS 47.05.055(a) is amended to read:

27 (a) If the department has reason to believe that a certified nurse aide employed
28 in a facility licensed by the department under AS 47.32 as a hospital or nursing
29 home [AS 18.20] has committed abuse, neglect, or misappropriation of property in
30 connection with the person's duties as a certified nurse aide at the facility, the
31 department shall investigate the matter. The department shall conduct proceedings to

1 determine whether [IF] a finding of abuse, neglect, or misappropriation of property
2 should be made. These proceedings shall be conducted under AS 44.62.330 -
3 44.62.630. A finding under this subsection that a certified nurse aide has committed
4 abuse, neglect, or misappropriation of property shall be reported by the department to
5 the Board of Nursing.

6 * **Sec. 20.** AS 47.05 is amended by adding new sections to read:

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

8 **Sec. 47.05.300. Applicability.** (a) The provisions of AS 47.05.310 -
9 47.05.390 apply to any individual or entity that is required by statute or regulation to
10 be licensed or certified by the department or that is eligible to receive payments, in
11 whole or in part, from the department to provide for the health, safety, and welfare of
12 persons who are served by the programs administered by the department.

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

- 15 (1) public home care providers described in AS 47.05.017;
16 (2) providers of home and community-based waiver services financed
17 under AS 47.07.030(c); and
18 (3) case managers to coordinate community mental health services
19 under AS 47.30.530.

20 **Sec. 47.05.310. Criminal history; criminal history check; compliance.** (a)
21 If an individual has been charged with, convicted of, found not guilty by reason of
22 insanity for, or adjudicated as a delinquent for, a crime that is inconsistent with the
23 standards for licensure or certification established by the department by regulation,
24 that individual may not own an entity, or be an officer, director, partner, member, or
25 principal of the business organization that owns an entity. In addition, an entity may
26 not

- 27 (1) allow that individual to operate the entity;
28 (2) hire or retain that individual at the entity as an employee,
29 independent contractor, or volunteer of the entity;
30 (3) allow that individual to reside in the entity if not a recipient of
31 services; or

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

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

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

(1) individual has been found by a court or agency of this or another jurisdiction to have neglected, abused, or exploited a child or vulnerable adult under AS 47.10, AS 47.24, or AS 47.62 or a substantially similar provision in another jurisdiction; or

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

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

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

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

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

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

1 (e) An individual for whom a release of information authorization has been
2 provided to the department shall submit the individual's fingerprints to the department,
3 with the fee established under AS 12.62.160, for a report of criminal justice
4 information under AS 12.62 and for submission by the Department of Public Safety to
5 the Federal Bureau of Investigation for a national criminal history record check. The
6 Department of Public Safety shall provide the report of criminal justice information
7 and the results of the national criminal history record check to the department for its
8 use in considering an application for a license, license renewal, certification, or
9 certification renewal, or in considering other approval or selection regarding an entity,
10 for compliance with the standards established in this section. For purposes of
11 obtaining access to criminal justice information maintained by the Department of
12 Public Safety under AS 12.62, the department is a criminal justice agency conducting
13 a criminal justice activity. The department may waive the requirement for fingerprint
14 submission if an individual is unable to provide fingerprints due to a medical or
15 physical condition that is documented by a licensed physician.

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

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

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

24 (i) For purposes of (b) and (c) of this section, in place of nonissuance or
25 nonrenewal of a license or certification, an entity or individual service provider that is
26 not required to be licensed or certified by the department or a person wishing to
27 become an entity or individual service provider that is not required to be licensed or
28 certified by the department is instead ineligible to receive a payment, in whole or in
29 part, from the department to provide for the health, safety, and welfare of persons who
30 are served by the programs administered by the department if the entity, individual
31 service provider, or person

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

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

7 (3) appears on the centralized registry established under AS 47.05.330
8 or a similar registry of this state or another jurisdiction.

9 **Sec. 47.05.320. Criminal history use standards.** The department shall by
10 regulation establish standards for the consideration and use by the department, an
11 entity, or an individual service provider of the criminal history of an individual
12 obtained under AS 47.05.310.

13 **Sec. 47.05.330. Centralized registry.** (a) The department shall by regulation
14 provide for a centralized registry to facilitate the licensing or certification of entities
15 and individual service providers, the authorization of payments to entities or
16 individual service providers by the department, and the employment of individuals by
17 entities and individual service providers.

18 (b) Except for the name of each victim being redacted before the information
19 is placed on the registry, the registry shall consist of the following information for an
20 entity or individual service provider, an applicant on behalf of an entity or individual
21 service provider, or an employee or volunteer of an entity or individual service
22 provider:

23 (1) decisions, orders, judgments, and adjudications finding that the
24 applicant, employee, or volunteer committed

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

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

29 (2) orders under a state statute or a substantially similar provision in
30 another jurisdiction that a license or certification of the entity or individual service
31 provider to provide services related to the health, safety, and welfare of persons was

1 denied, suspended, revoked, or conditioned.

2 (c) As a condition for applying for licensure or certification of an entity or
3 individual service provider, or for payment to an entity or individual service provider
4 by the department, an applicant must agree to submit timely to the registry the
5 information required under this section relating to the entity, any individual, the
6 applicant, employees, and volunteers of the entity or individual service provider.

7 (d) Within 24 hours of a court decision, order, judgment, or adjudication that
8 an entity, individual service provider, or employee or volunteer of an entity or
9 individual service provider committed an act listed under (b) of this section, the entity,
10 individual service provider, or employee or volunteer of an entity or individual service
11 provider shall report the court action to the department.

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

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

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

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

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

30 (1) makes a report of medical assistance fraud, abuse, neglect, or
31 exploitation:

1 (2) submits information to the registry; or

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

4 (j) A person about whom information is placed in the registry may request the
5 department to delete or modify the information to correct inaccuracies. The
6 department shall investigate the request and make necessary deletions or
7 modifications.

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

10 **Sec. 47.05.390. Definitions.** In AS 47.05.300 - 47.05.390, unless the context
11 otherwise requires,

12 (1) "criminal history records" has the meaning given in AS 12.64.010;

13 (2) "criminal justice activity" has the meaning given in AS 12.62.900;

14 (3) "criminal justice agency" has the meaning given in AS 12.62.900;

15 (4) "criminal justice information" has the meaning given in
16 AS 12.62.900;

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

18 (6) "entity" means an entity listed in AS 47.32.010(b) and includes an
19 owner, officer, director, member or partner of the entity;

20 (7) "individual service provider" means an individual described in
21 AS 47.05.300(a), and includes those listed in AS 47.05.300(b);

22 (8) "license" includes a provisional license.

23 * **Sec. 21.** AS 47.10.141(b) is amended to read:

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

28 (1) the peace officer shall

29 (A) return the minor to the minor's parent or guardian at the
30 parent's or guardian's residence if the residence is in the same community
31 where the minor was found and if the minor's parent or guardian consents to

1 the return, except that the officer may not use this option if the officer has
2 reasonable cause to believe that the minor has experienced physical or sexual
3 abuse in the parent's or guardian's household;

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

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

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

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

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

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

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

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

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

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

1 custody, shall

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

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

8 * **Sec. 22.** AS 47.10.392 is amended to read:

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

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

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

14 * **Sec. 23.** AS 47.10.399(2) is amended to read:

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

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

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

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

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

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

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

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

31 * **Sec. 26.** AS 47.12.990(14) is amended to read:

1 (14) "secure residential psychiatric treatment center" has the meaning
2 given "residential psychiatric treatment center" in AS 47.32.900; [AS 47.35.900.]

3 * **Sec. 27.** AS 47.24.013(a) is amended to read:

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

11 * **Sec. 28.** AS 47.24.017(d) is amended to read:

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

19 * **Sec. 29.** AS 47.25.071(b) is amended to read:

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

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

24 (2) participate in the day care assistance program under AS 47.25.001 -
25 47.25.095; and

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

28 * **Sec. 30.** AS 47.25.095(2) is amended to read:

29 (2) "child care facility" means an establishment licensed as a child
30 care facility under AS 47.32 [AS 47.35], including day care centers, family day care
31 homes, and schools for preschool age children, that provides care for children not

1 related by blood, marriage, or legal adoption to the owner, operator, or manager of the
2 facility;

3 * **Sec. 31.** AS 47.25.095(4) is amended to read:

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

7 * **Sec. 32.** AS 47.25.195(f)(1) is amended to read:

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

10 * **Sec. 33.** AS 47.30.915(5) is amended to read:

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

15 * **Sec. 34.** AS 47.31.100(4) is amended to read:

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

20 * **Sec. 35.** AS 47 is amended by adding a new chapter to read:

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

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

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

30 (1) ambulatory surgical centers;

31 (2) assisted living homes;

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

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

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

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

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

1 (B) impose requirements for licensure, including standards for
2 license renewal, that are in addition to the requirements of this chapter or of
3 any other applicable state or federal statute or regulation;

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

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

10 (ii) record-keeping requirements;

11 (iii) reporting requirements; and

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

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

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

20 (4) investigate

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

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

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

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

1 (6) enter into contracts and agreements necessary to carry out the
2 functions, powers, and duties of the department under this chapter;

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

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

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

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

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

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

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

28 (c) Nothing in this chapter obligates the department to provide financial
29 support to an entity licensed under this chapter.

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

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

3 (1) any fee established by regulation; and

4 (2) documents and information required by regulation.

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

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

18 (1) the entity meets the requirements for biennial licensure established
19 in this chapter, regulations adopted under this chapter, and other applicable statutes
20 and regulations;

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

22 (3) any applicable fee has been paid.

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

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

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

1 (2) any fee established by regulation.

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

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

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

10 (3) any applicable fee has been paid.

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

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

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

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

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

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

1 license.

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

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

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

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

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

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

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

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

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

28 (2) to conduct a complaint investigation;

29 (3) to conduct a standard inspection;

30 (4) to inspect documents, including personnel records, accounts, the
31 building, or the premises;

1 (5) to interview staff or residents; or

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

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

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

11 **Sec. 47.2.120. Report.** (a) Within 10 working days after completing an
12 investigation or inspection under AS 47.32.090 - 47.32.110, the department shall
13 prepare a report of the results of the investigation or inspection and mail a copy of the
14 report to the entity. The report shall include a description of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 **Sec. 47.32.140. Enforcement actions.** (a) If the department's report of
31 investigation or inspection under AS 47.32.120 concludes that the department has

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

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

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

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

- 28 (1) delivery of a warning notice to the licensed entity and to any
29 additional person who was the subject of the investigation or inspection;
30 (2) modification of the term or scope of the entity's existing license,
31 including changing a biennial license to a provisional license or adding a condition to

1 the license;

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

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

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

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

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

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

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

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

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

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

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

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

27 (f) In addition to any other enforcement actions the department may take
28 under this section, the department may assess a civil fine against an entity for a
29 violation of an applicable statute or regulation, taking into account the type and size of
30 the entity and the type and severity of the violation. A fine assessed under this
31 subsection may not exceed \$2,500 a day for each day of violation for a continuing

1 violation or \$25,000 for a single violation.

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

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

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

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

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

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

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

28 **Sec. 47.32.150. Hearings.** (a) Upon receipt of a timely request for a hearing
29 by an entity regarding an enforcement action under AS 47.32.130(a) or
30 47.32.140(d)(3), (5), (6), (7), or (9), the department shall request the chief
31 administrative law judge appointed under AS 44.64.020 to appoint an administrative

1 law judge employed or retained by the office of administrative hearings to preside
2 over a hearing conducted under this section. AS 44.64.060 applies to the hearing.

3 (b) Upon receipt of a timely request for a hearing by an entity regarding an
4 enforcement action under AS 47.32.070 or 47.32.140(d)(1), (2), (4), (8), (10), (11),
5 (12), or (13), the department shall conduct a hearing in front of an officer appointed by
6 the commissioner. A hearing under this subsection may be conducted on the record,
7 in an informal manner, and shall not be conducted under AS 44.62 or AS 44.64. The
8 appointed hearing officer may be a state employee.

9 (c) The decision following a hearing conducted under (a) or (b) of this section
10 constitutes a final agency administrative order.

11 (d) A hearing conducted under this section shall take place within 120 days
12 after the department's receipt of the request for hearing. A hearing may be held on an
13 expedited basis upon a showing of good cause. An expedited hearing shall be held
14 within 60 days after the department's receipt of the request for a hearing.

15 **Sec. 47.32.160. Immunity.** (a) The department, its employees, and its agents
16 are not liable for civil damages as a result of an act or omission in the licensure
17 process, the monitoring of a licensed entity, or any activities under this chapter.

18 (b) A volunteer who works for a hospice program licensed under this chapter
19 is not liable for damages for personal injury, wrongful death, or property damage for
20 an act or omission committed in the course of hospice-related duties unless the act or
21 omission constitutes gross negligence, recklessness, or intentional misconduct.

22 (c) An entity that obtains information about an employee under a criminal
23 history check under AS 47.50.310 may use that information only as provided in
24 regulations adopted by the department under AS 47.05.320. However, if that entity
25 reasonably relies on that information in denying employment for an individual
26 selected for hire as an employee, including during a period of provisional
27 employment, the entity is not liable in an action brought by the individual based on the
28 employment determination resulting from the information.

29 **Sec. 47.32.170. Criminal penalty.** A person who intentionally or with
30 criminal negligence violates a provision of this chapter or a regulation adopted under
31 this chapter related to the health and safety of persons serve^d by an entity required to

1 comply with this chapter is guilty of a class B misdemeanor.

2 **Sec. 47.32.180. Confidentiality; release of certain information.** (a) Except
3 as otherwise provided by law, the following are confidential and may not be disclosed
4 to the public without a court order: complaints; investigations; inspections; records
5 related to a complaint, investigation, or inspection; and the identity of a complainant
6 and of individuals receiving services from an entity.

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

14 (1) entity receives its copy of the report of investigation under
15 AS 47.32.120, if the department has determined that an enforcement action under AS
16 47.32.130 or 47.32.140 will not be taken regarding the entity;

17 (2) department's notice of enforcement action under AS 47.32.130 or
18 47.32.140 becomes a final administrative order without a hearing under
19 AS 47.32.130(c) or 47.32.140(i); or

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

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

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

30 (b) An entity shall notify the department within 24 hours after having
31 knowledge that an administrator, employee, volunteer, or household member, as

1 required by the type of entity under department regulations, has been

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

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

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

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

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

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

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

19 (1) "ambulatory surgical center"

20 (A) means a facility that

21 (i) is not a part of a hospital or a physician's general
22 medical practice; and

23 (ii) operates primarily for the purpose of providing
24 surgical services to patients who do not require hospitalization; and

25 (B) includes a facility that performs invasive diagnostic or
26 therapeutic services;

27 (2) "assisted living home"

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

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- (i) provides housing and food services to its residents;
- (ii) offers to provide or obtain for its residents assistance with activities of daily living; or
- (iii) provides or offers any combination of these services;
- (B) does not include
 - (i) a correctional facility;
 - (ii) an emergency shelter;
 - (iii) a program licensed under AS 47.10.310 for runaway minors;
 - (iv) a type of entity listed in AS 47.32.010(b)(5), (8), (9), (10), (11), or (12);
- (3) "child placement agency" means an agency that arranges for placement of a child
 - (A) in a foster home, residential child care facility, or adoptive home; or
 - (B) for guardianship purposes;
- (4) "commissioner" means the commissioner of health and social services;
- (5) "department" means the Department of Health and Social Services;
- (6) "entity" means an entity listed in AS 47.32.010(b);
- (7) "foster home" means a place where the adult head of household provides 24-hour care on a continuing basis to one or more children who are apart from their parents;
- (8) "free-standing birth center" means a facility that is not a part of a hospital and that provides a birth service to maternal clients;
- (9) "frontier extended stay clinic" means a rural health clinic that is authorized to provide 24-hour care to one or more individuals;
- (10) "home health agency" means a public agency or private organization, or a subdivision of a public agency or private organization, that primarily engages in providing skilled nursing services in combination with physical

1 therapy, occupational therapy, speech therapy, or services provided by a home health
2 aide to an individual in the individual's home, an assisted living home, or another
3 residential setting; in this paragraph,

4 (A) "public agency" means an agency operated by the state or a
5 local government;

6 (B) "subdivision" means a component of a multi-function
7 facility or home health agency, such as the home health care division of a
8 hospital or the division of a public agency, that independently meets the
9 requirements for licensure as a home health agency;

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

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

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

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

27 (13) "hospital" means a public or private institution or establishment
28 devoted primarily to providing diagnosis, treatment, or care over a continuous period
29 of 24 hours each day for two or more unrelated individuals suffering from illness,
30 physical or mental disease, injury or deformity, or any other condition for which
31 medical or surgical services would be appropriate; "hospital" does not include a

1 frontier extended stay clinic;

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

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

6 (16) "maternity home" means a place of residence the primary function
7 of which is to give care, with or without compensation, to pregnant individuals,
8 regardless of age, or that provides care, as needed, to mothers and their newborn
9 infants;

10 (17) "nursing facility" means a facility that is primarily engaged in
11 providing skilled nursing care and related services for those who, because of their
12 mental or physical condition, require care and services above the level of room and
13 board; "nursing facility" does not include a facility that is primarily for the care and
14 treatment of mental diseases;

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

18 (19) "residential psychiatric treatment center" means a secure or semi-
19 secure facility, or an inpatient program in another facility, that provides, under the
20 direction of a physician, psychiatric diagnostic, evaluation, and treatment services on a
21 24-hour-a-day basis to children with severe emotional or behavioral disorders;

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

23 (21) "rural health clinic"

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

26 (B) includes a frontier extended stay clinic;

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

29 * **Sec. 36.** AS 47.32.010, added by sec. 35 of this Act, is amended by adding a new
30 subsection to read:

31 (c) The provisions of AS 47.05.300 - 47.05.390, regarding criminal history,

1 criminal history checks, criminal history use standards, and a centralized registry,
2 apply to entities listed in (b) of this section, as provided in AS 47.05.300.

3 * **Sec. 37.** AS 47.33.010 is amended to read:

4 **Sec. 47.33.010. Applicability.** (a) Except as provided in (b) of this section,
5 this chapter applies to residential facilities operated in the state that serve three or
6 more adults who are not related to the owner of the facility by blood or marriage by

7 (1) providing housing and food service to its residents; and

8 (2) providing or obtaining, or offering to provide or obtain for its
9 residents

10 (A) assistance with the activities of daily living;

11 (B) personal assistance; or

12 (C) a combination of services under (A) and (B) of this
13 paragraph.

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

15 (1) a correctional facility;

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

18 (3) an emergency shelter;

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

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

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

23 * **Sec. 38.** AS 47.33.070(a) is amended to read:

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

26 (1) the name and birth date, and, if provided by the resident, the social
27 security number of the resident.

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

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

- 1 (4) a copy of the resident's assisted living plan;
- 2 (5) a copy of the residential services contract between the home and
- 3 the resident;
- 4 (6) a notice, as required under AS 47.33.030, regarding the depository
- 5 in which the resident's advance payment money is being held;
- 6 (7) written acknowledgment by the resident or the resident's
- 7 representative that the resident has received a copy of and has read, or has been read
- 8 the
- 9 (A) resident's rights under AS 47.33.300;
- 10 (B) resident's right to pursue a grievance under AS 47.33.340;
- 11 (C) resident's right to protection from retaliation under
- 12 AS 47.33.350;
- 13 (D) provisions of AS 47.32.160 [AS 47.33.510], regarding
- 14 immunity; and
- 15 (E) home's house rules;
- 16 (8) an acknowledgment and agreement relating to home safekeeping
- 17 and management of the resident's money, as required by AS 47.33.040;
- 18 (9) a copy of the resident's living will, if any, or an advance health care
- 19 directive made under AS 13.52, if any; and
- 20 (10) a copy of a power of attorney or other written designation,
- 21 including an advance health care directive made under AS 13.52, of an agent,
- 22 representative, or surrogate by the resident.

23 * **Sec. 39.** AS 47.40.021 is amended to read:

24 **Sec. 47.40.021. Licensing and supervision.** Facilities providing services that

25 are purchased by the department under AS 47.40.011 - 47.40.091 [,] shall, if required

26 by the department, be licensed and supervised under AS 47.32 [AS 47.35].

27 * **Sec. 40.** AS 47.40.110 is amended to read:

28 **Sec. 47.40.110. Licensing and supervision.** A person providing services

29 purchased by the Department of Health and Social Services under AS 47.40.100 -

30 47.40.120 shall, if required to be licensed under AS 47.32 [AS 47.35], be licensed and

31 supervised in the same manner as foster homes and maternity homes under AS 47.32

1 [AS 47.35].

2 * **Sec. 41.** AS 47.55.010(d) is amended to read:

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

10 * **Sec. 42.** AS 47.62.090(2) is amended to read:

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

14 * **Sec. 43.** AS 47.80.140 is repealed and reenacted to read:

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

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

24 * **Sec. 44.** AS 14.43.148(h)(1)(B)(iii) is repealed.

25 * **Sec. 45.** AS 18.05.040(a)(10); AS 18.18.005, 18.18.010, 18.18.020, 18.18.030,
26 18.18.040, 18.18.100, 18.18.200, 18.18.300, 18.18.310, 18.18.320, 18.18.330, 18.18.340,
27 18.18.350, 18.18.390, 18.18.410, 18.18.420, 18.18.430, 18.18.440, 18.18.450, 18.18.460,
28 18.18.470, and 18.18.490 are repealed.

29 * **Sec. 46.** AS 18.20.010, 18.20.020, 18.20.030, 18.20.040, 18.20.050, 18.20.060,
30 18.20.070, 18.20.090, 18.20.110, 18.20.120, 18.20.130(2), 18.20.230, 18.20.240, 18.20.250,
31 18.20.260, and 18.20.302 are repealed.

1 * **Sec. 47.** AS 44.62.330(a)(15), 44.62.330(a)(17), and 44.62.330(a)(41) are repealed.

2 * **Sec. 48.** AS 44.64.030(a)(15), 44.64.030(a)(16), 44.64.030(a)(33), and 44.64.030(a)(34)
3 are repealed.

4 * **Sec. 49.** AS 47.33.100, 47.33.400, 47.33.410, 47.33.420, 47.33.430, 47.33.500,
5 47.33.510, 47.33.520, 47.33.530, 47.33.540, 47.33.550, 47.33.560, 47.33.570, 47.33.910,
6 47.33.920, 47.33.990(8), 47.33.990(11), and 47.33.990(14) are repealed.

7 * **Sec. 50.** AS 47.35.005, 47.35.010, 47.35.015, 47.35.017, 47.35.019, 47.35.021,
8 47.35.022, 47.35.023, 47.35.025, 47.35.027, 47.35.029, 47.35.033, 47.35.037, 47.35.039,
9 47.35.043, 47.35.045, 47.35.047, 47.35.048, 47.35.085, 47.35.105, 47.35.110, 47.35.120,
10 47.35.130, 47.35.132, 47.35.140, 47.35.800, 47.35.810, 47.35.820, and 47.35.900 are
11 repealed.

12 * **Sec. 51.** AS 47.37.270(2) and 47.37.270(3) are repealed.

