

SB

125

SENATE COMMITTEE REPORT

DATE: 4/14/05

FURTHER: Finance

DATE TURNED
IN TO OFFICE: _____

Judiciary Committee considered

SENATE BILL NO. 125

SB 125 LICENSING MEDICAL OR CARE FACILITIES

"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."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
SCS House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____


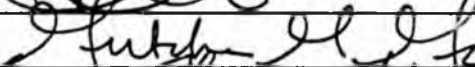
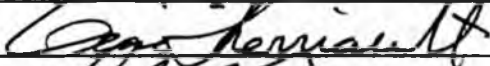
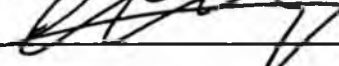
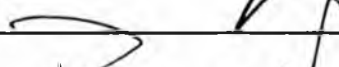
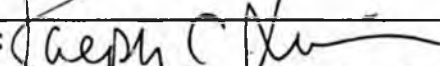
NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
			X	
			X	
			✓	
			X	
				
CHAIR: 	✓			

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

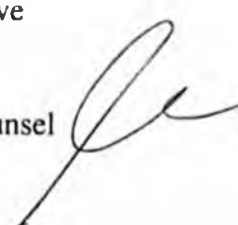
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

May 3, 2005

SUBJECT: Amendments to SB 125 (CS SB 125 (JUD))

TO: Senator Ralph Seekins, Chair
Senate Judiciary Committee
Attn: Brian Hove

FROM: Jean Mischel
Legislative Counsel 

Enclosed is the Judiciary CS you requested on fairly short notice that incorporates an amendment that was previously unreviewed by this office. The amendment raises some questions that should be addressed.

The amendment creates a new section at AS 47.05.350 and deletes part of an immunity provision that was at AS 47.32.160 in the bill. AS 47.32.090, as amended in the bill, contains a cross-reference to the "old" immunity provision at AS 47.32.160. Do you intend for the "new" immunity provision to be cross-referenced there as well?

The same question is raised for a cross-reference at AS 47.33.070 in the bill.

In addition, the wording of the amendment, as it pertains to the new immunity provision at AS 47.05.350, is ambiguous. I have interpreted the modifying language relating to regulations adopted by the department to apply to the information received and provided, not to the reasonable reliance. If this interpretation is not correct, let me know.

Finally, as discussed by telephone this morning, we have revised the repealer to avoid the repeal, as stated in the amendment, of the entire licensing definition in AS 25.27.244.

JMM:jad
05-248.jad

Enclosure

04/28/05
9:14 AM

Amendment to CSSB 125 (JUD) (version I)

#1
adopted

Page 4, line 15 through page 5, line 28:

Delete all material.

Renumber bill sections accordingly.

Page 8, line 15 through page 9, line 30:

Delete all material.

Renumber bill sections accordingly.

Page 13, line 31, following "jurisdiction":

Insert "or to have committed medical assistance fraud under AS 47.05.210 or a substantially similar provision in another jurisdiction"

Page 15, line 23, following "jurisdiction":

Insert "or to have committed medical assistance fraud under AS 47.05.210 or a substantially similar provision in another jurisdiction"

Page 17, following line 20:

Insert "**Sec. 47.05.350. Immunity.** An entity or individual service provider that obtains information about an employee under a criminal history check under AS 47.05.310 may use that information only as provided in regulations adopted by the department under AS 47.05.320. However, if that entity or individual service provider ^{is required to be} reasonably relies on that information in denying employment for an individual selected ^{requires to be considered before employment} for hire as an employee, including during a period of provisional employment, the entity or individual service provider is not liable in an action brought by the individual based on the employment determination resulting from the information."

1.a
adopted

Page 33, line 20:

Delete "applies"

Insert "and AS 44.62.330 – 44.62.630 apply"

Page 34, lines 9 - 15:

Delete all material.

Page 39, line 22, following "to", through line 30:

Delete all material and insert "assisted living homes as defined in AS 47.32.900."

Page 42, following line 9:

Insert a new bill section to read:

"*Sec. 43. AS 14.43.148(h)(1)(B)(iii) is repealed."

Renumber the following bill sections accordingly.

Page 42, following line 16:

Insert a new bill section to read:

"* Sec. 46. AS 25.27.244(s)(2) is repealed."



PUBLIC HEALTH

**PROTECTING AND PROMOTING THE
HEALTH OF ALL ALASKANS**

CSSB 125 (JUD), a Bill to Consolidate DHSS Licensing, Certification and Background Check Functions

Dr. Richard Mandsager, M.D.

Director, Division of Public Health

Alaska Department of Health and Social Services

4/28/2005

Amendment 2 to to CSSB 125(JUD)
24-GS1016\I
4/28/05

- | | |
|--|---|
| 1) Conforming technical amendment to delete Sec. 6 per Leg. Legal review | ➤ Page 4 line 15 through page 5, line 28 |
| 2) Conforming amendment making the document internally consistent per Leg. Legal review | ➤ Page 8 line 15 through Page 9 line 30 |
| 3) Conforming technical amendment making Article 3 internally consistent regarding medical assistance fraud | ➤ Page 13 line 31, following "jurisdiction" |
| 4) Conforming technical amendment making Article 3 internally consistent regarding medical assistance fraud | ➤ Page 15 line 23, following "jurisdiction" |
| 5) Conforming amendment to move immunity provision from AS 47.32 (licensing) to as 47.05 (background check/registry) | ➤ Page 17, following line 26 |
| 6) Clarifies that the administrative procedures act applies | ➤ Page 33 line 20 |

Amendment 2 to to CSSB 125(JUD)
24-GS1016\”I”
4/28/05

- 7) Conforming amendment to move immunity provision from AS 47.32 (licensing) to as 47.05 (background check/registry) ➤ Page 34 lines 9 – 15
- 8) Conforming technical amendment for definition of assisted living home in AS 47.33 ➤ Page 39 line 22 following “to” through line 30
- 9) Conforming amendment per Leg. Legal review ➤ Page 42 following line 9 insert new Sec. 43
- 10) Conforming amendment making the document internally consistent per Leg. Legal review ➤ Page 42 following line 16 insert new section 46

#1

Page 4, following line 14:

Insert a new bill section to read:

“* Sec. 6 AS 14.43.148(h)(1) is amended to read:

(1) "license"

(A) means, except as provided in (B) of this paragraph, a license, certificate, permit, registration, or other authorization that, at the time of issuance, will be valid for more than 150 days and that may be acquired from a state agency to perform an occupation, including the following:

- (i) license relating to boxing or wrestling under AS 05.10;
- (ii) authorization to perform an occupation regulated under AS 08;
- (iii) teacher certificate under AS 14.20;
- (iv) authorization under AS 18.08 to perform emergency medical services;
- (v) asbestos worker certification under AS 18.31;
- (vi) boiler operator's license under AS 18.60.395;
- (vii) certificate of fitness under AS 18.62;
- (viii) hazardous painting certification under AS 18.63;
- (ix) certification as a municipal correctional, correctional, probation, or parole officer under AS 18.65.245;
- (x) security guard license under AS 18.65.400 - 18.65.490;

(xi) license relating to insurance under AS 21.27;

(xii) employment agency permit under AS 23.15.330 -
23.15.520;

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

(xiv) certification as a pesticide applicator under AS
46.03.320;

(xv) certification as a storage tank worker or contractor under
AS 46.03.375;

(xvi) certification as a water and wastewater works operator
under AS 46.30; and

(B) does not include

(i) a commercial fishing license under AS 16.05.480,
including a crewmember fishing license;

(ii) a vessel license issued under AS 16.05.490 or 16.05.530;

(iii) a license issued to a child care facility under AS 47.32
[AS 47.35];

(iv) a business license issued under AS 43.70;

(v) an entry permit or interim-use permit issued under AS
16.43; or

(vi) a driver's license issued under AS 28.15;"

Page 21, line 30, following "AS 47.32.010(b)":

Insert ", as defined by regulation"

Page 23, line 31, following "(c)", through page 24, line 1:

Delete all material and insert "The issuance of a license by the department does not obligate the department to place or maintain an individual in an entity, through an entity, or to support the entity financially."

Page 37, line 11, following "care":

Insert "or rehabilitative services"

Page 40, line 24:

Delete all material.

Renumber the following bill sections accordingly.