13 * **Sec. 52.** The uncodified law of the State of Alaska is amended by adding a new section to
14 read:

15 **APPLICABILITY REGARDING CERTAIN SECTIONS; DEPARTMENT ACTION.**

16 (a) The changes made by secs. 1 - 15, 17 - 19, 21 - 35, 37 - 42, and 44 - 51 of this Act apply
17 to

18 (1) applications or requests submitted within the 90 days before, or submitted
19 on or after, the effective dates of sec. 35 of this Act for initial licensure, certification, or other
20 approval of an entity listed in AS 47.32.010(b), enacted by sec. 35 of this Act; and

21 (2) applications submitted within the 90 days before, or submitted on or after,
22 the effective date of secs. 1 - 15, 17 - 19, 21 - 35, 37 - 42, and 44 - 51 of this Act for renewal
23 of a license issued before the effective date of secs. 1 - 15, 17 - 19, 21 - 35, 37 - 42, and 44 -
24 51 of this Act under a statute repealed or amended by this Act, and regarding a type of entity
25 listed in AS 47.32.010(b), enacted by sec. 35 of this Act.

26 (b) The Department of Health and Social Services may not make a final determination
27 regarding an application or request described in (a) of this section earlier than the effective
28 date of secs. 1 - 15, 17 - 19, 21 - 35, 37 - 42, and 44 - 51 of this Act.

29 * **Sec. 53.** The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 **APPLICABILITY REGARDING SEC. 20 OF THIS ACT; DEPARTMENT**

1 ACTION. (a) The changes made by sec. 20 of this Act apply to

2 (1) applications or requests submitted within the 30 days before, or submitted
3 on or after, the effective date of sec. 20 of this Act for initial licensure, certification, or other
4 approval or selection as any of the following:

5 (A) an entity or individual service provided that is subject to
6 AS 47.05.300 - 47.05.390, enacted by sec. 20 of this Act;

7 (B) an entity listed in AS 47.32.010(b), enacted by sec. 35 of this Act,
8 that is not described in (A) of this paragraph; and

9 (2) applications or requests submitted within the 30 days before, or submitted
10 on or after, the effective date of sec. 20 of this Act, for renewal of a license, certification, or
11 other approval or selection for an entity or individual service provider that is subject to
12 AS 47.05.300 - 47.05.390, enacted by sec. 20 of this Act.

13 (b) The Department of Health and Social Services may not make a final determination
14 regarding an application or request described in (a) of this section earlier than the effective
15 date of sec. 20 of this Act.

16 (c) In this section,

17 (1) "entity" includes an entity subject to AS 47.05.300 - 47.05.390, enacted by
18 sec. 20 of this Act, and an entity listed in AS 47.32.010(b), enacted by sec. 35 of this Act, that
19 is not subject to AS 47.05.300 - 47.05.390, enacted by sec. 20 of this Act:

20 (2) "individual service provider" has the meaning given in AS 47.05.390,
21 enacted by sec. 20 of this Act.

22 * **Sec. 54.** The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 **TRANSITION: CURRENTLY LICENSED OR APPROVED FACILITIES.** (a)
25 Notwithstanding AS 47.32.020, enacted by sec. 35 of this Act, a facility that is a type of entity
26 listed in AS 47.32.010(b), enacted by sec. 35 of this Act, and that on the effective date of secs.
27 1 - 15, 17 - 19, 21 - 35, 37 - 42, and 44 - 51 of this Act is being operated under a valid license
28 or under an approval issued by the department under a statute repealed or amended by this
29 Act, may continue to be operated under that license or approval as provided in this section.

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

- 1 (1) AS 11.61.195(a), as amended by sec. 4 of this Act;
- 2 (2) AS 11.61.220(a), as amended by sec. 5 of this Act;
- 3 (3) AS 25.27.244(s)(2), as amended by sec. 14 of this Act;
- 4 (4) AS 47.05.010, as amended by sec. 18 of this Act;
- 5 (5) AS 47.05.055(a), as amended by sec. 19 of this Act;
- 6 (6) AS 47.10.141(b), as amended by sec. 21 of this Act;
- 7 (7) AS 47.10.392, as amended by sec. 22 of this Act;
- 8 (8) AS 47.10.399(2), as amended by sec. 23 of this Act;
- 9 (9) AS 47.10.990, as amended by secs. 24 and 25 of this Act;
- 10 (10) AS 47.24.013(a), as amended by sec. 27 of this Act;
- 11 (11) AS 47.24.017(d), as amended by sec. 28 of this Act;
- 12 (12) AS 47.25.071(b), as amended by sec. 29 of this Act;
- 13 (13) AS 47.25.095(2), as amended by sec. 30 of this Act;
- 14 (14) AS 47.25.095(4), as amended by sec. 31 of this Act;
- 15 (15) AS 47.25.195(f)(1), as amended by sec. 32 of this Act;
- 16 (16) AS 47.30.915(5), as amended by sec. 33 of this Act;
- 17 (17) AS 47.31.100(4), as amended by sec. 34 of this Act;
- 18 (18) AS 47.33.070(a), as amended by sec. 38 of this Act; and
- 19 (19) AS 47.55.010(d), as amended by sec. 41 of this Act.

20 (c) Until renewal or expiration of a current license under (d) or (e) of this section, the
21 requirements and standards, including department oversight, monitoring, and enforcement
22 actions, regarding operation of a facility that is authorized to continuing operating under this
23 section are those that were in effect in statute or regulation on the day before the effective date
24 of secs. 1 - 15, 17 - 19, 21 - 35, 37 - 42, and 44 - 51 of this Act.

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

29 (e) Application for license renewal must be made under AS 47.32.060, enacted by
30 sec. 35 of this Act, by the date required by that statute, for a facility described in (a) of this
31 section for which renewal of licensure is desired before expiration of the facility's current

1 license. For purposes of renewal of a license under this subsection and AS 47.32.060, enacted
2 by sec. 35 of this Act, the current license for the facility is considered to be a biennial license
3 under AS 47.32.

4 (f) In this section,

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

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

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

10 **TRANSITION: CERTAIN APPLICATIONS PENDING FOR MORE THAN 90**
11 **DAYS.** (a) An application for licensure or approval regarding a facility that is a type of
12 entity listed in AS 47.32.010(b), enacted by sec. 35 of this Act, that was submitted more than
13 90 days before the effective date of secs. 1 - 15, 17 - 19, 21 - 35, 37 - 42, and 44 - 51 of this
14 Act under a statute repealed or amended by this Act and that is pending department action on
15 the effective date of secs. 1 - 15, 17 - 19, 21 - 35, 37 - 42, and 44 - 51 of this Act shall
16 continue to be processed, and either granted or denied, by the department under the applicable
17 statutes and regulations that were in effect on the day before the effective date of secs. 1 - 15,
18 17 - 19, 21 - 35, 37 - 42, and 44 - 51 of this Act.

19 (b) Until renewal or expiration of the license or approval under (c) or (d) of this
20 section, the requirements and standards, including department oversight, monitoring, and
21 enforcement actions, regarding operation of a facility licensed or approved as provided in (a)
22 of this section are those that were in effect in statute or regulation on the day before the
23 effective date of secs. 1 - 15, 17 - 19, 21 - 35, 37 - 42, and 44 - 51 of this Act.

24 (c) Unless an enforcement action taken by the department as provided in (b) of this
25 section affects the validity of the license or approval, a license or approval issued by the
26 department on or after the effective date of secs. 1 - 15, 17 - 19, 21 - 35, 37 - 42, and 44 - 51
27 of this Act under the provisions of (a) of this section expires June 30, 2006.

28 (d) Application must be made under AS 47.32.060, enacted by sec. 35 of this Act, by
29 the date required by that statute, for a facility described in (a) of this section for which a
30 license or approval was issued under (a) of this section and for which renewal of a license is
31 desired, before expiration of the license or approval issued under (a) of this section. For

1 purposes of renewal of a license under this subsection and AS 47.32.060, enacted by sec. 35
2 of this Act, the license or approval issued under (a) of this section regarding the facility is
3 considered to be a biennial license under AS 47.32.

4 (e) In this section,

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

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

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

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

18 (1) "entity" means an entity that would be subject to AS 47.05.300 -
19 47.05.390, enacted by sec. 20 of this Act;

20 (2) "individual service provider" has the meaning given in AS 47.05.390,
21 enacted by sec. 20 of this Act.

22 (b) In this section,

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

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

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

27 TRANSITION: REGULATIONS. (a) The Department of Health and Social Services
28 may proceed to adopt regulations necessary to implement secs. 1 - 15, 17 - 19, 21 - 35, 37 -
29 42, and 44 - 51 of this Act. The regulations take effect under AS 44.62 (Administrative
30 Procedure Act), but not before the effective date of the statutory changes.

31 (b) The Department of Health and Social Services may proceed to adopt regulations

1 necessary to implement secs. 16, 20, and 36 of this Act. The regulations take effect under
2 AS 44.62 (Administrative Procedure Act).

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

5 CERTIFICATION OF EFFECTIVE DATE OF REGULATIONS. The lieutenant
6 governor shall certify to the revisor of statutes the effective date of the regulations adopted by
7 the Department of Health and Social Services under sec. 57 of this Act.

8 * **Sec. 59.** Sections 52, 55, and 57 of this Act take effect immediately under
9 AS 01.10.070(c).

10 * **Sec. 60.** Section 43 of this Act takes effect July 1, 2006.

11 * **Sec. 61.** Sections 16, 20, and 36 of this Act take effect on the effective date of the
12 regulations adopted by the Department of Health and Social Services under sec. 57(b) of this
13 Act, or March 1, 2006, whichever is earlier, but in no event earlier than July 2, 2005.

14 * **Sec. 62.** Except as provided in secs. 59 - 61 of this Act, this Act takes effect July 2, 2005.

LEGAL SERVICES

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MEMORANDUM

April 25, 2005

SUBJECT: CSHB 193(HES)

TO: Representative Peggy Wilson, Chair, House Health, Education and
Social Services Committee
Attn: Kathy Hope Erickson

FROM: Jean Mischel
Legislative Counsel 

I have made the changes requested for your committee but note the following shortcoming related to those changes that should be communicated to the next committee of referral for correction.

Portions of the amendment adding a new bill section, bill section 58, as uncodified law contains language that should be codified at AS 47.07.030, since the coverage of adult companion services in that section of the bill appears to be a permanent mandate.

If I may be of further assistance, please advise.

JMM:jad
05-232.jad

Enclosure



**State of Alaska
Representative Peggy Wilson
House District 2**

State Capitol, Room 108
Juneau AK 99801
Representative.Peggy.Wilson@legis.state.ak.us

Phone 907-465-3824
Toll Free: 800-686-3824
Fax: 907-465-3175

Fax transmittal sheet

To: Jean Mischel
Fax #: 2029
From: Kathy Hope Erickson for
Representative Peggy Wilson
Re: HB 193, Licensing of Medical or Care Facilities

Date: April 22, 2005
3 pages

Comments:

HESS Committee has passed HB 193 (F) out of committee, and has made an amendment:

New Title as listed on following page the language following: "Page 1, line 9, following "Services,"
and

New language as listed on following two pages, the language following: "Page 45 of the bill, CSHB 193
line 24:"

I am also requesting a final. Call me with any questions, and thank you for everything.

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MEMORANDUM

April 8, 2005

SUBJECT: CSHB 193(Work Order No. 24-GH1016\G)

TO: Representative Peggy Wilson
Attn: Kathy

FROM: Pam Finley 
Revisor of Statutes

Enclosed is the CS you requested. I am writing because the drafting attorney for this bill, Jean Mischel, is ill today. I have the following comments about the CS.

1. The sections were reordered from the original Governor's bill to put them in numerical order. This is the normal style. While we sometimes make exceptions for bills that are nothing but a large section of new material and conforming changes, in this case there were two sections of new material --- AS 47.05.300 - 47.05.390 and AS 47.32 --- so the exception did not apply.
2. Please review secs. 11 and 13. In both sections there are references to a "child adoption agency" licensed under AS 47.35. However, current AS 47.35 doesn't mention "child adoption" agencies per se. Should these sections remain as drafted, or should the reference to AS 47.35 be deleted and secs. 11 and 13 be added to the list at sec. 53(b)?
3. Please compare sec. 14 (where the reference is merely changed) and sec. 43 (where the exclusion of AS 14.43.148(h)(1)(B)(iii) is completely repealed.) Since these are similar provisions, we wanted to make sure the different treatment was deliberate.
4. Section 34. I could not find in AS 47.32 any section giving a right to appeal to the superior court, nor could I find any provision making AS 47.32. subject to AS 44.62. I suspect that a lack of a right to judicial appeal would violate the Due Process Clause.
5. Section 42. This has a delayed effective date until July 1, 2006, which means that current AS 47.80.140 will remain in effect, even though it refers to law that is being repealed (AS 18.20.010 - 18.20.130, AS 47.33, and AS 47.35.010 - 47.35.010.) Will this work? Also note that we left sec. 42 out of the spanned references in secs. 51 and 53, even though the amendments you sent had included this section in the spanned reference, because sec. 42 has a different effective date than the other sections listed.

Representative Peggy Wilson

April 8, 2005

Page 2

6. Section 52. Should this also refer to sec. 35 (which adds AS 47.32.010(c))? Both sec. 19 and sec. 35 have the same delayed effective date.

7. Section 53. Subsection (b) was our way of dealing with the fact that the law would change, but the old licenses would still be valid for a while. Please review the bill to see if you think additional bill sections should be added to sec. 53(b). I left out AS 44.64.030(a)(36), added by sec. 16, since sec. 53(c) seemed to indicate that old hearing procedures would still be used, but this may have been wrong.

Subsection (d) may raise due process issues if the current licenses are due to expire after June 30, 2006. I am not sure how "vested" the rights to these licenses are, but thought I should at least raise the issue.

We hope Jean will be back in the office on Monday. If I can be of assistance, please let me know.

PF:jad
05-199.jad

Enclosure

24-GH1016/G
Mischel
4/8/05

CS FOR HOUSE BILL NO. 193()

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

BY

**Offered:
Referred:**

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

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

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

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

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

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

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

27 (2) violates AS 11.61.200(a)(1) and is within the grounds of or on a
28 parking lot immediately adjacent to

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

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

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

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

7 (B) a dwelling.

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

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

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

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

15 (i) immediately inform the peace officer of that
16 possession; or

17 (ii) allow the peace officer to secure the deadly weapon,
18 or fails to secure the weapon at the direction of the peace officer,
19 during the duration of the contact;

20 (B) that is concealed on the person within the residence of
21 another person unless the person has first obtained the express permission of
22 an adult residing there to bring a concealed deadly weapon within the
23 residence;

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

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

28 (4) knowingly possesses a firearm

29 (A) within the grounds of or on a parking lot immediately
30 adjacent to an entity [A CENTER], other than a private residence, licensed as
31 a child care facility under AS 47.32 [AS 47.33 OR AS 47.35] or recognized

1 by the federal government for the care of children;

2 (B) within a

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

4 (ii) courthouse that is occupied only by the Alaska

5 Court System and other justice-related agencies; or

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

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

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

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

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

17 * **Sec. 7.** AS 18.20.130 is amended to read:

18 **Sec. 18.20.130. Definitions.** In AS 18.20.075 - 18.20.130 [AS 18.20.010 -
19 18.20.130],

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

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

23 (3) "hospital" means an institution or establishment, public or private,
24 devoted primarily to providing diagnosis, treatment, or care over a continuous period
25 of 24 hours each day for two or more nonrelated individuals suffering from illness,
26 physical or mental disease, injury or deformity, or any other condition for which
27 medical or surgical services would be appropriate.

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

29 (a) If the department finds that a nursing facility, or a partner, officer, director,
30 owner of five percent or more of the nursing facility's assets, or managing employee of
31 the nursing facility substantially failed or refused to comply with AS 08.68.340 -

1 08.68.390, AS 08.70, AS 18.20.075 - 18.20.085 [AS 18.20.010 - 18.20.130].
2 AS 47.07, or with a regulation adopted under any of those statutes, or, for a nursing
3 facility that provides Medicaid services under AS 47.07, failed or refused to comply
4 with the Medicaid requirements of 42 U.S.C. 1396r (Title XIX of the Social Security
5 Act, as amended) or a regulation adopted under that statute, the department may take
6 the following actions:

- 7 (1) ban the admission of new residents to the nursing facility;
- 8 (2) as provided in AS 18.20.320, deny payment under AS 47.07 and
9 AS 47.25.120 - 47.25.300 for any Medicaid or general relief-medical resident admitted
10 to the nursing facility after notice by the department of denial of payment; residents
11 who are eligible for Medicaid or general relief-medical are not responsible for
12 payment when the department takes action under this paragraph;
- 13 (3) assess a civil fine in accordance with AS 18.20.340;
- 14 (4) suspend or terminate the nursing facility's participation in the
15 Medicaid program;
- 16 (5) suspend, revoke, or refuse to renew the nursing facility's license
17 issued under this chapter;
- 18 (6) seek an appointment of temporary administration as provided in
19 AS 18.20.360 or of a receiver under AS 18.20.370;
- 20 (7) in case of an emergency, seek an order from the court either to
21 close the nursing facility or to transfer residents from that facility, or both.

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

23 (3) "health care provider" means an acupuncturist licensed under
24 AS 08.06; a chiropractor licensed under AS 08.20; a dental hygienist licensed under
25 AS 08.32; a dentist licensed under AS 08.36; a nurse licensed under AS 08.68; a
26 dispensing optician licensed under AS 08.71; an optometrist licensed under AS 08.72;
27 a pharmacist licensed under AS 08.80; a physical therapist or occupational therapist
28 licensed under AS 08.84; a physician licensed under AS 08.64; a podiatrist; a
29 psychologist and a psychological associate licensed under AS 08.86; a hospital as
30 defined in AS 47.32.900 [AS 18.20.130], including a governmentally owned or
31 operated hospital; and an employee of a health care provider acting within the course

1 and scope of employment;

2 * **Sec. 10.** AS 18.26.220 is amended to read:

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

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

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

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

16 (c) Nothing in this section relieves a health maintenance organization that
 17 wishes to exercise the power described in (a)(1) of this section from the requirements
 18 of

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

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

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

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

23 (c) A child adoption agency; licensed under former AS 47.35 and a child
 24 placement agency licensed under AS 47.32 shall maintain records of the information
 25 required to be furnished to the court under this section or under regulations of the
 26 commissioner implementing this section. If a child adoption agency or child
 27 placement agency ceases to place persons for adoption, it shall transfer its records to
 28 the commissioner.

29 * **Sec. 14.** AS 25.27.244(s)(2) is amended to read:

30 (2) "license"

31 (A) means, except as provided in (B) of this paragraph, a

1 license, certificate, permit, registration, or other authorization that, at the time
2 of issuance, will be valid for more than 150 days and that may be acquired
3 from a state agency to perform an occupation, including the following:

4 (i) license relating to boxing or wrestling under
5 AS 05.10;

6 (ii) authorization to perform an occupation regulated
7 under AS 08;

8 (iii) teacher certificate under AS 14.20;

9 (iv) authorization under AS 18.08 to perform
10 emergency medical services;

11 (v) asbestos worker certification under AS 18.31;

12 (vi) boiler operator's license under AS 18.60.395;

13 (vii) certificate of fitness under AS 18.62;

14 (viii) hazardous painting certification under AS 18.63;

15 (ix) security guard license under AS 18.65.400 -
16 18.65.490;

17 (x) license relating to insurance under AS 21.27;

18 (xi) employment agency permit under AS 23.15.330 -
19 23.15.520;

20 (xii) registration as a broker-dealer, an agent, a state
21 investment adviser, or an investment adviser representative under
22 AS 45.55.030;

23 (xiii) certification as a pesticide applicator under
24 AS 46.03.320;

25 (xiv) certification as a storage tank worker or contractor
26 under AS 46.03.375;

27 (xv) certification as a water and wastewater works
28 operator under AS 46.30;

29 (xvi) commercial crewmember fishing license under
30 AS 16.05.480 other than an entry permit or interim-use permit under
31 AS 16.43;

- 1 (xvii) fish transporter permit under AS 16.05.671;
2 (xviii) sport fishing operator license under
3 AS 16.40.260;
4 (xix) sport fishing guide license under AS 16.40.270;
5 (B) does not include
6 (i) a vessel license issued under AS 16.05.490 or
7 16.05.530;
8 (ii) a license issued to a child care facility under
9 AS 47.32 [AS 47.35];
10 (iii) a business license issued under AS 43.70;
11 (iv) an entry permit or interim-use permit issued under
12 AS 16.43; or
13 (v) a driver's license issued under AS 28.15;

14 * Sec. 15. AS 37.05.146(c)(67) is amended to read:

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

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

18 (36) AS 47.32 (licensing by the Department of Health and Social
19 Services).

20 * Sec. 17. AS 47.05.010 is amended to read:

21 **Sec. 47.05.010. Duties of department.** The Department of Health and Social
22 Services shall

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

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

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

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

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

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

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

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

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

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

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

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

5 (13) establish the divisions and local offices that are considered
6 necessary or expedient to carry out a duty or authority assigned to it and appoint and
7 employ the assistants and personnel that are necessary to carry on the work of the
8 divisions and offices, and fix the compensation of the assistants or employees except
9 that a person engaged in business as a retail vendor of general merchandise, or a
10 member of the immediate family of a person who is so engaged, may not serve as an
11 acting, temporary or permanent local agent of the department, unless the
12 commissioner of health and social services certifies in writing to the governor, with
13 relation to a particular community, that no other qualified person is available in the
14 community to serve as local welfare agent; for the purposes of this paragraph, a
15 "member of the immediate family" includes a spouse, child, parent, brother, sister,
16 parent-in-law, brother-in-law or sister-in-law;

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

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

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

24 (a) If the department has reason to believe that a certified nurse aide employed
25 in a facility licensed by the department under AS 47.32 as a hospital or nursing
26 home [AS 18.20] has committed abuse, neglect, or misappropriation of property in
27 connection with the person's duties as a certified nurse aide at the facility, the
28 department shall investigate the matter. The department shall conduct proceedings to
29 determine whether [IF] a finding of abuse, neglect, or misappropriation of property
30 should be made. These proceedings shall be conducted under AS 44.62.330 -
31 44.62.630. A finding under this subsection that a certified nurse aide has committed

1 abuse, neglect, or misappropriation of property shall be reported by the department to
2 the Board of Nursing.

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

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

5 **Sec. 47.05.300. Applicability.** (a) The provisions of AS 47.05.310 -
6 47.05.390 apply to any individual or entity that is required by statute or regulation to
7 be licensed or certified by the department or that is eligible to receive payments, in
8 whole or in part, from the department to provide for the health, safety, and welfare of
9 persons who are served by the programs administered by the department.

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

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

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

15 (3) case managers to coordinate community mental health services
16 under AS 47.30.530.

17 **Sec. 47.05.310. Criminal history; criminal history check; compliance.** (a)
18 If an individual has been charged with, convicted of, found not guilty by reason of
19 insanity for, or adjudicated as a delinquent for, a crime that is inconsistent with the
20 standards for licensure or certification established by the department by regulation,
21 that individual may not own an entity, or be an officer, director, partner, member, or
22 principal of the business organization that owns an entity. In addition, an entity may
23 not

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

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

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

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

1 services from the entity.

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

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

8 (1) individual has been found by a court or agency of this or another
9 jurisdiction to have neglected, abused, or exploited a child or vulnerable adult under
10 AS 47.10, AS 47.24, or AS 47.62 or a substantially similar provision in another
11 jurisdiction; or

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

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

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

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

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

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

29 (e) An individual for whom a release of information authorization has been
30 provided to the department shall submit the individual's fingerprints to the department,
31 with the fee established under AS 12.62.160, for a report of criminal justice

1 information under AS 12.62 and for submission by the Department of Public Safety to
2 the Federal Bureau of Investigation for a national criminal history record check. The
3 Department of Public Safety shall provide the report of criminal justice information
4 and the results of the national criminal history record check to the department for its
5 use in considering an application for a license, license renewal, certification, or
6 certification renewal, or in considering other approval or selection regarding an entity,
7 for compliance with the standards established in this section. For purposes of
8 obtaining access to criminal justice information maintained by the Department of
9 Public Safety under AS 12.62, the department is a criminal justice agency conducting
10 a criminal justice activity. The department may waive the requirement for fingerprint
11 submission if an individual is unable to provide fingerprints due to a medical or
12 physical condition that is documented by a licensed physician.

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

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

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

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

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

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

4 (3) appears on the centralized registry established under AS 47.05.330
5 or a similar registry of this state or another jurisdiction.

6 **Sec. 47.05.320. Criminal history use standards.** The department shall by
7 regulation establish standards for the consideration and use by the department, an
8 entity, or an individual service provider of the criminal history of an individual
9 obtained under AS 47.05.310.

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

15 (b) Except for the name of each victim being redacted before the information
16 is placed on the registry, the registry shall consist of the following information for an
17 entity or individual service provider, an applicant on behalf of an entity or individual
18 service provider, or an employee of an entity or individual service provider:

19 (1) orders, judgments, and adjudications finding that the applicant or
20 the employee committed abuse, neglect, or exploitation under AS 47.10, AS 47.24,
21 AS 47.62, or a substantially similar provision in another jurisdiction;

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

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

31 (d) The department shall prescribe by regulation the form or format by which

1 an applicant must submit required information to the registry.

2 (e) Notwithstanding any contrary provision of law, the department may also
3 submit information described in this section to the registry. An entity or individual
4 that is exempt from department licensure or certification and that does not receive
5 money from the department for its services may voluntarily submit information
6 described in this section to the department for placement in the registry.

7 (f) Information contained in the registry is a public record under AS 40.25 and
8 is subject to public inspection and copying.

9 (g) A person who, in good faith, submits information to the registry in
10 accordance with this section is immune from civil or criminal liability that might
11 otherwise exist for submitting information to the registry.

12 (h) A person about whom information is placed in the registry may request the
13 department to delete or modify the information to correct inaccuracies. The
14 department shall investigate the request and make necessary deletions or
15 modifications.

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

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

20 (1) "criminal history records" has the meaning given in AS 12.64.010;

21 (2) "criminal justice activity" has the meaning given in AS 12.62.900;

22 (3) "criminal justice agency" has the meaning given in AS 12.62.900;

23 (4) "criminal justice information" has the meaning given in
24 AS 12.62.900;

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

26 (6) "entity" includes an entity listed in AS 47.32.010(b);

27 (7) "individual service provider" means an individual described in
28 AS 47.05.300(a), and includes those listed in AS 47.05.300(b);

29 (8) "license" includes a provisional license.

30 * **Sec. 20.** AS 47.10.141(b) is amended to read:

31 (b) A peace officer shall take into protective custody a minor described in (a)

1 of this section if the minor is not otherwise subject to arrest or detention. Unless (c) of
2 this section applies, when a peace officer takes a minor into protective custody under
3 this subsection,

4 (1) the peace officer shall

5 (A) return the minor to the minor's parent or guardian at the
6 parent's or guardian's residence if the residence is in the same community
7 where the minor was found and if the minor's parent or guardian consents to
8 the return, except that the officer may not use this option if the officer has
9 reasonable cause to believe that the minor has experienced physical or sexual
10 abuse in the parent's or guardian's household;

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

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

18 (i) an office specified by the Department of Health and
19 Social Services;

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

22 (iii) a shelter for runaways that has a permit from the
23 department under AS 47.32 [AS 47.35.085] that agrees to shelter the
24 minor;

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

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

31 (2) if the peace officer plans to take the minor to an office, program,

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

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

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

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

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

15 * Sec. 21. AS 47.10.392 is amended to read:

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

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

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

21 * Sec. 22. AS 47.10.399(2) is amended to read:

22 (2) "shelter for runaways" or "shelter for runaway minors" means a
23 private residence whose legal occupant agrees to shelter, with or without
24 compensation, a runaway minor accepted into the residence by the legal occupant and
25 that

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

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

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

1 * **Sec. 23.** AS 47.10.990(10) is amended to read:

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

4 * **Sec. 24.** AS 47.10.990(24) is amended to read:

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

7 * **Sec. 25.** AS 47.12.990(14) is amended to read:

8 (14) "secure residential psychiatric treatment center" has the meaning
9 given "residential psychiatric treatment center" in AS 47.32.900; [AS 47.35.900.]

10 * **Sec. 26.** AS 47.24.013(a) is amended to read:

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

18 * **Sec. 27.** AS 47.24.017(d) is amended to read:

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

26 * **Sec. 28.** AS 47.25.071(b) is amended to read:

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

29 (1) be currently licensed under AS 47.32 [AS 47.35] and applicable
30 municipal licensing requirements;

31 (2) participate in the day care assistance program under AS 47.25.001 -

1 47.25.095; and

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

4 * **Sec. 29.** AS 47.25.095(2) is amended to read:

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

10 * **Sec. 30.** AS 47.25.095(4) is amended to read:

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

14 * **Sec. 31.** AS 47.25.195(f)(1) is amended to read:

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

17 * **Sec. 32.** AS 47.30.915(5) is amended to read:

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

22 * **Sec. 33.** AS 47.31.100(4) is amended to read:

23 (4) "evaluation facility" means a health care facility that has been
24 designated by the department to perform the evaluations described in AS 47.30.670 -
25 47.30.915, including a facility licensed under AS 47.32 [AS 18.20.020] or operated by
26 the federal government;

27 * **Sec. 34.** AS 47 is amended by adding a new chapter to read:

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

29 **Sec. 47.32.010. Purpose and applicability.** (a) The purpose of this chapter
30 is to establish centralized licensing and related administrative procedures for the
31 delivery of services in this state by the entities listed in (b) of this section. These

1 procedures are intended to promote safe and appropriate services by setting standards
2 for licensure that will reduce predictable risk; improve quality of care; foster
3 individual and patient rights; and otherwise advance public health, safety, and welfare.

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

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

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

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

30 **Sec. 47.32.030. Powers of the department.** (a) The department may

- 31 (1) administer and enforce the provisions of this chapter;

1 (2) coordinate and develop policies, programs, and planning related to
2 licensure and operation of entities listed in AS 47.32.010(b);

3 (3) adopt regulations necessary to carry out the purposes of this
4 chapter, including regulations that

5 (A) establish fees for licensing of each type of entity listed in
6 AS 47.32.010(b);

7 (B) impose requirements for licensure, including standards for
8 license renewal, that are in addition to the requirements of this chapter or of
9 any other applicable state or federal statute or regulation;

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

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

16 (ii) record-keeping requirements;

17 (iii) reporting requirements; and

18 (iv) requirements and standards regarding health, safety,
19 and sanitation;

20 (D) provide for waivers, variances, and exemptions from the
21 requirements of this chapter, including the requirement to obtain a license, if
22 the department finds it necessary for the efficient administration of this
23 chapter; and

24 (E) establish requirements for the operation of entities licensed
25 under this chapter;

26 (4) investigate

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

28 (B) applicants for licensure, including individuals named in an
29 application; and

30 (C) other persons that the department has reason to believe are
31 operating an entity required to be licensed under this chapter, or are residing or

1 working in an entity for which licensure has been sought under this chapter;
2 this subparagraph does not apply to persons receiving services from an entity
3 for which licensure has been sought under this chapter;

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

7 (6) enter into contracts and agreements necessary to carry out the
8 functions, powers, and duties of the department under this chapter;

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

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

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

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

20 (B) has accreditation from a nationally recognized organization
21 if the standards for that accreditation are equal to or more stringent than the
22 standards for licensure under this chapter or regulations adopted under this
23 chapter; or

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

25 (b) Nothing in this chapter obligates the department to provide financial
26 support to an entity licensed under this chapter.

27 **Sec. 47.32.040. Application for license.** A person shall apply to the
28 department for a license under this chapter. The application must be made to the
29 department on a form provided by the department or in a format approved by the
30 department, and must be accompanied by

31 (1) any fee established by regulation; and

1 (2) documents and information required by regulation.

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

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

15 (1) the entity meets the requirements for biennial licensure established
16 in this chapter, regulations adopted under this chapter, and other applicable statutes
17 and regulations;

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

19 (3) any applicable fee has been paid.

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

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

27 (1) all documents and information identified in regulation as being
28 required for renewal of the license; and

29 (2) any fee established by regulation.

30 (b) Before expiration of a biennial license, the department or its representative
31 may inspect an entity that is the subject of a renewal application to determine whether

1 the entity is operating in compliance with this chapter, regulations adopted under this
2 chapter, and other applicable statutes or regulations. After any inspection and
3 investigation under this subsection and before expiration of the biennial license, the
4 department shall renew a biennial license if the department finds that

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

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

7 (3) any applicable fee has been paid.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (1) to determine whether an application for licensure or renewal is
24 appropriate;

25 (2) to conduct a complaint investigation;

26 (3) to conduct a standard inspection;

27 (4) to inspect documents, including personnel records, accounts, the
28 building, or the premises;

29 (5) to interview staff or residents; or

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

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

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

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

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

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

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

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

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

23 (a) If the department's report of investigation or inspection under AS 47.32.120
24 concludes that the department has reasonable cause to believe that a violation of an
25 applicable statute or regulation has occurred that presents an immediate danger to the
26 health, safety, or welfare of an individual receiving services from the entity, the
27 department, without an administrative hearing and without providing an opportunity to
28 cure or correct the violation, may immediately revoke or suspend the entity's license
29 or, if the entity is not licensed under this chapter, may revoke the entity's ability to
30 become licensed under this chapter or to provide services as an entity exempted under
31 this chapter. A suspension or revocation under this subsection takes effect

1 immediately upon initial notice to the entity from the department, is in addition to any
2 enforcement action under AS 47.32.140, and continues until a final determination
3 under (c) of this section or AS 47.32.150.

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

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

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

13 (A) a copy of the department's report under AS 47.32.120, a
14 statement of the entity's right to submit a written response to the report, and
15 any department requirement that the entity submit a written response to the
16 report;

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

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

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

27 **Sec. 47.32.140. Enforcement actions.** (a) If the department's report of
28 investigation or inspection under AS 47.32.120 concludes that the department has
29 reasonable cause to believe that a violation of an applicable statute or regulation has
30 occurred, the department shall provide notice to the entity of the violation and an
31 opportunity to cure the violation within a reasonable time specified by the department.

1 The notice must include a copy of the department's report under AS 47.32.120, a
2 statement that the entity may submit a written response to the report, any department
3 requirement that the entity submit a written response to the report, a description of any
4 enforcement action the department intends to take under (d) or (f) of this section, and
5 information regarding the entity's appeal rights.

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

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

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

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

27 (2) modification of the term or scope of the entity's existing license,
28 including changing a biennial license to a provisional license or adding a condition to
29 the license;

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

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

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

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

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

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

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

14 (10) reduction of the number of individuals receiving services from the
15 entity under the license;

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

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

18 (13) requirement that the entity prepare and submit a plan of
19 correction.

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

24 (f) In addition to any other enforcement actions the department may take
25 under this section, the department may assess a civil fine against an entity for a
26 violation of an applicable statute or regulation, taking into account the type and size of
27 the entity and the type and severity of the violation. A fine assessed under this
28 subsection may not exceed \$2,500 a day for each day of violation for a continuing
29 violation or \$25,000 for a single violation.

30 (g) An entity to which a notice has been provided under this section regarding
31 an enforcement action under (d) or (f) of this section may appeal the department's

1 decision to impose the enforcement action by filing a written request for a hearing, on
2 a form provided by the department, within 15 days after receipt of the notice of the
3 enforcement action.

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

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

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

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

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

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

25 **Sec. 47.32.150. Hearings.** (a) Upon receipt of a timely request for a hearing
26 by an entity regarding an enforcement action under AS 47.32.130(a) or
27 47.32.140(d)(3), (5), (6), (7), or (9), the department shall request the chief
28 administrative law judge appointed under AS 44.64.020 to appoint an administrative
29 law judge employed or retained by the office of administrative hearings to preside
30 over a hearing conducted under this section. AS 44.64.060 applies to the hearing.

31 (b) Upon receipt of a timely request for a hearing by an entity regarding an

1 enforcement action under AS 47.32.070 or 47.32.140(d)(1), (2), (4), (8), (10), (11),
2 (12), or (13), the department shall conduct a hearing in front of an officer appointed by
3 the commissioner. A hearing under this subsection may be conducted on the record,
4 in an informal manner, and shall not be conducted under AS 44.62 or AS 44.64. The
5 appointed hearing officer may be a state employee.

6 (c) The decision following a hearing conducted under (a) or (b) of this section
7 constitutes a final agency administrative order.

8 (d) A hearing conducted under this section shall take place within 120 days
9 after the department's receipt of the request for hearing. A hearing may be held on an
10 expedited basis upon a showing of good cause. An expedited hearing shall be held
11 within 60 days after the department's receipt of the request for a hearing.

12 **Sec. 47.32.160. Immunity.** (a) The department, its employees, and its agents
13 are not liable for civil damages as a result of an act or omission in the licensure
14 process, the monitoring of a licensed entity, or any activities under this chapter.

15 (b) A volunteer who works for a hospice program licensed under this chapter
16 is not liable for damages for personal injury, wrongful death, or property damage for
17 an act or omission committed in the course of hospice-related duties unless the act or
18 omission constitutes gross negligence, recklessness, or intentional misconduct.

19 (c) An entity that obtains information about an employee under a criminal
20 history check under AS 47.50.310 may use that information only as provided in
21 regulations adopted by the department under AS 47.05.320. However, if that entity
22 reasonably relies on that information in denying employment for an individual
23 selected for hire as an employee, including during a period of provisional
24 employment, the entity is not liable in an action brought by the individual based on the
25 employment determination resulting from the information.

26 **Sec. 47.32.170. Criminal penalty.** A person who intentionally or with
27 criminal negligence violates a provision of this chapter or a regulation adopted under
28 this chapter related to the health and safety of persons served by an entity required to
29 comply with this chapter is guilty of a class B misdemeanor.

30 **Sec. 47.32.180. Confidentiality; release of certain information.** (a) Except
31 as otherwise provided by law, the following are confidential and may not be disclosed

1 to the public without a court order: complaints; investigations; inspections; records
2 related to a complaint, investigation, or inspection; and the identity of a complainant
3 and of individuals receiving services from an entity.

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

11 (1) entity receives its copy of the report of investigation under
12 AS 47.32.120, if the department has determined that an enforcement action under AS
13 47.32.130 or 47.32.140 will not be taken regarding the entity;

14 (2) department's notice of enforcement action under AS 47.32.130 or
15 47.32.140 becomes a final administrative order without a hearing under
16 AS 47.32.130(c) or 47.32.140(i); or

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

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

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

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

30 (1) convicted of, has been charged by information or complaint with,
31 or is under indictment or presentment for an offense listed in regulations adopted

1 under AS 47.05.310 or a law or ordinance of this or another jurisdiction with similar
2 elements; or

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

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

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

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

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

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

16 (1) "ambulatory surgical center"

17 (A) means a facility that

18 (i) is not a part of a hospital or a physician's general
19 medical practice; and

20 (ii) operates primarily for the purpose of providing
21 surgical services to patients who do not require hospitalization; and

22 (B) includes a facility that performs invasive diagnostic or
23 therapeutic services;

24 (2) "assisted living home"

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

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

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

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

1 (A) "public agency" means an agency operated by the state or a
2 local government;

3 (B) "subdivision" means a component of a multi-function
4 facility or home health agency, such as the home health care division of a
5 hospital or the division of a public agency, that independently meets the
6 requirements for licensure as a home health agency;

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

9 (12) "hospice services" means a range of interdisciplinary palliative
10 and supportive services

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

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

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

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

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

3 (16) "maternity home" means a place of residence the primary function
4 of which is to give care, with or without compensation, to pregnant individuals,
5 regardless of age, or that provides care, as needed, to mothers and their newborn
6 infants;

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

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

15 (19) "residential psychiatric treatment center" means a secure or semi-
16 secure facility, or an inpatient program in another facility, that provides, under the
17 direction of a physician, psychiatric diagnostic, evaluation, and treatment services on a
18 24-hour-a-day basis to children with severe emotional or behavioral disorders;

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

20 (21) "rural health clinic"

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

23 (B) includes a frontier extended stay clinic;

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

26 * **Sec. 35.** AS 47.32.010, added by sec. 34 of this Act, is amended by adding a new
27 subsection to read:

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

31 * **Sec. 36.** AS 47.33.010 is amended to read:

1 **Sec. 47.33.010. Applicability.** (a) Except as provided in (b) of this section,
2 this chapter applies to residential facilities operated in the state that serve three or
3 more adults who are not related to the owner of the facility by blood or marriage by

4 (1) providing housing and food service to its residents; and

5 (2) providing or obtaining, or offering to provide or obtain for its
6 residents

7 (A) assistance with the activities of daily living;

8 (B) personal assistance; or

9 (C) a combination of services under (A) and (B) of this
10 paragraph.

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

12 (1) a correctional facility;

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

15 (3) an emergency shelter;

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

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

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

20 * **Sec. 37.** AS 47.33.070(a) is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

12 (E) home's house rules;

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

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

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

20 * **Sec. 38.** AS 47.40.021 is amended to read:

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

24 * **Sec. 39.** AS 47.40.110 is amended to read:

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

30 * **Sec. 40.** AS 47.55.010(d) is amended to read:

31 (d) The department may employ the necessary subordinate officers and

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

7 * **Sec. 41.** AS 47.62.090(2) is amended to read:

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

11 * **Sec. 42.** AS 47.80.140 is repealed and reenacted to read:

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

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

21 * **Sec. 43.** AS 14.43.148(h)(1)(B)(iii) is repealed.

22 * **Sec. 44.** AS 18.05.040(a)(10); AS 18.18.005, 18.18.010, 18.18.020, 18.18.030,
23 18.18.040, 18.18.100, 18.18.200, 18.18.300, 18.18.310, 18.18.320, 18.18.330, 18.18.340,
24 18.18.350, 18.18.390, 18.18.410, 18.18.420, 18.18.430, 18.18.440, 18.18.450, 18.18.460,
25 18.18.470, and 18.18.490 are repealed.

26 * **Sec. 45.** AS 18.20.010, 18.20.020, 18.20.030, 18.20.040, 18.20.050, 18.20.060,
27 18.20.070, 18.20.090, 18.20.110, 18.20.120, 18.20.130(2), 18.20.230, 18.20.240, 18.20.250,
28 18.20.260, and 18.20.302 are repealed.

29 * **Sec. 46.** AS 44.62.330(a)(15), 44.62.330(a)(17), and 44.62.330(a)(41) are repealed.

30 * **Sec. 47.** AS 44.64.030(a)(15), 44.64.030(a)(16), 44.64.030(a)(33,) and
31 AS 44.64.030(a)(34) are repealed.

1 * **Sec. 48.** AS 47.33.100, 47.33.400, 47.33.410, 47.33.420, 47.33.430, 47.33.500,
2 47.33.510, 47.33.520, 47.33.530, 47.33.540, 47.33.550, 47.33.560, 47.33.570, 47.33.910,
3 47.33.920, 47.33.990(8), 47.33.990(11), and 47.33.990(14) are repealed.

4 * **Sec. 49.** AS 47.35.005, 47.35.010, 47.35.015, 47.35.017, 47.35.019, 47.35.021,
5 47.35.022, 47.35.023, 47.35.025, 47.35.027, 47.35.029, 47.35.033, 47.35.037, 47.35.039,
6 47.35.043, 47.35.045, 47.35.047, 47.35.048, 47.35.085, 47.35.105, 47.35.110, 47.35.120,
7 47.35.130, 47.35.132, 47.35.140, 47.35.800, 47.35.810, 47.35.820, and 47.35.900 are
8 repealed.

9 * **Sec. 50.** AS 47.37.270(2) and 47.37.270(3) are repealed.

10 * **Sec. 51.** The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 **APPLICABILITY REGARDING CERTAIN SECTIONS; DEPARTMENT ACTION.**

13 (a) The changes made by secs. 1 - 18, 20 - 34, 36 - 41, and 43 - 50 of this Act apply to

14 (1) applications or requests submitted within the 90 days before, or submitted
15 on or after, the effective dates of sec. 34 of this Act for initial licensure, certification, or other
16 approval of an entity listed in AS 47.32.010(b), enacted by sec. 34 of this Act; and

17 (2) applications submitted within the 90 days before, or submitted on or after,
18 the effective date of secs. 1 - 18, 20 - 34, 36 - 41, and 43 - 50 of this Act for renewal of a
19 license issued before the effective date of secs. 1 - 18, 20 - 34, 36 - 41, and 43 - 50 of this Act
20 under a statute repealed or amended by this Act, and regarding a type of entity listed in
21 AS 47.32.010(b), enacted by sec. 34 of this Act.

22 (b) The Department of Health and Social Services may not make a final determination
23 regarding an application or request described in (a) of this section earlier than the effective
24 date of secs. 1 - 18, 20 - 34, 36 - 41, and 43 - 50 of this Act.

25 * **Sec. 52.** The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

27 **APPLICABILITY REGARDING SEC. 19 OF THIS ACT; DEPARTMENT**

28 **ACTION.** (a) The changes made by sec. 19 of this Act apply to

29 (1) applications or requests submitted within the 30 days before, or submitted
30 on or after, the effective date of sec. 19 of this Act for initial licensure, certification, or other
31 approval or selection as any of the following:

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

3 (B) an entity listed in AS 47.32.010(b), enacted by sec. 34 of this Act,
4 that is not described in (A) of this paragraph; and

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

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

12 (c) In this section,

13 (1) "entity" includes an entity subject to AS 47.05.300 - 47.05.390, enacted by
14 sec. 19 of this Act, and an entity listed in AS 47.32.010(b), enacted by sec. 34 of this Act, that
15 is not subject to AS 47.05.300 - 47.05.390, enacted by sec. 19 of this Act;

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

18 * Sec. 53. The uncodified law of the State of Alaska is amended by adding a new section to
19 read:

20 **TRANSITION: CURRENTLY LICENSED OR APPROVED FACILITIES.** (a)
21 Notwithstanding AS 47.32.020, enacted by sec. 34 of this Act, a facility that is a type of entity
22 listed in AS 47.32.010(b), enacted by sec. 34 of this Act, and that on the effective date of secs.
23 1 - 18, 20 - 34, 36 - 41, and 43 - 50 of this Act is being operated under a valid license or under
24 an approval issued by the department under a statute repealed or amended by this Act, may
25 continue to be operated under that license or approval as provided in this section.

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

28 (1) AS 11.61.195(a), as amended by sec. 4 of this Act;

29 (2) AS 11.61.220(a), as amended by sec. 5 of this Act;

30 (3) AS 25.27.244(s)(2), as amended by sec. 14 of this Act;

31 (4) AS 47.05.010, as amended by sec. 17 of this Act;

- 1 (5) AS 47.05.055(a), as amended by sec. 18 of this Act;
- 2 (6) AS 47.10.141(b), as amended by sec. 20 of this Act;
- 3 (7) AS 47.10.392, as amended by sec. 21 of this Act;
- 4 (8) AS 47.10.399(2), as amended by sec. 22 of this Act;
- 5 (9) AS 47.10.990, as amended by secs. 23 and 24 of this Act;
- 6 (10) AS 47.24.013(a), as amended by sec. 26 of this Act;
- 7 (11) AS 47.24.017(d), as amended by sec. 27 of this Act;
- 8 (12) AS 47.25.071(b), as amended by sec. 28 of this Act;
- 9 (13) AS 47.25.095(2), as amended by sec. 29 of this Act;
- 10 (14) AS 47.25.095(4), as amended by sec. 30 of this Act;
- 11 (15) AS 47.25.195(f)(1), as amended by sec. 31 of this Act;
- 12 (16) AS 47.30.915(5), as amended by sec. 32 of this Act;
- 13 (17) AS 47.31.100(4), as amended by sec. 33 of this Act;
- 14 (18) AS 47.33.070(a), as amended by sec. 37 of this Act; and
- 15 (19) AS 47.55.010(d), as amended by sec. 40 of this Act.