Page 41, line 4:

Delete "47.33.420,"

Page 41, line 31:

Delete "SEC. 20"

Insert "SECS. 20 AND 36"

Page 42, line 1"

Delete "sec. 20"

Insert "secs. 20 and 36"

Page 42, line 3:

Delete "sec. 20"

Insert "secs. 20 and 36"

Page 42, line 10:

Delete "sec. 20"

Insert "secs. 20 and 36"

Page 42, line 15:

Delete "sec. 20"

Insert "secs. 20 and 36"

Page 46, line 10:

Delete all material.

Renumber the following bill sections accordingly.

Page 35, line 2
delete "or" on line 3
(iii) Insert "offers personal assistance;" on
number (iii) to (iv)

Summary of Changes, CSSB 125(JUD)
Amendment 1 to Work Draft 24-GS1016\Y 4/23/05

- Adds DHSS as the administrative hearing entity for hearings related to centralized registry. ➤ Pg 8 LL 20 -- 22
- Adds "volunteers" as an entry type of the registry. ➤ Pg 14 L 24 and Pg 15 L 9
- Adds "decisions" to the types of findings that can result in an entry in the registry. ➤ Pg 14 L 26
- ✓• Adds "medical assistance fraud" as a condition for entry on the registry. ➤ Pg 14 LL 30 – 31
- ✓• Adds new subsections to require reporting to the department of any allegations of neglect, abuse or exploitation in the last ten years, or any court findings of these conditions. ➤ Pg 15 LL 10 – 18
- ✓• Defines the central registry as a confidential document with limited access. ➤ Pg 15 LL 26 – 30
- ✓• Adds immunity protections for people who report abuse, neglect or exploitation. ➤ Pg 15 L 31 and Pg 16 LL 1 - 6
- ✓• Clarifies individuals associated with the term "entities". ➤ Pg 16 LL 21 - 22
- Everything else relates to renumbering. ➤ All the rest

Summary of Changes, CSSB 125(JUD)
Amendment 2 to Work Draft 24-GS1016\Y 4/23/05

- Clarifies the ability of municipalities to request the authority to regulate child care facility licensing under home rule powers.

➤ Pg 23 LL 22 – 30

Proposed Changes to CSSB 125(JUD)
NEW Amendment 3 to Work Draft 24-GS1016\Y 4/23/05

- Conforming technical amendment ➤ Page 4 following line 14

- Assures policies and procedures relating to licensure and operation are established and defined in regulation ➤ Page 21 line 30, following "AS 47.32.010(b)"

- Delete current language and insert a new subsection (c) to clarify the distinction between the department's responsibilities re: issuing a license to an entity versus its obligation to provide financial support to an entity ➤ Page 23 line 31 through Page 24 line 1

- Assures the definition of "nursing facility" specifically includes rehabilitative services for injured, disabled or sick persons ➤ Page 37 line 11

- All other amendments are either conforming technical amendments or relate to section renumbering ➤ All the rest

24-GS1016Y
Mischel
4/21/05

CS FOR SENATE BILL NO. 125(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE 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 possession of a firearm at licensed
8 entities and facilities; relating to criminal history requirements, and a registry,
9 regarding certain licenses, certifications, approvals, and authorizations by the
10 Department of Health and Social Services; making conforming amendments; and
11 providing for an effective date."

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

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

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

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

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

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

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

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

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

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

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

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

1 the school or district or the designee of the chief administrative officer; or

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

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

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

8 (B) a dwelling.

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

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

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

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

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

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

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

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

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

29 (4) knowingly possesses a firearm

30 (A) within the grounds of or on a parking lot immediately
31 adjacent to an entity [A CENTER], other than a private residence, licensed as

1 a child care facility under AS 47.32 [AS 47.33 OR AS 47.35] or recognized
2 by the federal government for the care of children, except that a person 21
3 years of age or older may possess an unloaded firearm in the trunk of a
4 motor vehicle or encased in a closed container of a motor vehicle;

5 (B) within a

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

7 (ii) courthouse that is occupied only by the Alaska
8 Court System and other justice-related agencies; or

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

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

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

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

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

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

21 **Sec. 18.20.130. Definitions.** In AS 18.20.075 - 18.20.130 [AS 18.20.010 -
22 18.20.130],