16 (c) Until renewal or expiration of a current license under (d) or (e) of this section, the
17 requirements and standards, including department oversight, monitoring, and enforcement
18 actions, regarding operation of a facility that is authorized to continuing operating under this
19 section are those that were in effect in statute or regulation on the day before the effective date
20 of secs. 1 - 18, 20 - 34, 36 - 41, and 43 - 50 of this Act.

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

25 (e) Application for license renewal must be made under AS 47.32.060, enacted by
26 sec. 34 of this Act, by the date required by that statute, for a facility described in (a) of this
27 section for which renewal of licensure is desired before expiration of the facility's current
28 license. For purposes of renewal of a license under this subsection and AS 47.32.060, enacted
29 by sec. 34 of this Act, the current license for the facility is considered to be a biennial license
30 under AS 47.32.

31 (f) In this section.

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

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

4 * Sec. 54. The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 TRANSITION: CERTAIN APPLICATIONS PENDING FOR MORE THAN 90
7 DAYS. (a) An application for licensure or approval regarding a facility that is a type of
8 entity listed in AS 47.32.010(b), enacted by sec. 34 of this Act, that was submitted more than
9 90 days before the effective date of secs. 1 - 18, 20 - 34, 36 - 41, and 43 - 50 of this Act under
10 a statute repealed or amended by this Act and that is pending department action on the
11 effective date of secs. 1 - 18, 20 - 34, 36 - 41, and 43 - 50 of this Act shall continue to be
12 processed, and either granted or denied, by the department under the applicable statutes and
13 regulations that were in effect on the day before the effective date of secs. 1 - 18, 20 - 34, 36 -
14 41, and 43 - 50 of this Act.

15 (b) Until renewal or expiration of the license or approval under (c) or (d) of this
16 section, the requirements and standards, including department oversight, monitoring, and
17 enforcement actions, regarding operation of a facility licensed or approved as provided in (a)
18 of this section are those that were in effect in statute or regulation on the day before the
19 effective date of secs. 1 - 18, 20 - 34, 36 - 41, and 43 - 50 of this Act.

20 (c) Unless an enforcement action taken by the department as provided in (b) of this
21 section affects the validity of the license or approval, a license or approval issued by the
22 department on or after the effective date of secs. 1 - 18, 20 - 34, 36 - 41, and 43 - 50 of this
23 Act under the provisions of (a) of this section expires June 30, 2006.

24 (d) Application must be made under AS 47.32.060, enacted by sec. 34 of this Act, by
25 the date required by that statute, for a facility described in (a) of this section for which a
26 license or approval was issued under (a) of this section and for which renewal of a license is
27 desired, before expiration of the license or approval issued under (a) of this section. For
28 purposes of renewal of a license under this subsection and AS 47.32.060, enacted by sec. 34
29 of this Act, the license or approval issued under (a) of this section regarding the facility is
30 considered to be a biennial license under AS 47.32.

31 (e) In this section,

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

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

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

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

14 (1) "entity" means an entity that would be subject to AS 47.05.300 -
15 47.05.390, enacted by sec. 19 of this Act;

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

18 (b) In this section,

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

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

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

23 TRANSITION: REGULATIONS. (a) The Department of Health and Social Services
24 may proceed to adopt regulations necessary to implement secs. 1 - 18, 20 - 34, 36 - 41, and 43
25 - 50 of this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act),
26 but not before the effective date of the statutory changes.

27 (b) The Department of Health and Social Services may proceed to adopt regulations
28 necessary to implement secs. 19 and 35 of this Act. The regulations take effect under
29 AS 44.62 (Administrative Procedure Act).

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

- 1 CERTIFICATION OF EFFECTIVE DATE OF REGULATIONS. The lieutenant
2 governor shall certify to the revisor of statutes the effective date of the regulations adopted by
3 the Department of Health and Social Services under sec. 56 of this Act.
- 4 * **Sec. 58.** Sections 51, 54, and 56 of this Act take effect immediately under
5 AS 01.10.070(c).
- 6 * **Sec. 59.** Section 41 of this Act takes effect July 1, 2006.
- 7 * **Sec. 60.** Sections 19 and 35 of this Act take effect on the effective date of the regulations
8 adopted by the Department of Health and Social Services under sec. 56(b) of this Act, or
9 March 1, 2006, whichever is earlier, but in no event earlier than July 2, 2005.
- 10 * **Sec. 61.** Except as provided in secs. 58 - 60 of this Act, this Act takes effect July 2, 2005.

ASSISTED LIVING HOMES

RECOMMENDATIONS for HB 193 – G

4/21/05

1. 47.32.030(a)(2) Delete “and operation”
The homes shall be responsible for operating their homes within the guidelines of State Statutes and Regulations where the public comment process is required. Policies shall be saved for interdepartmental procedures.
2. 47.32.030(b) Delete in its entirety.
Currently DSDS is mandated to reimburse/assist homes financially for any major changes in maintaining the license of an Assisted Living Homes when providing care to a Medicaid waiver recipient, this section removes this responsibility. And with new proposed regulations that could cost the homes \$35,000 or more it is critical that this mandate remained intact.
3. 47.32.150(d)(9) Delete in its entirety- or exclude smaller assisted living homes
Because many Assisted Living Homes are personal residences, this is a huge concern regarding the right of government to seize personal property without due process. This is not a court process, and by allowing the assumption of the property in this manner is a grave concern.
4. 47.32.150(d)(8) Delete in its entirety.
47.32.030(3)(C)(i) Delete in its entirety.
Payment reimbursements are already subject to Waiver and General Requirements- repetitive. Especially if the intention of the bill is to separate payment from licensing.
5. Section 48 Delete 47.33.420
Under 47.32.030(3)(C)(ii) The Department is given the right to impose regulations to impose record-keeping requirements- however this repealer revokes the Department's liability to give sample documentation for the homes to follow to provide a guide for the minimum level of documentation expected to remain compliant.
6. 47.32.170(a) Add “unless found to be the result of gross misconduct, negligence, etc. of the Department by a Court or Hearing Board.”
There must a means of accountability of the State for their actions. Open to suggestions or specific language, but the states are too high for the providers for a licensing agency to remained unchecked.
7. 47.32.900(2)(A) Insert “iii” “Provides personal assistance as deemed necessary by a resident's approved care plan in compliance with 47.33.010 and 47.33.020” and renumber accordingly.
See Section 47.33.010 Why 2 different definitions?

ASSISTED LIVING HOMES

RECOMMENDATIONS for HB 193 – G

4/21/05

8. 47.32.900(19) Add "Personal Assistance" in definitions as defined in 47.33.990(15)- "personal assistance" means the provision by an assisted living home of one or more of the following personal services to a resident of the home:
- (A) assisting a resident in obtaining supportive services as provided for in the resident's assisted living plan;
 - (B) assisting a resident in obtaining instrumental activities of daily living, as provided for in the resident's assisted living plan;
 - (C) being aware of a resident's general whereabouts while the resident is traveling independently in the community;
 - (D) monitoring a resident's activities while on the home premises to provide for the resident's and others' safety and well being.

And renumber accordingly.

Clarifies levels of care and duties involved in Assisted Living Homes

9. 47.32.900(18) Delete in its entirety and replace with the definition as state by the State Long Term Ombudsman:
- An institution (or a distinct part of an institution) that is primarily engaged in providing to residents
- Skilled nursing care and related services for residents who require medical or nursing care;
 - Rehabilitation services for the rehabilitation of injured, disabled, or sick persons; or
 - Health related care and services, (on a regular basis), to individuals who because of their mental or physical condition require care and services (above the level of room and board), which can be made available to the only through intuitional facilities; and
 - Is not primarily for the care and treatment of mental diseases.

Clarifies various levels of care involved in nursing homes

10. 47.05.330(b) Question the addition of adding "Volunteer"
Many volunteers in these types of facilities are retirees on a fixed income- who is responsible for the fees associated with the registry for a volunteer?
11. 47.05.330(b)(1) Question the addition of adding "Medicaid Fraud"
With the unresolved Medicaid issues surrounding current regulations, the Assisted Living Homes do not support the inclusion of this phrase.

GOVERNOR'S AMENDMENTS

Amendment #1:

- The Governor's bill was drafted with the expectation that **Section 17 of this Act (new Article 3, Criminal History; Registry)** would take effect July 1, 2005. ["Section 46. Except as provided in secs. 44 and 45 of this Act, this Act takes effect July 1, 2005."] The process for appropriate public notice and adoption of regulations for this complex program restructuring requires a very thoughtful public input and response. An effective date of July 1, 2005 is now recognized as extremely challenging and detrimental to licensed programs should the enabling regulations not be amended timely. As currently written, the department could not issue or renew a license or a certification for an entity that is inconsistent with the standards for licensure or certification under current regulation without imposing undue hardship on the licensed entity. The impact on SB 125 to change the effective date requires a series of conforming adjustments throughout numerous sections.
- **Page 15, following line 24:** Include under the definition of "ambulatory surgical center" a facility that performs invasive diagnostic or therapeutic services. The department recommends amending SB 125 to not limit itself statutorily from accommodating new procedures that may be determined to be subject to licensure. Nor does it want to limit its ability to be responsive to life, health and safety considerations promulgated by advances in medical technology and/or best business practices.

Amendment #2:

- **Page 11, following line 25:** The department recognizes and appreciates the gravity of any action taken to either assume management responsibility for or revoke the license of a licensed provider. Accordingly, this amendment inserts a new subsection (e) stating the department may not take action to assume either temporary or permanent management of an entity, or pursue a court-ordered receiver for the entity, 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. To accommodate this amendment, the proposed impact on SB 125 requires a series of conforming adjustments and a renumbering of numerous sections.
- **Page 13, line 1:** This is rectifying a drafting error. As I noted in my March 31 response to the committee regarding the applicability of AS 44.64.060, the concept of this section was to provide for a substantive administrative hearing for the more serious actions taken during an investigation, e.g., revocation or suspension of a license. Numerous discussions took place as to how this section would tie into the creation of the central hearing panel under AS 44.64. Those discussions resulted in a determination that we would want an APA-type hearing and would support having those hearings administered by the central panel. Therefore, the reference that 44.64.060 does not apply should be changed to indicate that it does apply.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: HB 193
(H) Publish Date: 3/2/05

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title "An Act relating to the licensing, regulation, enforcement, and appeal rights of certain...facilities...." RDU CIVIL
Component Human Services
Sponsor _____
Requester Governor Component No. _____

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	9.3					
Travel	0.0					
Contractual	1.1					
Supplies	0.2					
Equipment	0.2					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	10.8	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	10.8					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	10.8	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

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)

This bill would centralize almost all DHSS licensing statutes under a new chapter to AS 47. Currently, there are 12 different statutory schemes for the licensure of different entities by the DHSS. By centralizing these disparate procedures into a streamlined licensing process under a uniform statutory framework, the DHSS hopes to be able to administer these functions in a much more efficient and cost effective manner. The Department of Law does not anticipate a significant long-term fiscal impact from passage of this legislation; however, it is clear that significant revisions to the corresponding regulations will be required. It is estimated that approximately 100 attorney hours might be required in such an effort.

Prepared by: Kathryn Daughhete, Director Phone 465-3427
Division: Administrative Services Date/Time 2/28/05 2:15 PM
Approved by: K. Daughhete for Scott Nordstrand, Acting Attorney General Date 2/28/2005
Agency: Department of Law

FISCAL NOTE

**STATE OF ALASKA
2005 LEGISLATIVE SESSION**

Fiscal Note Number: 1
 Bill Version: HB 193
 (H) 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						
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES (0)						
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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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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
 Division: Public Health
 Approved by: Joel S. Gilbertson, Commissioner
 Agency: Department of Health and Social Services

Phone: 465-3139
 Date/Time: 02/17/2005
 Date: 02/28/2005

Sectional Analysis of HB 193 (Licensing)

(Prepared by the Department of Health and Social Services and the Department of La., March 3, 2005)

HB 193 would centralize the licensing and administration of certain covered entities into a new chapter, and would centralize background check and registry functions for entities and individual service providers who are licensed or certified by the Department of Health and Social Services (DHSS) or who receive payments from the DHSS for providing services.

I. Addition of a new chapter to centralize licensing and administration of covered entities (Section 1):

Section 1 adds a new chapter regarding centralized licensing to title 47. The new sections do the following:

- require that certain entities obtain a license, and describe application requirements;
- provide for provisional and biennial licenses;
- provide for notice and appeal when a license is denied or made conditional;
- provide a construct for filing and investigation of complaints against an entity;
- give the DHSS a right of access to entities for inspection;
- require the DHSS to prepare a report following an investigation;
- provide for the immediate revocation or suspension of a license, for other enforcement actions, and for civil fines;
- provide for notice and appeal of enforcement actions;
- provide immunity to the DHSS, hospice volunteers, and entities in certain situations;
- provide for criminal penalties for violation of the licensing chapter;
- provide for the confidentiality of certain information and DHSS intradepartmental access to information.

- the identification of a child care facility related to misconduct involving a weapon under AS 11.61.195(a) (sec. 5) and 11.61.220(a) (sec. 6);
- the conversion of a nursing facility to a nursing home under AS 18.07.031(b) (sec.7);
- the definition of "health care provider" under AS 18.23.070 (sec. 8) and AS 09.55.560 (sec. 2);
- facility compliance with health and safety laws and licensing requirements under AS 18.26.220 (sec. 9);
- the definition of "child adoption agency" in AS 18.50.950 (sec. 10);
- health maintenance organizations' requirement regarding regulation of hospitals under AS 21.86.030(c) (sec. 11);
- maintenance of records by a child placement agency under AS 25.23.185(c) (sec. 12);
- the definition of "license" under AS 25.27.244(s) (sec. 13);
- licensing fees under AS 37.05.146(c) (sec. 14);
- investigation of reports of abuse, neglect, or misappropriation of property under AS 47.05.010(15) (sec. 15) and AS 47.05.055(a) (sec. 16);
- the definition of "foster care" under AS 47.10.990 (sec. 18) and "secure residential treatment center" under AS 47.10.990 and AS 47.12.990 (secs. 19 - 20);
- a report of harm under AS 47.24.013(a) (sec. 21);
- minimum daily reimbursement rates under AS 47.24.017(d) (sec. 22);
- grants for child care facilities under AS 47.25.071(b) (sec. 23);
- the definition of "child care facility" and "day care facility" under AS 47.25.095 (secs. 24 - 25);
- the definition of "assisted living home" under AS 47.25.195(f) (sec. 26);

II. Addition of a new article to centralize background checks and registry functions (Section 17):

Section 17 adds new background check and registry sections to the chapter dealing with the general administration of welfare, social services, and institutions (AS 47.05). The new sections are as follows:

- The new background check and registry sections are made applicable to any individual or entity that is required to be licensed or certified by the DHSS, or that is eligible to receive payments from the DHSS to provide for the health, safety, or welfare of persons.
- Individuals who will be associated with an entity as owner, fiduciary, operator, employee, or volunteer are required to provide fingerprints to the DHSS so that the DHSS can do a background check on the individual.
- An individual who has been charged with or convicted of a crime that is inconsistent with the standards for licensure or certification may not be associated with an entity or individual service provider as owner, operator, fiduciary, employee, or volunteer. If the entity associates with such an individual, the entity may not be issued or have renewed a license or certification, or may be ineligible to receive a payment from the DHSS to provide services.
- The DHSS must provide for a centralized registry that consists of the following information:
 - 1) judgments, orders, and adjudications finding that the relevant individual committed abuse, neglect, or exploitation of a child, senior citizen, or vulnerable adult;
 - 2) orders that a license or certification was denied, suspended, revoked, or conditioned.

III. Conforming amendments (Sections 2 – 16, 18 – 32)

Sections 2 – 16 and 18 – 32 set out conforming amendments and changes to reflect the bill's centralizing of licensing and administrative functions in AS 47.32. The subjects affected include:

- the definition of "hospital" in AS 09.65.095(b) (sec. 3) and AS 09.65.096(d) (sec. 4);

- the definition of "evaluation facility" under AS 47.30.915 (sec. 27) and AS 47.31.100 (sec. 28);
- licensing and supervision under AS 47.40.021 (sec. 29) and AS 47.40.110 (sec. 30);
- the definition of "long-term care facility" under AS 47.62.090 (sec. 31);
- AS 47.80.140 regarding licensing and certificates of need is repealed and readopted to reflect the centralizing of licensing in AS 47.32 (sec. 32).

IV. Repealers (Sections 33 - -39):

Section 33 repeals a reference to 47.35, which would be repealed by this bill.

Section 34 repeals certain statutes governing hospice and home care programs.

Section 35 repeals certain statutes governing hospitals and nursing facilities.

Section 36 repeals certain statutory provisions regarding the applicability of administrative adjudication.

Section 37 repeals certain statutes governing assisted living homes.

Section 38 repeals certain statutes governing child care facilities, child placement agencies, child treatment facilities, foster homes, and maternity homes.

Section 39 repeals certain statutory definitions related to alcohol treatment.

V. Applicability (Section 40):

Section 40 sets out the applicability of the bill to applications and requests depending on when submitted.

VI. Transition (Sections 41 - 43):

Section 41 sets out the transition rules for entities currently licensed or approved.

Section 42 sets out the transition rules for certain entities with pending application and other requests.

Section 43 allows the DHSS to proceed to adopt regulations under the bill.

VII. Effective date (Sections 44 – 46):

Section 44 sets out an immediate effective date for secs. 40, 42, and 43.

Section 45 sets out an effective date of July 1, 2006, for section 32.

Section 46 sets out an effective date of July 2, 2005, for the remainder of the bill.



PUBLIC HEALTH

**PROTECTING AND PROMOTING THE
HEALTH OF ALL ALASKANS**

HB 193, a Bill to Consolidate DHSS Licensing, Certification and Background Check Functions

Dr. Richard Mandsager, M.D.
Director, Alaska Department of Health and Social Services
Division of Public Health

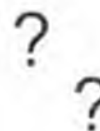
3/15/2005

The existing regulation of long term care has not prevented instances of abuse and neglect.

- A supported living home provider was misappropriating funds from a resident. There is no requirement for the home to be licensed, and no background review had been conducted on the provider.
- An assisted living home attendant was fired for mistreatment, and the facts presented to law enforcement. No charges were filed and the case was dropped. This person remains eligible to work as a care provider.
- Three Alaska Nurse Aides were found by investigative agencies to be mistreating residents in a nine month period. Well after the mandatory reporting time period, two of these findings had not been entered into the registry.
 - One of the two involved physical violence.
- In another state, a person was involved in a stabbing in a convenience store. Months later, this person, recognized by someone who had been in the store, was found working as a long term care provider.
- Personal Care Attendants, who are typically listed by multiple employment agencies, must submit separate fingerprint-based background checks for each agency, at significant cost and duplication of effort.

Besides the gaps in the oversight process and risks to Alaskans in care, there is significant cost and effort to provide the required management of care programs.

- Currently, 19 programs are administered under at least 12 different statutory schemes for licensure by DHSS.
 - The complexity of the different standards and program compliance requirements have resulted in a cumbersome administrative structure.
 - Care providers are faced with a patchwork of regulations and sometimes conflicting requirements for service delivery, particularly the agencies that operate multiple types of care services.
 - For example, under current practices a Care Coordinator might be employable at one agency, but not acceptable to another agency. And an individual acceptable for Care Coordination would not be acceptable to an Assisted Living Home, or an Assisted Living Home employee might not be employable in Child Care.
 - Yet many of the care agencies operate in all these programs
 - Licensing and Certification surveyors/licensing staff must learn and deal with the variants of each service program.
 - A consolidated program promotes greater depth in staff expertise and cross training.
- Three licensing program units have been consolidated within Public Health, but the programs they manage still must be uniquely administered.

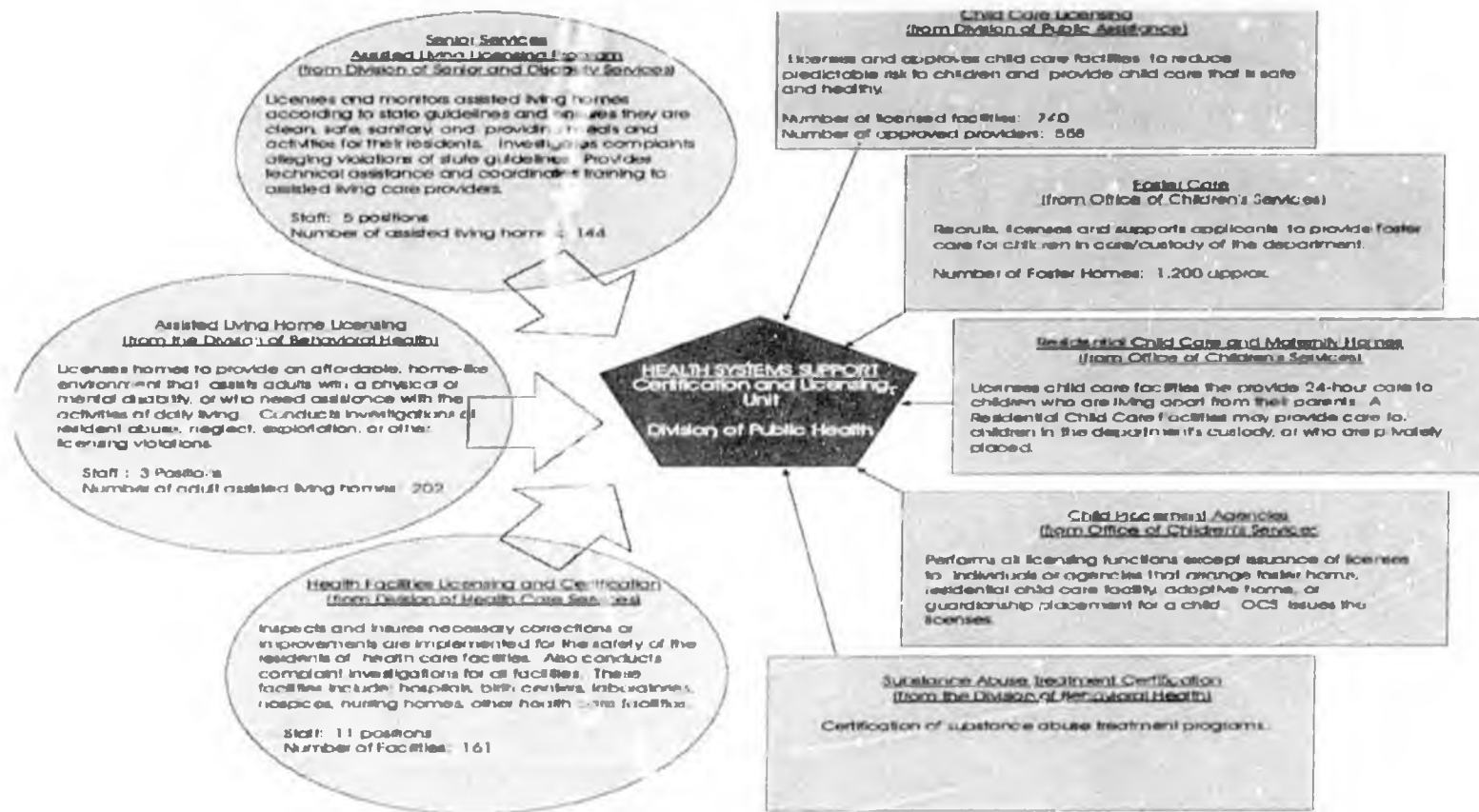


The three units that have been consolidated represent Phase I of the consolidation process.

Department of Health and Social Services Certification and Licensing Integration Project

Phase I – FY 2005

Potential Phase II - FY 2006 – 2009



Our aim is to reduce predictable risk, improve quality of care, foster patient rights, and advance public health, safety and welfare.

- **Centralized Licensing and Related Administrative Procedures, for:**

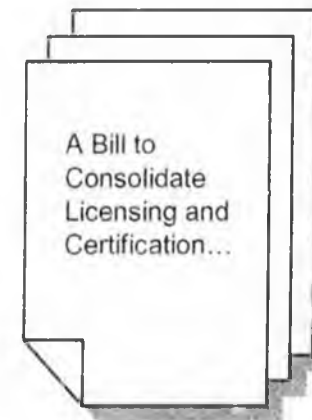
Ambulatory Surgical Centers	Home Health Agencies	Residential Child Care Facilities
Assisted Living Homes	Hospices	Residential Psychiatric Treatment Ctrs
Child Care Facilities	Hospitals	Rural Health Clinics
Child Placement Agencies	ICF/MRs	*Supported Living Homes
Foster Homes	Maternity Homes	*Personal Care Attendants
Freestanding Birth Centers	Nursing Facilities	*Case Mgmt/Care Coordination
		*Adult Day Care/Respite

- **Defines and Consolidates:**

- Definitions
- Requirements to get a license
- License renewal process
- Requirements for a background check
- Conditions for denial of license
- Complaints process and appeals
- Enforcement actions and penalties
- Confidentiality requirements

* Subject to background check provisions only

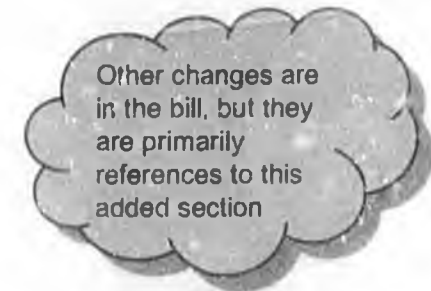
[Licensed Certified Both]



How HB 193 impacts the existing statutory definition of current DHSS licensed programs...

18.20.075-085	Hospital reg, risk mgmt, inspection
18.20.300	Nursing Facilities - state policy
18.20.305-390	Nursing regs, penalties, appeals, fines, ...
47.33.005-090	ALH Purpose, applicability, payments, rules, ...
47.33.200-360	ALH rights, grievances, contracts
18.18.100	Hospice licensing requirements
18.18.200	Volunteer Hospice licensing requirements
18.18.300-340	General Hospice requirements
18.18.390	Hospice definitions
18.18.490	HHA definitions
18.20.230-260	Hospital charges
14.43.148	Defines nonrenewal of licenses in general Amended to include children and A/DA licensing
18.20.130	Defines nonrenewal of licenses in general
47.33.990	ALH Definitions, removed references to controlled subs.
47.37.270	Removed selected definitions related to treatment facilities
18.05.040(a)(10)	Direct Entry Midwifery free standing birth centers
18.18.005-040	Hospice regulation
18.20.090-120	Disclosure of information, penalties
18.18.350	Hospice disclosure requirements
18.18.410-470	Home Health Agencies
18.20-18.20.070	Hospitals and intermediate care facility licensing
18.20.302	Criminal background check, nursing employees
47.33.100	ALH criminal background checks
47.33.400-920	ALH Licensing process & procedures
47.35.005-260	Maternity, RPTCs, childrens services process and procedures

Retained
Retained
Retained
Retained
Retained



moved to regulation
moved to regulation
moved to regulation
moved to regulation
moved to regulation



Revised Regulations

Amended

Amended
Amended
Amended



Repealed
Repealed
Repealed
Repealed
Repealed
Repealed
Repealed
Repealed
Repealed
Repealed



Note: "move to regulation" removes a regulatory level of detail from statute, but retains the spirit and intent of the statute in the forthcoming regulatory rewrite

Repealed provisions being deleted as a separate statutory action. The subject area will be included in the proposed rules 427000 and 427100. Supply relates to specifics of training, licensing process and background check procedures. Field used to support state regulatory system. The subject area will be included in the forthcoming regulatory rewrite.

3/15/2005

What's in HB 193?

- **Addition of a new chapter to centralize licensing and administration of covered entities (Section 1):**
 - Defines what entities must be licensed
 - Defines license conditions, appeals, complaint process
 - Defines DHSS rights and responsibilities
 - Provides confidentiality protections
 - Provides criminal penalties for violations
- **Addition of a new article to centralize background checks and registry functions (Section 17):**
 - Defines who is required to have background checks
 - Provides for regulatory definition of barrier conditions
 - Requires a centralized registry be created and maintained
- **Updates to existing statutes (see previous page)**
- **Establishes the timeline for implementation**
 - July 1, 2006 for Section 1
 - July 2, 2005 for Section 17

The key provisions of HB 193:

- Barrier conditions to employment in the care provider field will be defined in a consolidated *regulation* definition, with an objective of defining one, or as close to one as possible, common, consistent set of conditions to apply to all provider types.
 - There may be a need to distinguish between barriers to adult care vs. children's care.
- All service providers with direct patient contact must be background checked including volunteers
- Charges of a barrier crime are sufficient to bar employment.
- An employee misconduct registry will be implemented for maintaining employment barrier conditions that may not be reflected elsewhere.
- A standard waivers process will be defined.
- A standard appeals process will be implemented.



Excerpt from just one of the current regulatory crosswalks

1.1.1 SUMMARY OF EXISTING AND PROPOSED NEW SAFETY AND SANITATION STANDARDS TO CERTAIN FACILITIES PROVIDING CARE TO CHILDREN AND TO ADULT RESIDENTS February 16, 2005

NOTES TO READER: REQUIREMENTS, INCLUDING APPLICABILITY, ARE SUBJECT TO CHANGE AFTER REVIEW OF PUBLIC COMMENTS AND BEFORE ADOPTION.

Bracketed numbers = number of persons licensed for care, if requirements differ by size of facility

"E" = existing requirement (but may differ in proposal) "N" = new requirement "--" = not applicable (unless licensed for more than one category of care)
* = a more stringent requirement applies

ALH = assisted living home; FH = foster home; FGH = foster group home; RGH = residential child care group home, RCCC – residential child care center;
CCH = child care home; CCGH = child care group home; CCC = child care center; RPTC = residential psychiatric treatment center for children;
MH = maternity home; AP = approved provider (child care assistance)

REQUIREMENT	ALH	FH	FGH	RGH	RCCC	CCH	CCGH	CCC	RPTC	MH	AP
7 AAC 10.610. Life and fire safety											
<i>Based on existing child care licensing, 4 AAC 62.510; existing residential child care, 7 AAC 50.510; existing ALH, 7 AAC 75.270</i>											
(b)(1) -- Meet state code for fire safety in 13 AAC 50 and 13 AAC 55 or more stringent if required by local authorities	-- [1-5] E [6+]	E	E	E	E	E	E	E	N	N	
(b)(2) -- municipal building code approvals	-- [1-5] E [6+]	N	N	N	N	N	N	N	N	N	
(b)(3) and (c) -- fire safety inspection	E	E	E	E	E	E	E	E	E	E	
(d)--disaster preparedness emergency evacuation plan	E	E	E	E	E	E	E	E	E	E	
(e) -- emergency evacuation drills	E	E	E	E	E	E	E	E	E	E	
(f) -- keep records of emergency drills	E [1-5] N [6+]	E	E	E	E	E	E	E	E	E	
(g) notification of fire or other emergency	N	N	N	N	N	N	N	N	N	N	
(h) carbon monoxide detector	N	N	N	N	N	N	N	N	N	N	
(i)(1) --at least two means of emergency escape, at least one of which is exterior door	E [1-5] -- [6+]	E	E	E	*	E	*	*	E [1-10] * [10+]	E [1-10] * [10+]	
(i)(2) -- one means of escape from basement	N [1-5]	E	E	E [1-10] * [10+]	*	E [1-5] * [6+]	E [1-5] * [6+]	*	E [1-10] * [10+]	E [1-10] * [10+]	
(i)(3) -- fully-opening window in each bedroom	E	E	E	E [1-10] * [10+]	*	E [1-5] * [6+]	E [1-5] * [6+]	E	E [1-10] * [10+]	E [1-10] * [10+]	
(i)(4) -- screens do not prevent emergency escape	E	N	N	N	N	N	N	N	N	N	

NEW PROVISIONS IN HB 193 (LICENSING BILL)

<u>New</u> <u>nder HB 193</u>	<u>Current law</u>
1. (Sec. 1) AS 47.32.010(b)(8) makes all hospices and hospice programs subject to the same licensing and administrative provisions.	1. For-profit and volunteer hospice programs treated differently under licensing scheme.
2. AS 47.32.030(a)(9) allows the department to waive the application requirements for an entity if it can show it has otherwise met them.	2. No like provision.
3. AS 47.32.100(b) permits the department to consolidate complaints that an entity has violated an applicable statute or regulation.	3. No provision for consolidating complaints.
4. AS 47.32.120(b) allows the department to seek license revocation when an entity denies access to the department that is statutorily allowed.	4. No provision allowing the department to seek revocation of license when denied access.
5. AS 47.32.130(a)(2) requires the department to include in its report of investigation or inspection any enforcement action it intends to take.	5. No provision requiring the department to include enforcement action in report of investigation or inspection
6. AS 47.32.140(b) provides for a two-stage notice of immediate suspension or revocation of license.	6. No provision for a two-stage notice of immediate suspension or revocation.
7. AS 47.32.150(d)(7) allows the department to close an entity as an enforcement action regardless of whether the entity is licensed.	7. No provision allowing for closure of entities that are not licensed.

- | | | | |
|-----|--|-----|---|
| 8. | AS 47.32.150(d) allows the department to include an entity on the centralized abuse registry as an enforcement action. | 8. | No centralized abuse registry exists. |
| 9. | AS 47.32.150(i) permits the department to allow an entity whose license has been revoked to seek licensure if the ownership, control, or management of the entity changes. | 9. | No such provision. |
| 10. | AS 47.32.160(a) requires the use of an administrative law judge for hearings on certain enforcement actions. | 10. | Administrative law judge not required for any hearings. |
| 11. | AS 47.32.160(b) makes the Administrative Procedures Act apply to hearings on certain types of sanctions, while providing for informal hearings for other types of sanctions. | 11. | Administrative Procedures Act applies to all hearings, with the exception of hearings regarding nursing facilities. |
| 12. | AS 47.32.170(c) makes an entity immune from liability for employment decisions based on information obtained under a criminal history check. | 12. | No similar immunity provision. |
| 13. | AS 47.32.190(a) makes a complaint, investigation, inspection, and records related to these things confidential. | 13. | Only the identity of the complainant and the individual receiving services made confidential. |
| 14. | AS 47.32.200 gives the public health and public assistance divisions access to any information compiled or retained by other divisions of the department. | 14. | No similar access provision. |

- | | |
|--|--|
| 15. AS 47.32.210(c) requires an entity to notify the department within 24 hours of having knowledge of an <i>allegation</i> or <i>suspicion</i> of abuse, neglect, or misappropriation of money or property; it also requires the entity to conduct an investigation and make a written report to the department within five days. | 15. No similar provision for notification based on suspicion or allegation. |
| 16. (Sec. 17) AS 47.05.300 makes the background check and registry provisions applicable to entities that receive money from the state to provide services. | 16. Background check provisions not applicable to entities that are eligible to receive money from the state, only licensed or certified entities. |
| 17. AS 47.05.310(a) prohibits an individual from owning or being a principal, officer, director, member, or partner of an entity if the individual has been charged with, convicted of, found not guilty by reason of insanity for, or adjudicated as a delinquent for, a crime that is inconsistent with the standards of licensure or certification. | 17. No similar provision regarding individuals who own or have an ownership interest or control. |
| 18. AS 47.05.310(c)(2) prohibits the department from issuing or renewing a license or certification for an entity if the individual who is applying appears on the centralized abuse registry. | 18. No like provision. |

19. AS 47.05.310(d)(1) requires an entity to provide of release of information for a criminal history check for an individual who *intends* to become an owner, officer, director, partner, member, or principal.

20. AS 47.05.330 sets out the centralized registry, which will contain information regarding orders, judgments, and adjudications that an individual committed abuse, neglect, or exploitation of a child or vulnerable adult, and orders that an entity had its license revoked, suspended, conditioned, or denied.

19. No like provision.

20. No centralized abuse registry.

WHAT REGISTRY AMENDMENT DOES:

- It adds the registry to the list of things the Administrative Procedure Act covers. We envision that any hearings we conduct regarding whether someone's name will go on the registry will be conducted according to the APA process.
- It adds "volunteer" as someone who can be placed on the registry. It is our intent to define "volunteer" in regulation.
- It adds "decision" to "orders, judgments and adjudications," which are the documents that will provide the information that will go on the registry. This is designed to include administrative decisions (i.e. hearing officer's decision).
- It adds medical assistance fraud to the list of misconduct. This is meant to include Medicaid fraud and other billing fraud.
- It adds two mandatory reporting provisions: one a self-reporting requirement and the other a requirement that the provider report an allegation of misconduct.
- It makes the registry a confidential document except for approved providers and governmental agencies.
- It changes the immunity provision to include immunity for reporting misconduct, submitting information to the registry, and employment decisions made based on the registry.
- It defines "entity" as including an owner, officer, director, member, or partner.
- The remaining changes are conforming amendments because a new bill section was added.

How an entry is made in the Centralized Registry

- **Everything begins with a "report of harm"**. It can originate from a resident, another employee, a family member, or an officer or administrator of a facility. Reports are made to the Certification and Licensing (C&L) investigative unit. The owner or administrator of the facility may also choose to take action (i.e., terminate the employee, file a report with the police, or take other punitive action.) However, as a condition of licensure, the owner/administrator must report the incident to C&L investigative unit
- C&L will then conduct the same level of investigation as would be done for a report of abuse, neglect, fraud or misconduct involving a Certified Nurse Aide.
- If it is a "substantiated finding", the facility administrator, the complainant, and the subject of the investigation are notified in writing. At this point, the subject must be immediately terminated if still employed. The subject is informed that he/she has to appeal the substantiated finding within a specific time frame (to be determined in regulation.) This is an administrative hearing under the existing statutory definition of hearings.
- If the subject declines to appeal, the finding is immediately entered into the Centralized Registry. Entry consists of "identifying information" (i.e., name, DOB and/or SSN) and an indication of "substantiated finding" (as would be done in the Certified Nurse Aide Registry if the subject is a certified nurse aide).
- If the subject chooses to have a hearing, until the hearing is completed he/she is prohibited from employment as a care provider, but entry is not made on the Centralized Registry.
- At the completion of the hearing, if the finding is upheld, the subject is then entered into the registry and is permanently barred from employment in the caregiver field. If the finding is not upheld, the subject may reapply for employment as a caregiver. No entry will be made in the Centralized Registry.
- The Centralized Registry will not be accessible to the general public. Access will be password protected by the department and limited only to approved providers and governmental agencies



Effects of July 1, 2004
Regulation Changes on
Assisted Living Homes

FOUR KEY AREAS OF CONCERN

- 1 - Room and Board Rate Cap
- 2 - The Liability of the Assisted Living Homes due to the Medicaid Refinancing by the Department of Health and Social Services
- 3 - Administrative and General Costs Cap effective July 1, 2005
- 4 – Failed Notification Procedures

CONCERN #4

FAILED NOTIFICATION PROCEDURES

THE “HEADS UP” THAT WASN’T

- Although this is the 4th concern, we wanted to address it first.
- We don’t want to dwell on this aspect of the concerns being raised, but it was the failed notification process that demonstrates.....

HOW WE GOT HERE

- **Notification mentioned of new regulation changes and public comment period in a letter dated March 19, 2004 from Steve Ashman, Director of Senior and Disability Services**
 - **The letter states: “UNDER THE PROPOSED REGULATIONS, THERE WILL BE NO CHANGE TO THE ASSISTED LIVING PROVIDER’S CASH FLOW.”**
 - **When questioned on the concern of Medicaid liability and use of the refinance money, no staff at DSDS could answer the question.**

STATE OF ALASKA

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF SENIOR AND DISABILITIES SERVICES
OFFICE OF THE DIRECTOR

FRANK H. MURKOWSKI
GOVERNOR

P.O. BOX 110608

JUNEAU, ALASKA 99811-0608

PHONE: (907) 465-3372

FAX: (907) 465-1170

HOW WE GOT HERE, CONTINUED...

March 19, 2004

Dear Assisted Living Administrator:

The attached notice addresses changes to the Adult Public Assistance program. One of the proposed changes would have a direct effect on residents of assisted living homes. This change would result in the maximum payment for a resident of an assisted living home being reduced from \$362 per month to \$100 per month. In conjunction with this change, the proposed regulations will also modify reimbursement policy under General Relief Assisted Living and Medicaid. The net effect of these changes will be that the assisted living facilities should still receive the same combined amount of payment from a resident on Adult Public Assistance and the General Relief or Medicaid program as under the current regulations.

Additionally, under the proposed regulations the daily rate is changed to reflect the new room and board allocation. The Division of Senior and Disability Services will also change its procedures for calculating the rates under the cost-based method. As a result, differences between the two systems regarding room and board allocations will be minimized and, in the case of cost-based rates, no longer heavily influenced by the size of living quarters relative to common space.

Here is an example of how we envision this change working. Under the changes, a client who is currently receiving \$362 in APA would now receive \$100. The Medicaid payment would reflect the new allocation of costs to room and board. The information below shows the effect of the proposed regulation to an average assisted living home.

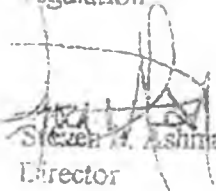
SSI Income	\$564	\$564
APA Income	362	100
Less Personal Needs	(100)	(100)
Client R&B	\$ 822	\$ 564
AL Cost (\$115/day)	\$3450	\$3712 (\$3450 plus \$262)

HOW WE GOT HERE, CONTINUED...

One effect of the new APA payment/assisted living rate system is that residents should be treated equally with regard to the amount of funds they have available to meet personal needs.

Under the proposed regulations, there will be no change to the assisted living provider's cash flow.

We look forward to hearing any comment you may have concerning the proposed regulation.


Steven M. Ashman
Director

HOW WE GOT HERE, CONTINUED...

- **There was a public hearing set for April 15, 2004. There were four different organizations represented.**
- **Throughout the course of the hearing, various organizations voiced their need to fully understand how the new Adult Public Assistance program regs were going to affect the various homes.**
- **The hearing moderator said there appeared to be a lot of confusion and that the state would post more information on their web site and they would have another public hearing in the future.**

HOW WE GOT HERE, CONTINUED...

- **A number of people and organizations repeatedly checked the web site and couldn't find anything new that had been posted after April 16, 2004.**
- **Around May 4th, a notice was sent out by DSDS that declared "New Regulations: New regulations that govern the Medicaid Waiver Program will be effective May 16. I know you have many questions about making the changes to comply with these regulations. Yes, things have changed and yes these regs implement some service limits. Read them for yourself by going to the Division's website...You may also want to attend one of the discussion sessions that we have planned for May 11 and 12th."**

HOW WE GOT HERE, CONTINUED...

- May 11, 2004 – attended meeting where nothing pertained to assisted living homes except the 25% Administrative and General Cost cap.
- A group continued to search the internet looking for more information regarding the regulation changes.
- June 11, 2004 the Director of DSDS attended a Senior Advocacy Coalition meeting where there was a lot of discussion regarding the regs. The meeting ran out of time.

HOW WE GOT HERE, CONTINUED...

- After the meeting a couple of the assisted living home providers spoke with the DSDS Director where they were informed that room and board was going to be capped under the new regulations at \$565.00 per month. The \$262.00 was going to the Medicaid side for services, and basically everything over \$827.00 per month was going to be lost.
- Thus the REST OF THE STORY.....

CONCERN #1

ROOM AND BOARD CAP

WHAT IS THE “ROOM AND BOARD CAP”

■ New Regulations went into effect July 1, 2004 that require all Medicaid Waiver recipients living in assisted living homes to repay the state all their entitlements received for their costs of care except:

- **\$100 For personal needs**
- **\$564 For room and board expenses**
 - **That equals \$18.54 per day to cover all room and board costs**

ROOM & BOARD COSTS AS ALLOCATED BY DSIDS

- Wages
- Work Comp
- Food Costs
- Food Supplies
- Food Equipment
- Housekeeping Supplies
- Housekeeping Equipment
- Building Maintenance
- Snow Removal
- Lawn Care
- Transportation
- Utilities
- Building & Insurance
- Business Taxes

DEFINITION OF ROOM AND BOARD COSTS

Wages

- **Approximately 12.5%**
- **Based on a calculated percentage of time assumed to be spent preparing/serving meals, doing laundry and housekeeping, home maintenance, and gathering/providing food, supplies, and equipment.**
- **Additional staffing requirements and wage increases are not allowed, due to cost based reimbursement freeze that is in place until July 1, 2005.**

DEFINITION OF ROOM AND BOARD COSTS, CONTINUED...

- Workman's Comp Insurance (%)
 - **Percentage of insurance premium expense based on wages allocated to Room and Board as previously stated.**
- Food Costs
- Food Supplies
 - **Storage bags, straws, napkins, silverware, dishes, paper towels/products, dish towels, tablecloths, drinking glasses, cups, foil, saran wrap, serving dishes, spatulas, pot holders, etc.**

DEFINITION OF ROOM AND BOARD COSTS, CONTINUED...

■ Food Equipment

- **Dishwasher, microwave, toaster, stove, oven, refrigerator, coffee maker, mixers, food saver, freezer, napkins holders, salt/pepper shakers, pots and pans, bake ware, processor, etc.**

■ Housekeeping Supplies

- **Cleaners, laundry detergent, cleaning rags, bath towels, washcloths, sheets, pillows/pillowcases, bedspreads, disinfectants, hand soaps, etc.**

DEFINITION OF ROOM AND BOARD COSTS, CONTINUED...

- Housekeeping Equipment

- **Washer, dryer, vacuum cleaner, brooms, mops, plungers, trash cans, hampers, etc.**

- Building Maintenance

- **Painting (inside/outside), general maintenance, staining decks, ramp repair, flooring replacement, furnace repair/replacement, hot water heater repair/replacement, plumbing repair, baseboard replacement, heater guard replacement, etc.**

DEFINITION OF ROOM AND BOARD COSTS, CONTINUED...

- Snow Removal
- Lawn/Garden Care
 - Lawnmower, weed whacker, lime, fertilizer, hoes, hoses, sprinklers, rakes, shovels, flowers, pots, gloves, seeds, bulbs, baskets, etc.
- Transportation
 - Percent of time vehicle is used for purchasing food and house supplies.
- Utilities
 - Electric, Gas, Water/Sewer, Trash, Cable.
 - Portion of costs attributed to the square footage of the bedrooms and bathrooms and kitchen

DEFINITION OF ROOM AND BOARD COSTS, CONTINUED...

■ Building

- **Mortgage Interest/Rent, Building Insurance, General/Professional Liability Insurances, property taxes**
 - **Portion of costs attributed to the square footage of the bedrooms, bathrooms, and kitchen**

■ Business Taxes

- **Portion of costs attributed to the square footage of the bedrooms, bathrooms, and kitchen**

Governor Murkowski's (MIS) Understanding

The following is an excerpt from a letter dated August 19, 2004 that Governor Murkowski addressed to various departments and legislators:

“While some assisted living home providers have been concerned about the maximum amount that a client will be able to contribute to their room and board costs, we believe that this amount is reasonable. The client will contribute the \$564 SSI payment and Medicaid Waiver payment was increased by \$265. The sum of these two figures is \$829 a month for room and board, or for a home with four Medicaid Waiver clients, \$39,792 a year. This is before the Medicaid Waiver reimbursement to the assisted living home and should be more than sufficient to cover the cost for food/preparation costs, supplies, equipment, and building maintenance.”

Governor Murkowski's (MIS) Understanding, continued...

The letter continued...

“it is important to note that the room and board payment is only for the cost of meals and bed space. The Medicaid Waiver program reimburses the assisted living home for all other costs such as transportation, utilities, equipment, legal and accounting, taxes and insurance, rent/mortgage, and personnel.”

We have added the colors to differentiate points of misconceptions regarding how costs are reimbursed to homes.

Governor Murkowski's (MIS) Understanding, continued...

“The Medicaid Waiver payments to the assisted living home providers range from \$36,000 to \$65,000 a year per client. These payments must be combined to understand the true state support of the Assisted Living Providers.”

- Again we must make the point that if Medicaid Waiver money is NOT used according to the cost based contract with the State, the monies MUST be paid back.
- It is a misconception to say that “payments must be combined to understand the true state support of the Assisted Living Providers.”
 - The money provided to assisted living homes goes toward client care. It is the client who is supported by the State, NOT the providers.

EFFECT OF ROOM AND BOARD CAP EXAMPLE 1

Resident receives

Entitlements

Used for Room and Board

\$ 1217 Retirement Income

- 100 Personal needs allowance

\$ 1117 Used for R/ B (*OLD* regs) Payment

- 564 Regulation Cap

\$ 553 Paid to State for Cost of Care (*NEW* regs)***

Tentative LOSS per month for this client = \$ 553

(A 49.51% tentative loss of Room and Board from this resident per month)

*****Pass through – Assisted Living Homes have to do the paperwork and bookkeeping and deduct from Medicaid payments**

EFFECT OF ROOM AND BOARD CAP EXAMPLE 1, CONTINUED...

Resident receives

Entitlements

Used for Room and Board

\$ 1217	Retirement Income
- <u>100</u>	Personal needs allowance
\$ 1117	Used for R/ B (old regs)
- <u>564</u>	Regulation Cap
\$ 553	Paid to State for Cost of Care (NEW regs)
- <u>262</u>	Refinance on Medicaid side (\$8.65)
\$ 291	TOTAL NET LOSS per month for this resident

(A 26% loss of CASH FLOW for this resident per month assuming there is sufficient proof that the \$8.65 per day refinance funds can be used for room and board)

ACTUAL SCENARIO:

	MAMA'S	MAMA'S II	MAMA'S III	MAMA'S IV
MONTHLY ROOM AND BOARD INCOME-CAPPED RATE (\$564 x 5 Residents)	2825	2825	2825	2825
LESS:				
EMPLOYEE	1936	2139	1460	1705
FOOD	1000	1000	1000	1000
JANITORIAL/HSKPING	400	400	400	400
MAINTENANCE	200	200	200	400
RENT	1200	476	831	1890
UTILITIES	176	128	145	220
WORK. COMP.	96	315	210	240
PROPERTY TAXES	150	40	115	195
BUILDING INSURANCE	75	30	34	55
LIABILITY INSURANCE	55	117	100	100
TOTAL	-2463	-2020	-1670	-2880
ADD: REFINANCE	1298	1298	1298	1298
TOTAL AFTER REFINANCE	-1165	-722	-372	-1582

WHERE WILL THE \$ COME FROM?

OPTION #1

LAY OFF EMPLOYEES

- **Assisted living homes throughout the state employ over 2000 people**
- **Results in about \$67,000,000 each year pumped directly into the Alaskan economy from salaries alone**
- **Reduces level of care provided to the residents**
- **Increases risk of injury to residents and remaining care providers as work load increases**
- **Unused wages must be repaid to the state under the provisions of the cost based reimbursement**

WHERE WILL THE \$ COME FROM?

OPTION #2

CUT FOOD COSTS

- Licensing regulations require homes to prepare 3 balanced meals per day plus 1 nutritious snack
- Menus and food consumption must be documented under licensing regulations
- Licensing actively investigates homes to meet these requirements
- **NOTE:** State per diem for meals alone = \$42



CASE IN POINT

MOREL 3102

MUSHROOMS 19.99 LB

WHERE WILL THE \$ COME FROM?

OPTION #3

USE MEDICAID FUNDS TO SUPPLEMENT CASH FLOW LOSS

- **Puts home operators into MEDICAID FRAUD**
 - **By using “SERVICE ONLY” funds for room and board**
 - **By not providing the services negotiated under the original costs based contract**

WHERE WILL THE \$ COME FROM?

OPTION #4

LIMIT OR REFUSE MEDICAID WAIVER RESIDENTS

- There are approximately 1,300 Medicaid waiver residents living in assisted living homes that would be affected or displaced
- Limited “PRIVATE PAY” residents could not support the number of assisted living homes – forcing most homes to choose a different option
- Using “PRIVATE PAY” residents to supplement the care of waiver recipients would be like placing a passive tax on those residents and their families to cover the Medicaid shortfall

WHERE WILL THE \$ COME FROM?

OPTION #5

CLOSE THEIR DOORS

- There are over 300 assisted living homes throughout the State of Alaska
- Closing the private homes would make the state run/funded Pioneer's Facilities the only choice for assisted living
- Approximately 80% of the homes polled stated that they would be forced to close if the regulations are not revoked or amended - **THEY SIMPLY CANNOT SURVIVE!!!**

CONCERN #2

**THE LIABILITY OF THE ASSISTED LIVING
HOMES DUE TO THE MEDICAID
REFINANCING BY THE DEPARTMENT OF
HEALTH AND SOCIAL**

QUESTIONS

- **Will the \$8.65 really be able to be used for Room and Board?**
- **Will a letter from the State (if one is issued) protect the providers from Medicaid fraud?**
- **How can the providers receive a legal opinion regarding the Federal Medicaid Regulation's stance on the use of these funds?**

CONCERN #3

**AMINISTRATIVE AND
GENERAL COST CAP
EFFECTIVE JULY 1, 2005**

ADMINISTRATIVE & GENERAL (A&G) COST RATE CAP

- Effective July 1, 2005 there will be an additional cap in place further reducing the assisted living homes' Medicaid reimbursement from waiver residents
- By adjusting the formula in which the cost based rate is calculated, DSDS will cap the amount reimbursed to assisted living homes for administrative and general costs to 25%. Currently unrestricted.

ADMINISTRATIVE & GENERAL COSTS AS ALLOCATED BY DSIDS

- **Administrative Salaries including office personnel**
- **Transportation costs associated with time allocated to administrative duties**
- **Utilities, rent, insurance, and taxes associated with office space**
- **Office supplies and small equipment**
- **Printing/Advertising**
- **Conference/Training**
- **Subscriptions/Dues**
- **Permits/Licenses**
- **Accounting/Legal**

ANY GOOD IDEA IS WORTH DUPLICATING!!

- **Following the example of the STATE run Pioneer Homes**
- **6 State run facilities with the highest A&G rate being only 13.68%**
- **Over 300 private assisted living homes with A & G rates up to 55% (and possibly over) desire to follow their example**
- **The cost allocations between administrative and general costs, non-direct costs (room and board), and direct costs are the main driving force on the determination of the administrative and general rate.**

ADMINISTRATIVE & GENERAL (A&G) COST RATE CAP

A sampling of 21 facilities that have a Cost Based Reimbursement in place revealed that 81% will be affected by the A & G Cap.

Out of those 21 homes, 17 (or 81%) will have a potential total loss of \$535,184.25. That is an average LOSS of \$31,481.43 per home per year.

Please refer to Attachment A

QUESTIONS

- Will a facility have the ability to resubmit their cost based reimbursement and re-categorize some of their present administrative and general costs?
- If not, will the added burden force homes to close and put the vulnerable population at further risk?

WHAT WE NEED TO SURVIVE

- Repeal/Suspend both sets of regulations regarding room and board and the administrative and general cap
 - **7 AAC 40 / 7 AAC 47**
 - **7 AAC 43**
- Request an Opinion from the Federal Medicaid program on the legal liability issue of the refinance.

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 110601
JUNEAU, ALASKA 99811-0601
PHONE: (907) 485-3030
FAX: (907) 485-3068

April 26, 2005

Honorable Lesil McGuire, Chair
House Health, Education and
Social Services Committee
Alaska State Capitol; Rm. 108
Juneau, AK 99801

Dear Representative McGuire,

The Department of Health and Social Services respectfully requests a hearing in the House Judiciary Committee on House Bill 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."

The proposed bill will streamline the department's licensing processes by consolidating virtually all of the licensing functions related to standards, enforcement, and appeal rights into a single chapter of the Alaska Statutes.

The House Health, Education, and Social Services Committee heard the bill and recommends it be replaced with a House (HES) Committee Substitute with a new title. The department appreciates the work of the House (HES) Committee and supports a number of substantive improvements made in the underlying licensing-related provisions of the bill.

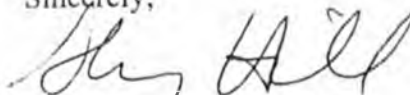
However the department cannot support the provisions of the House (HES) Committee Substitute establishing companion services as a new Medicaid-funded service for persons

on Medicaid waivers. These provisions have no bearing on the underlying purpose of HB 193 and would result in a significant increase in Medicaid costs that cannot be justified in light of budgetary constraints generally and competing Medicaid funding priorities in particular. Therefore the department urges the House Judiciary Committee to delete the companion services language from the bill.

The Governor's transmittal letter providing additional information about the bill and a zero fiscal note from the Division of Public Health addressing the licensing provisions of the bill should be on file with the committee. A new fiscal note addressing the companion services provisions of the House (HES) Committee Substitute has just been submitted to the House (HES) Committee.

Your favorable consideration of this request will be appreciated.

Sincerely,



Sherry Hill
Special Assistant

cc: Honorable Peggy Wilson, Chair
House Health, Education,
and Social Services Committee
Alaska House of Representatives

Kevin Jardell, Legislative Director
Office of the Governor

Dr. Richard Mandsager, Director
Division of Public Health

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

April 8, 2005

The Honorable Gene Therriault
Alaska State Senate
Alaska State Capitol, Room 119
Juneau, AK 99801

Dear Senator Therriault:

Thank you for your letter we received March 31, 2005, regarding the regulations adopted by the Department of Health and Social Services dealing with payment to assisted living homes for services provides to state supported clients.

The Legislature directed the Department of Health and Social Services to continue cost containment for assisted living homes. I have enclosed the information from the FY 05 budget (Chapter 158 SLA 04) that is showing the cost savings measures that were adopted by the Legislature to refinance the cost for individuals residing in Assisted Living Facilities:

- In the Adult Public Assistance (APA) program two transactions were adopted by the Legislature. The first (enclosure 1) was a transfer out of \$1.2 million to Senior and Disability Services (SDS) Medicaid to cover the cost of care for Medicaid and non-Medicaid waiver recipients in assisted living homes; the second (enclosure 2) was a decrement of \$963,500 which was a general fund reduction to the budget.
- In the SDS budget there were two transactions also adopted by the Legislature. The first (enclosure 3) was a transfer to the SDS Medicaid budget to fund the cost of care for Medicaid waiver recipients; the second (enclosure 4) was a transfer to SDS Protection, Community Services, and Administration (PCSA) to fund the cost of care for non-Medicaid waiver recipients.

The intent of the full Legislature is clear. The regulations reflect this administration's commitment to follow the direction of the Legislature as reflected in the budget bill. Without change in this intent, and increased funding, the department does not have resources available to suspend the regulations.

Sincerely yours,

Frank H. Murkowski
Governor

Enclosure

The Honorable Gene Therriault

April 8, 2005

Page 2

cc: Senator Ben Stevens
Representative John Harris
Senator Lyda Green
Senator Lyman Hoffman
Representative Tom Anderson
Representative Sharon Cissna
Representative Mike Hawker
Representative Vic Kohring
Cheryl Frasca, Director, Office Management and Budget
Joel Gilbertson, Commissioner, Department of Health and Social Services
Steve Ashman, Director, Division of Senior and Disabilities Services
Kevin Jardell, Legislative Director, Governor's Office

FRANK H. MURKOWSKI
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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

October 12, 2004

Ms. Judith Norris
Centers for Medicare and Medicaid Services
OOM, AGG, Grants Management Staff
Mail Stop: C2-21-15
7500 Security Boulevard
Baltimore, MD 21244

Dear Ms. Norris:

This letter serves to document my support for the Department of Health and Social Services background check demonstration project grant application to the Centers for Medicare and Medicaid Services (CMS). My administration is committed to the safety and welfare of individuals receiving long-term care services. Through this demonstration project the department will implement a more efficient and effective fingerprint-based criminal history records investigation and fitness determination program that in the end will benefit the beneficiaries of Alaska's long-term programs.

I will sponsor legislation to consolidate and clarify Alaska's certification and licensing laws to give the department statutory authority to implement coordinated administrative services to expand our background check programs. The department will work with the long-term care provider community, The Department of Public Safety, the Long-Term Care Ombudsman, and others to improve monitoring and enforcement of life, health, and safety regulations for all long-term care programs in Alaska.

Thank you for this opportunity to apply for this grant. I am looking forward to working with you and the CMS project team as we build this model program to protect and serve vulnerable children and adults in care.

Sincerely yours,

Handwritten signature of Frank H. Murkowski in cursive.
Frank H. Murkowski
Governor

cc: Joel Gilbertson, Commissioner, Department of Health and Social Services

Change Record Detail - Multiple Scenarios With Description

Department of Health and Social Services

Component: Adult Public Assistance (222)

RDU: Public Assistance (73)

Change Record Title	Trans Type	Totals	Personal Services	Travel	Contractual	Supplies	Equipment	Land/ Buildings	Grants Claims	Misc.	Positions		
											PFT	PPT	NP
***** Changes From FY2004 Management Plan To FY2005 Governor *****													
Assisted Living Home Residents' Subsidies Transferred to SDS Medicaid & SDS Protection, Comm Svcs & Admin	Trout	-1,236.5	0.0	0.0	0.0	0.0	0.0	0.0	-1,236.5	0.0	0	0	0
1004 Gen Fund		-1,236.5											

This change record transfers \$1,236.5 from the Adult Public Assistance (APA) component to the SDS Medicaid & Protection, Comm Svcs & Admin components, Senior and Disability Services RDU for General Relief Assisted Living Home Subsidies

APA recipients living in assisted living facilities contribute all but \$100 of their monthly income towards their cost-of-care. The \$100 allowance is for personal needs. The difference between an individual's monthly cost-of-care in the facility and the individual's income is paid by a combination of state general funds and federal Medicaid matching funds. This proposal would reduce APA payments to residents of assisted living facilities to \$100 per month effective July 1, 2004.

The majority of assisted living facility residents also receive Medicaid waiver services. For individuals who receive Medicaid waiver services, the difference between the resident's cost-of-care and the reduction in their monthly income would be cost shifted to Medicaid, reducing the need for state general funds for these individuals by approximately 58%. \$1,623.3 of the total \$2,595.8 savings in APA payments will need to be transferred to the Division of Senior and Disability Services (DSDS) and the Division of Behavioral Health (DBH) to offset the resulting increase in expenditures that will be need to be paid to assisted living facilities as the state's share of an individual's cost of care when their income is reduced.

This is a Medicaid refinancing strategy and has no financial impact to individuals.

Potential savings are calculated as follows:

- \$2,595.8 Projected APA component savings
- (943.9) Transfer out APA GF savings to fund the cost of care for non-Medicaid waiver recipients (\$395.8 to DBH and \$548.1 to DSDS PCSA)
- (688.4) Transfer out APA GF savings to fund the cost of care for Medicaid waiver recipients (\$0.0 to DBH and \$688.4 to DSDS Medicaid)
- \$ 963.5 Net GF Savings ("Medicaid Refinancing" Reimbursement for Medicaid waiver recipients)

Note: DSDS will also need to incorporate federal reimbursement for the Medicaid portion into their budget components. Will require regulation changes, EIS programming, staff training and client & provider education.

#1

Change Record Detail - Multiple Scenarios With Description

Department of Health and Social Services

Component: Adult Public Assistance (222)

RDU: Public Assistance (73)

Change Record Title	Trans Type	Totals	Personal Services	Travel	Contractual	Supplies	Equipment	Land/ Buildings	Grants Claims	Positions			
										Misc	PFT	PPT	NP
..... Changes From FY2004 Management Plan To FY2005 Governor													
Refinance the Cost for Individuals Residing in Assisted Living Facilities		-963.5	0.0	0.0	0.0	0.0	0.0	0.0	-963.5	0.0	0	0	0

1004 Gen Fund -963.5

This change record deletes \$963.5 from the Adult Public Assistance (APA) component representing the net GF savings from Medicaid Reimbursement for Medicaid Waiver recipients.

APA recipients living in assisted living facilities contribute all but \$100 of their monthly income towards their cost-of-care. The \$100 allowance is for personal needs. The difference between an individual's monthly cost-of-care in the facility and the individual's income is paid by a combination of state general funds and federal Medicaid matching funds. This proposal would reduce APA payments to residents of assisted living facilities to \$100 per month effective July 1, 2004.

The majority of assisted living facility residents also receive Medicaid waiver services. For individuals who receive Medicaid waiver services, the difference between the resident's cost-of-care and the reduction in their monthly income would be cost shifted to Medicaid, reducing the need for state general funds for these individuals by approximately 58%. \$1,623.3 of the total \$2,595.8 savings in APA payments will need to be transferred to the Division of Senior and Disability Services (DSDS) and the Division of Behavioral Health (DBH) to offset the resulting increase in expenditures that will be need to be paid to assisted living facilities as the state's share of an individual's cost of care when their income is reduced.

This is a Medicaid refinancing strategy and has no financial impact to individuals.

Potential savings are calculated as follows:

- \$2,595.8 Projected APA component savings
- (943.9) Transfer out APA GF savings to fund the cost of care for non-Medicaid waiver recipients (\$395.8 to DBH and \$548.1 to DSDS)
- (688.4) Transfer out APA GF savings to fund the cost of care for Medicaid waiver recipients (\$0.0 to DBH and \$688.4 to DSDS)
- \$ 963.5 Net GF Savings Decrement ("Medicaid Refinancing" Reimbursement for Medicaid waiver recipients)

Note: DSDS will also need to incorporate federal reimbursement into their budget components.

Will require regulation changes, EIS programming, staff training and client & provider education.

HC

Change Record Detail - Multiple Scenarios With Description

Department of Health and Social Services

Component: Senior and Disabilities Medicaid Services (2662)

RDU: Senior and Disabilities Services (487)

Change Record Title	Trans Type	Totals	Personal Services	Travel	Contractual	Supplies	Equipment	Land/ Buildings	Grants Claims	Positions			
										Misc	PFT	PPT	NP
***** Changes From FY2004 Management Plan To FY2005 Governor *****													
Assisted Living Home Residents' Subsidies transferred from Adult Public Assistance	Trin	688 4	00	00	00	00	00	00	688 4	00	0	0	0

1003 G/F Match

688 4

This change record transfers \$688 4 from the Adult Public Assistance (APA) component to the SDS Medicaid component for General Relief Assisted Living Home Subsidies

APA recipients living in assisted living facilities contribute all but \$100 of their monthly income towards their cost-of-care. The \$100 allowance is for personal needs. The difference between an individual's monthly cost-of-care in the facility and the individual's income is paid by a combination of state general funds and federal Medicaid matching funds. This proposal would reduce APA payments to residents of assisted living facilities to \$100 per month effective July 1, 2004.

The majority of assisted living facility residents also receive Medicaid waiver services. For individuals who receive Medicaid waiver services, the difference between the resident's cost-of-care and the reduction in their monthly income would be cost shifted to Medicaid, reducing the need for state general funds for these individuals by approximately 50%. \$1,623.3 of the total \$2,595.8 savings in APA payments will need to be transferred to the Division of Senior and Disability Services (DSDS) and the Division of Behavioral Health (DBH) to offset the resulting increase in expenditures that will be need to be paid to assisted living facilities as the state's share of an individual's cost of care when their income is reduced.

This is a Medicaid refinancing strategy and has no financial impact to individuals.

Potential savings are calculated as follows:

\$2,595.8 Projected APA component savings
 (- 943.9) Transfer out APA GF savings to fund the cost of care for non-Medicaid waiver recipients (\$395.8 to DBH and \$548.1 to DSDS PCSA)
 (- 688.4) Transfer out APA GF savings to fund the cost of care for Medicaid waiver recipients (\$0.0 to DBH and \$688.4 to DSDS Medicaid)
 \$ 963.5 Net GF Savings ("Medicaid Refinancing" Reimbursement for Medicaid waiver recipients)

Note: DSDS will also need to incorporate federal reimbursement for the Medicaid portion into their budget components. Will require regulation changes, EIS programming, staff training and client and provider education.

#3

Change Record Detail - Multiple Scenarios With Description

Department of Health and Social Services

Component: Protection, Community Services and Administration (2673)

RDU: Senior and Disabilities Services (487)

Change Record Title	Trans Type	Totals	Personal Services	Travel	Contractual	Supplies	Equipment	Land/Buildings	Grants Claims	Misc	Positions		
											PFT	PPT	NP
..... Changes From FY2004 Management Plan To FY2005 Governor													
Assisted Living Home Residents' Subsidies transferred from Adult Public Assistance	Trin	548 1	0 0	0 0	0 0	0 0	0 0	0 0	548 1	0 0	0	0	0

1004 Gen Fund 548 1 This change record transfers \$548 1 from the Adult Public Assistance (APA) component to the SDS Protection, Comm Svc & Admin component for General Relief Assisted Living Home Subsidies.

APA recipients living in assisted living facilities contribute all but \$100 of their monthly income towards their cost-of-care. The \$100 allowance is for personal needs. The difference between an individual's monthly cost-of care in the facility and the individual's income is paid by a combination of state general funds and federal Medicaid matching funds. This proposal would reduce APA payments to residents of assisted living facilities to \$100 per month effective July 1, 2004.

The majority of assisted living facility residents also receive Medicaid waiver services. For individuals who receive Medicaid waiver services, the difference between the resident's cost-of-care and the reduction in their monthly income would be cost shifted to Medicaid, reducing the need for state general funds for these individuals by approximately 58%. \$1,623 3 of the total \$2,595 8 savings in APA payments will need to be transferred to the Division of Senior and Disability Services (DSDS) and the Division of Behavioral Health (DBH) to offset the resulting increase in expenditures that will be need to be paid to assisted living facilities as the state's share of an individual's cost of care when their income is reduced.

This is a Medicaid refinancing strategy and has no financial impact to individuals.

Potential savings are calculated as follows:

- \$2,595 8 Projected APA component savings
- (943 9) Transfer out APA GF savings to fund the cost of care for non Medicaid waiver recipients (\$395 8 to DBH and \$548 1 to DSDS PCSA)
- (688 4) Transfer out APA GF savings to fund the cost of care for Medicaid waiver recipients (\$0 0 to DBH and \$688 4 to DSDS Medicaid)
- \$ 963 50 Net GF Savings ("Medicaid Refinancing" Reimbursement for Medicaid waiver recipients)

Will require regulation changes, EIS programming, staff training and client and provider education

#4

MEMORANDUM

April 21, 2005

TO: Janet Clark, Director of Administrative Services
Dept. Health & Social Services

FROM: John Bitney

SUBJECT: Changes to "Assisted Living" Amendment – HB193/SB125

This is to follow up with you in writing based on the discussion at this morning's House HESS Committee Working Group on HB193. As you know, Amy Oney proposed a modification to the amendment and this is to provide a written description of the modification.

Amendment to Amendment 24-GH1016\G.2, Mischel, 4/19/05 (by Anderson, Cissna, and McGuire):

"On page 1, line 21, delete '\$28' and insert '\$18.64'."

This change lowers the minimum daily reimbursement rate to the assisted living home for room and board from the current proposal of \$28. For people who are not in the APA refinance, assisted living homes would still have to reduce billings by \$264/month for these people (ie. "300 percenters").

This modification is intended to reduce the funding requirements on the part of the State in order to address the needs of assisted living homes that resulted from the APA refinance (approved in FY05).

At this point, that is the only change being proposed to the amendment pending before the House HESS Committee. (Please know that Ms. Oney does have some questions regarding licensing language in the original version of the bill. We are hoping to discuss these questions with Virginia Stonkus at the earliest convenience.)

Additionally, we would like to offer some responses and suggestions to the Technical Concerns about Proposed Amendments to HB 193 distributed this morning by DHSS.

- 1) Legislative drafting has proposed placing the amendment under AS 47.07.070. If placing a new statute in a section of statute that is subject to litigation, we would ask if there is a different section of statute that would serve the Department better. For example, the current AS47.07.070(c) establishes exceptions by citing other areas of statute. Pending review by legislative drafting services, could .070 reference another area of statute where the amendment is made?
- 2) Hopefully the change to the amendment made above will help address the concern regarding the reversal of APA payment reductions. Again, the modification would establish a lower minimum reimbursement rate.
- 3) The last bullet point addresses whether assisted living homes should receive an \$8.65 per day raise for people above the APA income level. By the Department's direction, the homes could still report this amount received as "Third Party Insurance Claim" on the First Health Billing System and reduce the overages that

could occur. The Department would be responsible for adjusting the individual PA's for each applicable person so that no over billing would exist. The key in making this billing adjustment is that the Assisted Living Homes would not be responsible for collecting, on behalf of the Department, an unknown amount from their residents. Instead, the \$264 is a definite amount they can account for in their books and receivable accounting system.

Finally, we would ask you to consider the following clarification regarding the "Room and Board" liability issue. All existing cost reimbursement contracts for assisted living homes shall be officially reallocated to reduce room and board expenses versus direct costs in order to reflect a corresponding decrease of room and board liabilities, and an increase of direct care costs to reflect an \$8.65/day reimbursement rate.

Please don't hesitate to contact either myself (317-0038 cell) or Ms. Oney (301-0111 cell) for any additional information or clarification.

Northern Assisted Living Association

109 East 5th Ave
North Pole, AK 99705

To our Honorable, Senators & Representatives

Due to a change the Pioneer Homes were designated as an assisted living facility by the State of Alaska in 2004 and can now receive choice waiver payments for the residents who live there. The Pioneer Homes Projected Profit and Loss Statement were completed and approved by the Department of Health and Social Services, Division of Senior and Disability Services just recently and the Pioneers Homes will not be required to submit new Projected Profit and Loss Statement for at least two years. A large percentage of the private assisted living homes are required to resubmit new Projected Profit and Loss Statement in July of 2005. It is my understanding that the Department of Health and Social Services, Division of Senior and Disability Services will be instituting a cap of \$154,600.00 for total personnel cost for all 5 bed assisted living homes that will be submitting new Projected Profit and Loss Statement. Because the Pioneers Home has already received approval of their Projected Profit and Loss Statement prior to the cap taking effect the only ones who will be adversely affected will be the private assisted living homes that have to resubmit their Projected Profit and Loss Statements

The private assisted living homes will not be able to stay in business with the inequity that exists between the amount approved by the Division of Senior and Disability Services for the Pioneers Homes versus the cap imposed on the private assisted living homes.

We did a comparison of a 5 bed assisted living home with the Department of Senior and Disability Services personnel cost cap and the Fairbanks Pioneer Homes approved personnel cost and we compared the cost per employee.

As you can see there is a sizable difference.

Comparison of cost per resident

	Total Cost Allowed by DSDS	Number of Residents Per facility	Cost per Resident
Pioneer Home Fairbanks *	4,992,818.00	97	51,472.35
Private 5 Bed Assisted Living Home	154,600.00	5	30,520.00

* Taken from the Pioneers Homes approved Projected Profit and Loss Statement

Comparison of cost per employee

	Total Cost Allowed by DSDS	Number of Employees Per facility	Cost per Employee
Pioneer Home Fairbanks*	4,992,818.00	111.6	44,738.51

Private 5 Bed Assisted Living Home	154,600.00	7.5	20,346.33
------------------------------------	------------	-----	-----------

*Taken from the Pioneers Homes approved Projected Profit and Loss Statement

The Department of Senior and Disability Services approved cost per resident at the Fairbanks Pioneers Home is 41% higher than what will be allowed by the Department of Senior and Disability Services for private assisted living homes. Also, the difference between the Department of Senior and Disability Services approved cost per employee at the Fairbanks Pioneers Home compared to the cost for an employee in the private assisted living home is 54% higher for the Pioneer Home employees than a private assisted living home employee. Not only is the cost higher but also the Pioneer Homes has the ability to pick and choose the type of resident they will accept from their waiting list.

The Pioneer Homes do not provide services for the high level of care residents such as quadriplegics. The resident that require a higher level of care will be provided by the private assisted living homes and will increased the burden on the private assisted living homes.

In essence the Pioneer Homes take the cream of the crop and leave the harder more demanding cases to the private assisted living homes.

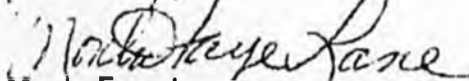
These unconscionable differences created by the Department of Health and Social Services, Division of Senior and Disability Services will force the private assisted living homes out of business. The Department of Health and Social Services, Division of Senior and Disability Services are also creating a socialist system by which the government will be the only provider of assisted living at a cost to the taxpayer well in excess of private business.

Imposing a cap on private assisted living homes while allowing the State of Alaska Pioneer Homes to receive 41% to 54% higher allowance must be viewed as an intent by the State of Alaska to force private business out of business and this results in unjust taking by the State of Alaska.

What we are asking for is equality. If we apply the same standards then the private assisted living homes should have the amount allowed for their personnel costs increased by 54% to remain competitive with the State of Alaska Pioneers Homes.

We are looking forward to your written response

Thank You,



Monta Fayu Lane

President, Northern Assisted Living Association

Northern Assisted Living Association
109 East 5th Ave
North Pole, AK 99705

APR 25 2005

April 20, 2005

Dear Representative Wilson,

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The private assisted living homes will not be able to stay in business with the inequity that exists between the amount approved by the Division of Senior and Disability Services for the Pioneers Homes versus the cap imposed on the private assisted living homes.

We did a comparison of a 5 bed assisted living home with the Department of Senior and Disability Services personnel cost cap and the Fairbanks Pioneer Homes approved personnel cost and we compared the cost per employee.

As you can see there is a sizable difference.

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Comparison of cost per employee

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Not only is the cost higher but also the Pioneer Homes has the ability to pick and choose the type of resident they will accept from their waiting list. The Pioneer Homes do not provide services for the high level of care residents such as quadriplegics. The resident that require a higher level of care will be provided by the private assisted living homes and will increase the burden on the private assisted living homes. In essence the Pioneer Homes take the cream of the crop and leaves the harder more demanding cases to the private assisted living homes.

These unconscionable differences created by the Department of Health and Social Services, Division of Senior and Disability Services will force the private assisted living homes out of business. The Department of Health and Social Services, Division of Senior and Disability Services are also creating a socialist system by which the government will be the only provider of assisted living at a cost to the taxpayer well in excess of private business.

Imposing a cap on private assisted living homes while allowing the State of Alaska Pioneer Homes to receive 41% to 54% higher allowance must be viewed as an intent by the State of Alaska to force private business out of business and this results in unjust taking by the State of Alaska.

We are asking for equality. If we apply the same standards then the private assisted living homes should have the amount allowed for their personnel costs increased by 54% to remain competitive with the State of Alaska Pioneer Homes.

We are looking forward to your written response.

Thank You,

Monta Faye Lane

Monta Faye Lane
President,
Northern Assisted Living Association

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, Maryland 21244-1850



Center for Medicaid and State Operations/Survey & Certification Group

MAR 21 2005

Frank Murkowski, Governor
Office of the Governor of Alaska
P.O. Box 11001
Juneau, AK 99811

RECEIVED

MAR 25 2005

Division of Public Health

Dear Governor Murkowski:

I would like to extend my sincere congratulations to the State of Alaska on your successful application and willingness to participate in the Centers for Medicare & Medicaid Services (CMS) Background Check Pilot Program. As you are aware, CMS has approved your state to receive an award of \$ 4,899,844 to fund the implementation of this important pilot.

This three-year pilot will help to evaluate the impact of conducting national background checks on new workers to reduce abuse and neglect in long-term care facilities. The pilot also will help to determine a variety of best practices in conducting efficient, effective and economical state and national background checks.

On March 9-10, 2005, representatives from the seven pilot states (Alaska, Idaho, Illinois, Michigan, Nevada, New Mexico and Wisconsin) attended the CMS Background Check Pilot kick-off conference in Baltimore. The attendees shared information regarding their state's progress in implementing the pilot program and established important connections and networks for discussing background check issues.

Please be assured that CMS is deeply committed and strongly supports Alaska's participation and the pilot's successful implementation overall. We appreciate your continued support of the pilot and urge you to assist the Department of Health & Social Services in overcoming the challenges inherent in implementing a state program (e.g., securing necessary state authority, recruiting qualified staff, establishing partnerships and collaboration among state agencies, etc.). CMS will also work with Alaska to creatively resolve any potential policy issues or challenges that may be a barrier in the implementation of your state's pilot program.

Once again, my congratulations on Alaska's selection and willingness to participate in the CMS Background Check Pilot Program.

Sincerely,

A handwritten signature in black ink that reads "Thomas E. Hamilton". The signature is written in a cursive style.

Thomas E. Hamilton
Director

Cc: Virginia Stonkus, Alaska Department of Health & Social Services ✓

**Position Paper on House Bill 193 Offered by Rod Betit, President ASHNHA
Before House HESS Standing Committee
March 15, 2005**

Mr. Chairman, members of the Committee, I am Rod Betit, President of the Alaska State Hospital & Nursing Home Association. ASHNHA's membership includes all but one of the 31 hospitals and nursing homes throughout the State.

This legislation is directed at consolidating the Department's many licensing responsibilities, introducing more stringent requirements in some provider categories, and strengthening the criminal background investigation system for certain employees of these regulated providers.

ASHNHA generally supports the Department in its efforts to bring greater administrative efficiency and consistency across its broad array of licensing responsibilities, and to strengthen oversight in some areas. ASHNHA's members have been under stringent licensing and annual inspection requirements for many years. While ASHNHA members have great experience with the tedious, burdensome nature of these review processes, others will certainly find them onerous if they have not been exposed to them before.

Nonetheless, we believe that the "oversight" role of the Department is one of the most important functions state government performs so long as the performance standards are reasonable, the administrative remedies implemented by the Department are fair, and there is a healthy measure of due process for the providers and individual(s) being impacted by the Department's decisions.

While we support the Department's efforts to bring greater consistency and improved efficiency to this area, we have problems with this bill as written.

We recommend the Committee amend a few sections of the bill for purposes of clarifying the policy outcome the Department is attempting to achieve. Our concerns include the following sections:

Sec. 47.32.140. (a) Page 8, Lines 29-03 on Page 9:

- This section introduces a new remedy that the Department can employ when there is likelihood of immediate danger to an individual(s) being served. In those situations this new Section permits the Department to terminate a provider with no hearing opportunity, no court review, and no opportunity to correct the "perceived violation". Current law (AS 18.20.360) requires the Department to petition the Superior Court for appointment of a temporary manager when "immediate danger" is present. This new language would allow the Department to bypass that step and simply appoint a temporary manager without court review of any kind.
- This new language introduces a high stakes licensing remedy with very serious implications for all concerned. Given the lack of any recent need to take this action, we question the advisability of exposing the State to the magnitude of liability this could produce.

Position Paper on House Bill 193 Offered by Rod Betit, President ASHNHA
Before House HESS Standing Committee
March 15, 2005

- If this Committee believes this new remedy is needed we recommend hospitals and nursing homes be excluded given effectiveness of existing provisions of law, and lack of any evidence this is needed.
- If the Committee believes the department should have authority to take this extraordinary action it should only be with the express approval of the Commissioner, in writing, with a clear written finding that continued care by the provider would be more injurious than attempting to work with the provider to correct the deficiencies while banning any new admissions to the program.
- Further, if this action is taken by the Department it must be clear who is responsible for the care of the patients/residents/children from the moment the license is revoked. Clearly the provider would no longer have legal authority to direct the care of the impacted individuals. The Department would have to immediately designate a temporary manager of the facility and assume all day-to-day operational responsibilities, financial liabilities for operation of the program and liability for any care provided until the situation is resolved. This is very tricky business with a great deal of liability for the State. I have actually done this in both Alaska and Utah and I can tell you this is no place for the faint of heart.
- In the case of hospitals and nursing homes, if the Department chooses to close a facility and transfer the patients it must be clear that the responsibility rests with the State to achieve this without harm to any of the residents. This would include finding appropriate beds, arranging medical transportation appropriate for each patient's medical condition, coordinating with families/guardians, and monitoring of the patients health status throughout the transfer process until the patients/residents are settled into their new facility. Again, this is a monumental task.
- Back in the late 1970's while employed by the Alaska Dept of Health & Social Services I actually exercised a "cease and desist" order against the management of a Fairbanks nursing home. I personally took possession of the facility. I had accompanying me additional administrative staff, extra nursing staff from around the State, and law enforcement to maintain order during the transition. This "takeover" had a successful outcome some weeks later as the facility was sold to Fairbanks Memorial Hospital and has had a solid patient care reputation ever since. However, there were many points at which something could have gone wrong and the State could have been liable.
- While in Utah I exercised similar closure orders against 4 additional facilities with reasonable outcomes. In each case an expedited court review was conducted and the State's justification to take the action was upheld. In each of these cases I installed a Temporary Manager reporting directly to me, and we proceeded to transfer all patients to other facilities as quickly as could be arranged. This usually took 7 to 14 days to complete safely. As the equivalent of the Commissioner of DHSS in Alaska for all health matters, I was personally responsible for these actions until completed. Even with court involvement, State liability was potentially huge for any mishaps in patient care.
- The State has time to refine when and how a provision like this would be used. ASHNHA strongly recommends this provision not include nursing homes and hospitals until such time the Department can work with ASHNHA to further refine the idea. We are quite fortunate to have a very competent, thoughtful Commissioner at DHSS who could lead us through this process. Given the excellent track record of Alaska nursing homes and hospitals we do not see any risk in deferring action on this part of the legislation for hospitals and nursing homes.

Position Paper on House Bill 193 Offered by Rod Betit, President ASHNHA
Before House HESS Standing Committee
March 15, 2005

SEC 47.32.170(a) Page 13, Lines 16-18:

ASHNHA understands this provision's primary goal is to provide immunity to the Department and its employees for licensing actions taken. While it might be appropriate to provide immunity to employees and agents, ASHNHA does not agree that the State should be immune from compensating for economic consequences to a provider if a Departmental action was ultimately found to be excessive in the courts. Likewise, the State should not be immune from compensating for any harm suffered by a patient as a direct result of fallout from a license revocation action. This section should be amended to clearly state that.

With respect to protecting employees, the Commissioner or any DHSS employee can be sued in their personal capacity for any harm suffered to patients, loss of pay to employees, loss of revenue to contractors or vendors, economic impact on a provider, etc. This language may be of little help to shield these employees from those forms of personal liability even when their actions are sound. In these cases the employees might have to obtain private counsel at great expense just to prove the action they took was justified. To avoid this you may want to consider adding language that permits the State to pay for private legal counsel for the Commissioner and key employees if they are sued in their personal capacity. Generally, state employment rules do not provide this coverage leaving the employees to pay for their own legal counsel to defend themselves when a personal action is brought, and the AG is unsuccessful in redirecting it to their professional capacity. However this protection should stop short of covering any damages awarded by a court if the employee is found guilty of operating outside the scope of their professional authority and/or the scope of state law.

SEC 47.32.900(2)(A) Page 15, Lines 25-03 on page 16:

This section defines an "Assisted Living Home" but the definition is out of date and needs to be clarified. For example, under this definition it does not appear permissible to accept a resident that is incapable of managing their own medications or that requires any direct nursing care. The current definition speaks only to people who require assistance with "ADL's" which by definition does not include any direct medical care or medication management. Yet, assisted living homes throughout the country have increasingly taken this type of patient creating a liability for the State when harm occurs. Absent legislative guidelines, practice in this category of care can become a "slippery slope" where residents are not transferred to a higher level of care when appropriate.

Another common indicator of a person's ability to live independently in an assisted living home is their physical capacity to egress the building unassisted in the event of a fire. There is no mention of this standard in the definition so it is unclear whether the Legislature means to allow physically incapacitated persons to be in assisted living settings, and if so what additional requirements must be met. Many states have multiple levels of assisted living standards to address this with each level requiring higher staffing ratios with more specialized training. Even with these precautions these states require at some point that a resident be transferred to a nursing home when the needs become too great. This section needs to be updated to address these concerns.

**Position Paper on House Bill 193 Offered by Rod Betit, President ASHNHA
Before House HESS Standing Committee
March 15, 2005**

Again, ASHNHA believes that the changes embodied in HB 193 represent an important step in improving the licensing responsibilities of the Department and we generally support it; however, we believe the above concerns should be addressed before the bill leaves this Committee to make its intent clear to all concerned.

Mr. Chairman that concludes my comments. I would be happy to respond to questions.

Contact Info:

Rod Betit, President ASHNHA
426 Main St, Juneau 586-3881



RECEIVED

OCT 25 2004

Division of Public Health

October 22, 2004

Don Brand
Division of Public Health
Dept of Health and Social Services
PO Box 110610
Juneau, AK 99811-0610

Dear Mr. Brand:

Job Ready, Inc. was begun in response to a need for employment services which were individualized to meet the needs of consumers. Job Ready began as a sole proprietorship then incorporated in 1996. Job Ready is a privately owned corporation. Job Ready, Inc. has provided community-based services in the Anchorage area since 1989. Initially, Job Ready provided employment services for individuals referred by the Division of Vocational Rehabilitation. In 1995, services were expanded to include individuals referred by Veteran's Affairs. In 1997, Job Ready, Inc. began providing personal care attendant services in Anchorage. In 1998, employment services were expanded to individuals who are welfare recipients. In addition, personal care attendant services were begun in Fairbanks in 1998. Job Ready, Inc. currently maintains offices in Anchorage, Wasilla, Fairbanks Delta Junction, Homer, Cordova, Soldotna and Seward. There are currently over 650 full and part time staff members making us the 30th largest private employer in the state of Alaska. In January, 2004 Job Ready, Inc. changed its name to READY CARE. The corporate name will continue to be Job Ready, Inc, doing business as: READY CARE. The name change reflects the broad spectrum of services we provide.

READY CARE has developed a reputation in the represented communities as an organization "who gets the job done." READY CARE works closely with the Division of Vocational Rehabilitation, Veterans Affairs, Division of Public Assistance, Division of Senior and Disability Services and local non-profits to provide a broad array of home and community-based services.

READY CARE'S mission is services are based on the values of Individualized Assistance, Honoring Personal Choice and Dealing with Issues with a Sense of Urgency.

READY CARE is aware of the Department's effort to obtain funding for a background check demonstration project.

There have been a number of situations where employees are employed by more than one agency and in those cases, multiple finger prints have

Anchorage
600 Barrow St., Ste. 404
Anchorage, AK 99501
Ph: 907 258-3498
Fax: 907 279-0171
800 918-3045

Mat-Su
165 E. Parks Highway, Ste. 104
Wasilla, AK 99654
Ph: 907 357-5627
Fax: 907 357-5628

Fairbanks
542 4th Avenue, Ste. 234
Fairbanks, AK 99701
Ph: 907 456-4524
Fax: 907 456-5524

Soldotna
44539 Sterling Hwy., Ste. 206
Soldotna, AK 99669
Ph: 907 262-9400
Fax: 907 262-9422

Seward
216 4th Avenue
P.O. Box 88
Seward, AK 99603
Ph: 907 224-4424
Fax: 907 224-4432

Homer
332 E. Pioneer Avenue, Ste. 2
Homer, AK 99603
Ph: 907 235-7683
Fax: 907 235-7684

Cordova
PO Box 18
Cordova, AK 99574
Ph: 907 424-7935
Fax: 907 424-7936

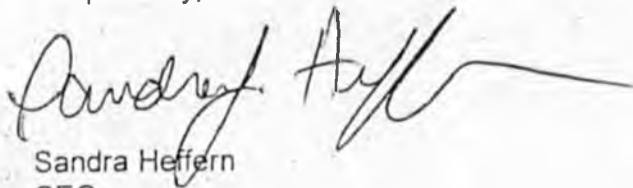
Delta Junction
2955 Aican Highway
Delta Junction, AK 99737
Ph: 907 695 3289
Fax: 907 695-3290

Glennallen
Mile 111 Richardson Hwy
Glennallen, AK 99588
Ph: 907 822-4211
Fax: 907 822-4131

been required by current state regulation. This has caused a burden in some cases for not only the employee but also the client. It also has an increased cost for the employee and the agency. The possibility of a protocol that would be enacted that would require just one set of finger prints rather than multiple sets would streamline the process, and ease the current burden placed upon the Department of Public Safety, the employee and employer(s), not to mention savings in costs and time and effort.

READY CARE is certainly open to working with the Department in developing, and hopefully, implementing a consolidated and streamlined criminal history investigation and fitness determination program.

Respectfully,

A handwritten signature in cursive script, appearing to read "Sandra Heffern", with a long horizontal flourish extending to the right.

Sandra Heffern
CEO

READY CARE, a Division of Job Ready, Inc.



U.S. Department of Justice

United States Attorney
District of Alaska

RECEIVED

Department of Health

Federal Building & U.S. Courthouse
222 West 7th Avenue, #9, Room 253
Anchorage, Alaska 99513-7567

Commercial: (907) 271-5071
Fax Number: (907) 271-3224

October 12, 2004

Elizabeth Vazquez
Quality Assurance Coordinator
State of Alaska
Department of Health & Social Services
Commissioner's Office
Suite 902
3601 C Street - Frontier Building
Anchorage, Alaska 99503

Re: Pilot Program for Background Checks

Dear Ms. Vazquez:

I am aware of the effort by Alaska's Department of Health & Social Services to be selected for the national pilot program to improve background checks for the workforce that provides services and support to Alaska's elderly and disabled population. I fully support the Department's efforts in this regard, and believe that funding for this effort is essential to providing protection to Alaska's elderly and disabled population.

Because a large portion of the services provided to elderly and disabled Alaskans are provided through in-home care, and because Alaska has one of the fastest growing elderly populations in the country, I believe it is imperative that efforts be undertaken to ensure the safety of recipients. One of the most fundamental and effective ways this can be achieved is by performing background checks on potential care givers. In addition to providing assurance that those in need will be protected, I believe this program will help ensure that the large percentage of Medicaid funds allocated to Alaska will be properly spent.

We appreciate and strongly support the Department's effort to be selected for this program, and its efforts in ensuring that Alaskans receive the full value of Medicaid and Medicare funds spent in our state. We have enjoyed working with the Department in this effort, and look forward to a continued close working relationship in the future.

Very truly yours,

TIMOTHY M. BURGESS
United States Attorney

Sitka Tribe of Alaska

Tribal Government for Sitka, Alaska



RECEIVED BY O.C.S.
10/11/04 11:44

October 11, 2004

To the Commissioner of Alaska Health and Social Services:

I am pleased to provide a letter of support for the proposed Federally Funded Criminal Background Check Pilot Project. As Sitka Tribe of Alaska provides an array of services to vulnerable persons, the use of criminal background checks is critical to assuring the safe and appropriate hire of employees in our community-based programs.

Successful funding of the project to consolidate and streamline the criminal investigation process is an important step in assuring quality services in Alaska's long-term care providers in Southeast Alaska and around the state. The project also involves standardizing criteria for identification and creating uniform procedures for information exchange, essential to assuring both timely and thorough information for providers.

An additional feature of the project involves standardized criteria for fitness to work in the field of long-term care. In addition to the criminal check, this additional evaluation will help assure that well-qualified staff is hired.

Given the nature of Alaska's transitory population and the fact that many long-term care employee applicants have been in the state only a short time, it is often difficult to obtain adequate reference information about a potential new hire. The proposed resource for criminal background checks and fitness evaluations will be extremely beneficial if not essential to abuse prevention. In addition, the project's proposal to provide a comprehensive abuse prevention training program that can be modified for Alaska's unique situation is commendable.

Over the years Sitka Tribe of Alaska has maintained a partnership with Office of Children's Services, and we have worked together in maintaining and improving standards, which promote quality services to our clients with a multitude of needs. I look forward to the implementation of the project, which should enhance our ability to recruit and hire the best employees to do the challenging work of long-term care.

Thank you for the opportunity to extend my wholehearted support for the Criminal Background Check Pilot Project.

Sincerely,

Louise Brady
Sitka Tribe of Alaska
Sitka, Alaska



State of Alaska

Department of Public Safety
Division of

Statewide Services

Frank H. Murkowski, Governor
William Tandeske, Commissioner

October 11, 2004

Richard Mandsager, Director
Division of Public Health
350 Main Street, Room 508
Juneau, Alaska 99801

Dear Mr. Mandsager,

Subject:

This letter is being provided to express the support of the Department of Health and Social Services (DHSS), Division of Public Health's (DPH's) proposal to establish a single administrative unit to oversee all aspects of the background check program across divisional and office boundaries within the DHSS.

Background:

The DHSS has determined that standards used to determine suitability for employment within the many programs they are required to license and/or monitor are dissimilar or not based in statute or regulation. Implementation of the DHSS/DPH proposal will result in the consistent screening of applicants to positions of authority over dependent citizens, and will consolidate the screening into one centralized location to further facilitate the consistent implementation of hiring standards.

While this program will certainly have a far-reaching effect on DHSS divisions, DPS is involved only to the extent of facilitating the efficient processing of fingerprint-based state and national criminal history background checks. Currently, background check results are being returned to over 450 businesses and government entities for employment or licensing purposes. Rolled inked or live scan fingerprint impressions are obtained by numerous private entities, and are submitted to the employer or licensing agency for submission to the Central Repository of Criminal History Records (the Criminal Records & Identification Bureau) at the Department of Public Safety. Due to time delays in the processing of these fingerprints, many agencies require preliminary name-based criminal history background checks of Alaska criminal history records.

Conclusion:

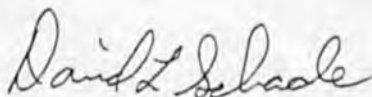
The Department of Public Safety supports DHSS/DPH's proposal to implement and consolidate an effective and efficient fingerprint-based criminal history records investigation and fitness determination program, as well as a number of enhancements to the current licensing and monitoring process. The Department of Public Safety will offer support and advice to the Division of Public Health (DPH) on the development and implementation of a system to streamline the fingerprint collection and fitness determination processes on prospective employees of long-term care facilities and providers who have direct access to patients. Technical staff will also assist in assuring that any live scan and card scan equipment obtained for this purpose meets state and national standards and technical specifications. The Department of Public Safety currently has the technology available to notify a licensing agency of a licensee's criminal justice contact subsequent to a fingerprint based background check, and will extend this technology to the Division of Public Health in support of this

Director's Office

5700 East Tudor Road - Anchorage, AK 99507 - Voice (907) 269-0202 - Fax (907) 269-4543

program. Successful implementation of this program will ultimately improve the efficiency of both departments, and will improve the Department of Public Health's ability to make consistent, informed licensing decisions.

Sincerely,



David L. Schade
Director, Division of Statewide Services
Alaska Department of Public Safety

Director's Office

5700 East Tudor Road - Anchorage, AK 99507 - Voice (907) 269-0202 - Fax (907) 269-4543

Oct-13-04 12:50

From

T-412 P.02/02 F-844

Maniilaq Association

P.O. Box 256
Kotzebue, Alaska 99752
(907) 442-3311

October 11, 2004

To the Commissioner of Alaska Health and Social Services:

I am pleased to provide a letter of support for the proposed Federally Funded Criminal Background Check Pilot Project. As Maniilaq Association provides an array of services to vulnerable persons, the use of criminal background checks is critical to assuring the safe and appropriate hire of employees in our community-based programs.

Successful funding of the project to consolidate and streamline the criminal investigation process is an important step in assuring quality services in Alaska's long-term care providers in Kotzebue and around the state. The project also involves standardizing criteria for identification and creating uniform procedures for information exchange, essential to assuring both timely and thorough information for providers.

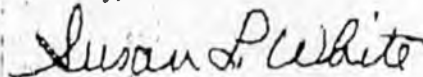
An additional feature of the project involves standardized criteria for fitness to work in the field of long-term care. In addition to the criminal check, this additional evaluation will help assure that well-qualified staff is hired.

Given the nature of Alaska's transitory population and the fact that many long-term care employee applicants have been in the state only a short time, it is often difficult to obtain adequate reference information about a potential new hire. In fact, there have been times that we have been unable to obtain background information in a timely manner which has compromised our ability to hire. The proposed resource for criminal background checks and fitness evaluations will be extremely beneficial if not essential to abuse prevention. In addition, the project's proposal to provide a comprehensive abuse prevention training program that can be modified for Alaska's unique situation is commendable.

Over the years, Maniilaq Association has maintained a partnership with Office of Children's Services, and we have worked together in maintaining and improving standards which promote quality services to our clients with a multitude of needs. I look forward to the implementation of the project which should enhance our ability to recruit and hire the best employees to do the challenging work of long-term care.

Thank you for the opportunity to extend my wholehearted support for the Criminal Background Check Pilot Project.

Sincerely,



Susan L. White, Director of Family Resources
Maniilaq Association

Member Villages

Ivinsappaal, Nunatching, Ipiatclitaq, Katynak, Kivaliriniq, Luvgviik, Qikiqtograk, Nauruaq, Nuurosk, Akuligaq, Ishiruaq, Tudgaq
Ambler, Buckland, Deering, Kiana, Kivalina, Kobuk, Kotzebue, Noatak, Noorvik, Selawik, Shungnak, Tr. Hope



2211 Arca Drive
Anchorage, Alaska 99508

(907) 277-6677

Fax (907) 272-2161

TTY (907) 258-2232

Website: www.arc-anchorage.org

info@arc-anchorage.org

Services

Arctic Resource Center

CE/QL Program

Care Coordination

Community Living Services

Deaf and Hard of Hearing Center

Family Services

Interpreter Referral Line

Mental Health Services

Nursing Services

Short Term Assistance
and Referral (STAR)

Student Living Center for the
Deaf and Hard of Hearing

Substance Abuse Treatment

Supported Employment

Supported Parenti

General

Advocacy

Espresso Shop

Information and Referral

Public Education

Pick-Up Service and
Donation Center

RECEIVED

OCT 11 2004

Division of Public Health

October 8, 2004

Don Brand
Division of Public Health
P.O. Box 110610
Juneau, AK 99811-0601

Dear Mr. Brand:

On behalf of The Arc of Anchorage I would like to support the Department's effort to obtain funding for the background check demonstration project. An essential component to mitigate the risk of abuse and neglect of people receiving long term care services in Alaska is an efficient and easy method to access and obtain timely background checks of potential providers of services to individuals with disabilities that we serve. The improvements in the background checks process that will occur as a result of this project will work toward that goal.

The Arc of Anchorage is pleased to work with the Department to develop and implement a consolidated and streamlined criminal history investigation and fitness determination program. This will assist us to meet our commitment to providing quality services to the individuals we serve in our licensed homes and assist us in hiring only qualified providers.

I strongly support the pilot project and believe it will make it easier to recruit and hire safe and well qualified staff once the program has been created and implemented. The abuse prevention training component is another sorely needed and welcome addition that will improve certification and licensing functions of the Department.

Sincerely,

Gwendolyn Lee
Executive Director



Alzheimer's
Resource of Alaska

October 7, 2004

Anchorage &
Statewide Services
1750 Abbott Road
Anchorage, AK 99507
phone 907-561-3313
fax 907-561-3315
Toll-free in Alaska
800-478-1080

Fairbanks Services
Regency Court Mall
P.O. Box 72791
Fairbanks, AK 99707
phone 907-452-2277
fax 907-457-3376

Juneau Services
3100 Channel Drive
Suite 19
Juneau, AK 99801
phone 907-586-6044
fax 907-586-6084

Mat-Su Valley Services
Trinity Barn Plaza
P.O. Box 4406
Palmer, AK 99645
phone 907-746-3413
fax 907-746-3412

www.alzaska.org

Dear grant review committee:

The Alzheimer's Disease Resource Agency of Alaska supports the effort of the Governor's Council on Disabilities and Special Education to obtain a grant for the background check pilot project.

Through our own experience with placing in-home respite workers for elderly clients, we are aware of the importance of doing everything possible to insure the safety of our elders. A thorough criminal background check of our employees is a vital component. This pilot program could help our state develop consistent practices in all agencies that provide care to vulnerable people. I hope that you will consider funding their grant proposal.

Sincerely,

A handwritten signature in cursive script that reads 'Melissa E. Mitchell'.

Melissa E. Mitchell
In-Home Services Manager
Alzheimer's Resource Agency of Alaska
Ph: 907-561-3313

FRA

FAIRBANKS RESOURCE AGENCY

805 Airport Road Fairbanks Alaska 99701

October 4, 2004

To Whom It May Concern:

I am pleased to provide a letter of support for the proposed Federally Funded Criminal Background Check Pilot Project. As Fairbanks Resource Agency provides an array of services to vulnerable persons, the use of criminal background checks is critical to assuring the safe and appropriate hire of employees in our community-based programs.

Successful funding of the project to consolidate and streamline the criminal investigation process is an important step in assuring quality services in Alaska's long-term care providers both in Fairbanks and around the state. The project also involves standardizing criteria for identification and creating uniform procedures for information exchange which are essential to assuring both timely and thorough information for providers.

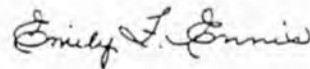
An additional feature of the project involves standardized criteria for fitness to work in the field of long-term care. In addition to the criminal check, this additional evaluation will help assure that well-qualified staff are hired.

Given the nature of Alaska's transitory population and the fact that many long-term care employee applicants have been in the state only a short time, it is often difficult to obtain adequate reference information about a potential new hire. The proposed resource for criminal background checks and fitness evaluations will be extremely beneficial if not essential to abuse prevention. In addition, the project's proposal to provide a comprehensive abuse prevention training program that can be modified for Alaska's unique situation is commendable.

Over the years, FRA has maintained a positive working relationship with the Community Care Licensing office, and we have appreciated your help in maintaining and improving standards which promote quality services to our clients with developmental disabilities. I look forward to the implementation of the project which should enhance our ability to recruit and hire the best employees to do the challenging work of long-term care.

Thank you for the opportunity to extend my wholehearted support for the Criminal Background Check Pilot Project.

Sincerely,



Emily F. Ennis
Executive Director

EFE/njm



Assets, Inc.

RECEIVED

Division of Public Health

Matthew J. Jones M.A., Executive Director

October 1, 2004

To whom it may Concern,

Our company, Assets Inc. is completely committed to providing safe and quality services to those individuals we support so I am extremely pleased that the Department of Health and Social Services is seeking to obtain funding for a background check demonstration project. We have worked closely and cooperatively with the department to ensure only qualified and appropriate individuals work with our vulnerable clientele. We would welcome the opportunity to continue this ongoing relationship by providing whatever assistance or collaboration is needed.

Recruiting and hiring only appropriate supports is an area we cannot afford even a single failure of the system. The department's efforts will increase the timeliness and effectiveness of this intensive effort. We strongly support the department's efforts in this project.

Sincerely,

A handwritten signature in dark ink, appearing to read "Matthew J. Jones", is written over a horizontal line.

Matthew J. Jones-M.A.
Assets Inc. Executive Director





Community Resources Inc

September 30, 2004
Anchorage, Alaska

Regional Centers

South Central Region
540 W. International Airport Rd
Anchorage, AK 99518-1110
(907) 561-5335
1-800-478-0078
Fax: (907) 561-7429

Mat-Su Valley Region
851 E. Westpoint Drive, Suite 306
Wasilla, AK 99654
(907) 357-3750
Fax: (907) 357-3751

Dillingham/Bristol Bay Region
P.O. Box 715
Dillingham, AK 99576-0715
1-800-478-2117
Fax: (907) 842-5007

Kodiak/Aleutian Region
1623 Mill Bay Road
Kodiak, AK 99615-6235
(907) 486-5011
Fax: (907) 486-5019

Seward/Resurrection Bay Region
P.O. Box 1933
Seward, AK 99664
(907) 224-2063
Fax: (907) 224-2063

Juneau/Southeast Region
9109 Mendenhall Mill Rd., Ste 5D
Juneau, AK 99801
(907) 463-3602
Fax: (907) 463-3605

Barrow/North Slope Region
P.O. Box 2123
Barrow, AK 99723
(907) 852-3151
Fax: (907) 852-2855

www.hopealaska.org

Stephen P Lesko
Executive Director

Roy T Scheller
Deputy Executive Director

To Whom It May Concern:

Hope Community Resources, Inc. is the largest provider of community supports for individuals and families who experience disabilities, in the State of Alaska. With a main office in Anchorage, there are an additional seven regional offices located in Kodiak, Seward, Kenai/Soldotna, Barrow, Dillingham, Juneau, and the Mat-Su Valley. Hope supports over 750 people throughout these regions with a multiplicity of individualized, family driven, wrap-around supports.

It has come to my attention that the Department is seeking funding to obtain resources in order to establish a background check demonstration project coordinated with abuse prevention training. Hope Community Resources fully endorses this application and supports the Departments efforts to do so without qualification.

In order to establish a program of true quality, life safety and health concerns are the building blocks of all quality assurance. This starts with the hiring of excellent, qualified staff and involves criminal background histories, fingerprints and a series of reference checks. The restructure and standardization of our current system, as conceived by the Department, along with proposed strategies and abuse prevention training, would give our community programs a more comprehensive and expeditious approach in the hiring process.

Hope is, and has always been, totally committed to the provision of quality community services which includes highly qualified and fit staff. This project will serve to strengthen that commitment to our families.

Hope has always enjoyed an excellent, cooperative relationship with the Department in the interests of those we mutually support. We would be eager to continue this relationship with the Criminal Background Check Pilot Program, as proposed. I commit my time and that of my staff to this project in any way that we can assist in making it a reality. I personally applaud the Department for their initiative in pursuit of this highly coordinated, comprehensive system that will benefit all of our community programs.

I cannot adequately stress the importance of this proposal and its positive impact and quantifiable ramifications on our community programs. I believe, after a review of the project, that Hope will be able to better assure our

families and individuals who choose our supports that all of our staff are not only extremely qualified to do the job, but are also "safe hires." The relative newness of our Alaskan system, in comparison to those of the Lower 48, our geographical isolation, time differences and other key factors make the retrieval of standardized information cumbersome at best, and time consuming.

I would urge you to fully fund this project as a critical component in the delivery of our community programs in respect to the vital components of health and life safety for all those who trust us in the provision of supports.

If I can answer any questions or be of further service, please do not hesitate to contact me at your convenience. I look forward to working with the Department in the implementation of this proposal as a true benefit to all of our community programs across rural and urban Alaska.

Sincerely,

A handwritten signature in cursive script, appearing to read "Stephen P. Lesko".

Stephen P. Lesko
Executive Director
Hope Community Resources, Inc.

STATE OF ALASKA

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF SENIOR AND DISABILITIES SERVICES
OFFICE OF THE DIRECTOR

FRANK H. MURKOWSKI
GOVERNOR

3601 C Street, Suite 310

ANCHORAGE, AK 99503

PHONE: (907) 269-3666

FAX: (907) 269-3690

September 29, 2004

Department of Health and Human Services
Centers for Medicare and Medicaid Services
7500 Security Boulevard, Mail Stop S2-12-25
Baltimore, MD 21244-1850

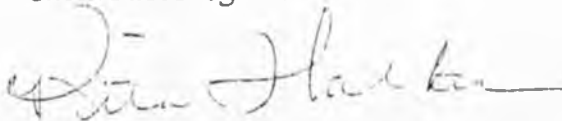
As Project Coordinator for the Nursing Facilities Transition Project, through a grant from the Center for Medicare and Medicaid Services, it is my pleasure to enthusiastically endorse and support the grant proposal for a background check demonstration project. I look forward to working with the Department in their effort to improve background checks and believe that these efforts will effectuate a dramatic change in the care of elders and those with disabilities.

This demonstration project will help meet the need for critical protection of vulnerable populations who receive care from individuals in long-term care facilities or in the community. I believe that recruitment and retention of qualified candidates will improve care of these individuals and contribute greatly to quality of life.

We have worked diligently to provide quality services to individuals through the transitions project, and would be encouraged to know that the individuals whom we are transitioning into the community will have safe, high quality care. I believe that this program will provide the mechanisms to recruit and hire safe and well-qualified staff. This could be a giant step in improving how the public perceives those who care for our most frail vulnerable individuals.

It has been my pleasure to work closely with the Division of Senior and Disabilities Services for waiver approvals and the quality assurance section to ensure that individuals are receiving the care they deserve.

I wholeheartedly and enthusiastically endorse the Department's application for the Background Check Pilot Program.



Rita Walker, Project Coordinator
Nursing Facility Transitions Project



FRANK H. MURKOWSKI, GOVERNOR
State of Alaska

GOVERNOR'S COUNCIL ON DISABILITIES AND SPECIAL EDUCATION

P.O. Box 240249 • Anchorage, Alaska 99524-0249 • Phone: 907-269-8990 • Fax: 907-269-8995 • Toll Free 888-269-8990

September 27, 2004

Elizabeth Vazquez
Alaska Department of Health and Social Services
3601 C Street, Ste 902
Anchorage, Alaska 99524

Dear Ms. Vazquez,

On behalf of the Governor's Council on Disabilities and Special Education, I would like to express the Council's support for the Alaska Department of Health and Social Services' application for the *Program for Background Checks for Employees with Direct Access to Individuals Who Require Long Term Care* grant funds.

As you know, one of the overarching concerns for all individuals who require direct care is the need for safe, quality care. Among direct care providers in Alaska, the ability to offer quality services and to expand the capacity of those services to meet the growing needs of Alaska is dramatically constrained by the availability of qualified direct service staff. We believe implementing a system to ease the process of conducting background checks would be beneficial to both the individual receiving care and the provider agencies.

Currently, the Council has already partnered with several state agencies, the University of Alaska, and provider organizations to address the overall shortage of direct care providers in Alaska through the development and sustained support of the Alaska Alliance for Direct Service Careers. The Alliance is currently developing ways to expand the pool of direct service workers by increasing access to information about direct care professions through outreach and marketing efforts.

The Council fully supports this proposal and is willing to participate on a team to ensure the hiring of fully qualified individuals as direct care providers.

Sincerely,

A handwritten signature in cursive script that reads "Millie Ryan".

Millie Ryan
Executive Director

Alaska Alliance For Direct Service Careers
PO Box 240249
3601 C Street, Ste 740
Anchorage, Alaska 99524-0249

September 27, 2004

Judith Norris
US Department of Health and Human Services
Centers for Medicare and Medicaid Services
OOM/Acquisitions and Grants Group
7500 Security Boulevard
Baltimore, MD 21244

Dear Ms. Norris,

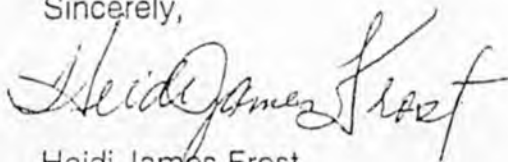
The Alaska Alliance for Direct Service Careers is pleased to offer its support of the *Program for Background Checks for Employees with Direct Access to Individuals Who Require Long Term Care* grant application by Alaska Department of Health and Social Services.

The shortage of direct service staff in the developmental disability, mental health, substance abuse, and aging fields is at crisis level in Alaska. The need to do more with less, changes in employee expectations, a tight job market and the aging of the American workforce are all contributing factors to this problem. The Alaska Alliance for Direct Service Careers (AADSC) is working with consumers, advocates, service providers and other state department staff to identify ways to improve the recruitment and retention of direct care providers.

Our efforts includes working with the American Network for Community Options and Resources (ANCOR) to develop a multi-media campaign to encourage both traditional and non-traditional labor pools to enter direct care work. AADSC has also developed both retention and recruitment tool kits for service providers and, with the Alaska Job Center Network and the Alaska State Hospital and Nursing Home Association, has sponsored the annual career fair for direct service work. Augmenting these services with a program to provide background checks would be valuable.

The Alaska Alliance for Direct Service Careers looks forward partnering with the Alaska Department of Health and Social Services to offer yet another valuable tool in the recruitment and retention of direct care providers.

Sincerely,



Heidi James Frost
Recruitment Chair

Levi Rolland 465-2267
3 pgs
11/16/15

Proposal to Implement Proposed 300%'er Change

OFFERED IN THE HOUSE

BY REPRESENTATIVE WILSON

TO: ~~CSHB 114 (STA)~~

Page 1, line 1 thru 8:

Delete all material in the Title and Insert **"An Act relating to Medicaid personal needs allowance for assisted living home residents."**

Page 1, line 10 thru page 12, line 15:

Delete all material and Insert new bill sections to read:

* Sec. 1. It is the Intent of the Legislature that the Department of Health and Social Services Repeal 7 AAC 43.1058(k)(1)(B) effective July 1, 2005.

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

The Department of Health and Social Service shall 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 such time as the department can adopt these regulations at 7 AAC 43.1058(k)(1)(B), the department 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.

* Sec. 3. Section 1 of this Act takes effect July 1, 2005.

* Sec. 4. Section 2 of this Act takes effect July 2, 2005.

Proposal to Allow Higher Room and Board Charges to 300%'ers

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 + \text{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.

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 = \$181.8