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

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

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

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

1 (a) If the department finds that a nursing facility, or a partner, officer, director,
2 owner of five percent or more of the nursing facility's assets, or managing employee of
3 the nursing facility substantially failed or refused to comply with AS 08.68.340 -
4 08.68.390, AS 08.70, AS 18.20.075 - 18.20.085 [AS 18.20.010 - 18.20.130],
5 AS 47.07, or with a regulation adopted under any of those statutes, or, for a nursing
6 facility that provides Medicaid services under AS 47.07, failed or refused to comply
7 with the Medicaid requirements of 42 U.S.C. 1396r (Title XIX of the Social Security
8 Act, as amended) or a regulation adopted under that statute, the department may take
9 the following actions:

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

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

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

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

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

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

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

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

26 (3) "health care provider" means an acupuncturist licensed under
27 AS 08.06; a chiropractor licensed under AS 08.20; a dental hygienist licensed under
28 AS 08.32; a dentist licensed under AS 08.36; a nurse licensed under AS 08.68; a
29 dispensing optician licensed under AS 08.71; an optometrist licensed under AS 08.72;
30 a pharmacist licensed under AS 08.80; a physical therapist or occupational therapist
31 licensed under AS 08.84; a physician licensed under AS 08.64; a podiatrist; a

1 psychologist and a psychological associate licensed under AS 08.86; a hospital as
2 defined in AS 47.32.900 [AS 18.20.130], including a governmentally owned or
3 operated hospital; and an employee of a health care provider acting within the course
4 and scope of employment;

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

6 **Sec. 18.26.220. Facility compliance with health and safety laws and**
7 **licensing requirements.** A medical facility constructed, acquired, improved,
8 financed, or otherwise under the provisions of this chapter and all actions of the
9 authority are subject to AS 18.07, AS 47.32 [AS 18.20], and any other present or
10 future state licensing requirements for the facilities or services provided under this
11 chapter. A medical facility issued a certificate of need under sec. 4, ch. 275, SLA
12 1976, by virtue of being in existence or under construction before July 1, 1976, must
13 fully meet the requirements of AS 18.07 in order to be eligible for funding under this
14 chapter.

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

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

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

19 (c) Nothing in this section relieves a health maintenance organization that
20 wishes to exercise the power described in (a)(1) of this section from the requirements
21 of

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

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

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

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

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

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

2 (2) "license"

3 (A) means, except as provided in (B) of this paragraph, a
4 license, certificate, permit, registration, or other authorization that, at the time
5 of issuance, will be valid for more than 150 days and that may be acquired
6 from a state agency to perform an occupation, including the following:

7 (i) license relating to boxing or wrestling under
8 AS 05 10;

9 (ii) authorization to perform an occupation regulated
10 under AS 08;

11 (iii) teacher certificate under AS 14.20;

12 (iv) authorization under AS 18.08 to perform
13 emergency medical services;

14 (v) asbestos worker certification under AS 18.31;

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

16 (vii) certificate of fitness under AS 18.62;

17 (viii) hazardous painting certification under AS 18.63;

18 (ix) security guard license under AS 18.65.400 -
19 18.65.490;

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

21 (xi) employment agency permit under AS 23.15.330 -
22 23.15.520;

23 (xii) registration as a broker-dealer, an agent, a state
24 investment adviser, or an investment adviser representative under
25 AS 45.55.030;

26 (xiii) certification as a pesticide applicator under
27 AS 46.03.320;

28 (xiv) certification as a storage tank worker or contractor
29 under AS 46.03.375;

30 (xv) certification as a water and wastewater works
31 operator under AS 46.30;

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

(xvii) 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 16.05.530;

(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;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (a) If the department has reason to believe that a certified nurse aide employed
31 in a facility licensed by the department under AS 47.32 as a hospital or nursing

1 independent contractor, or volunteer of the entity;

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

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

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

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

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

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

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

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

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

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

31 (4) who will be present in the entity or at the places of operation of

1 entity, and would have regular contact with individuals who receive services from the
2 entity, but who is not a family member or visitor of an individual who receives
3 services from the entity.

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

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

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

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

27 (i) For purposes of (b) and (c) of this section, in place of nonissuance or
28 nonrenewal of a license or certification, an entity or individual service provider that is
29 not required to be licensed or certified by the department or a person wishing to
30 become an entity or individual service provider that is not required to be licensed or
31 certified by the department is instead ineligible to receive a payment, in whole or in

1 part, from the department to provide for the health, safety, and welfare of persons who
2 are served by the programs administered by the department if the entity, individual
3 service provider, or person

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (i) A person is presumed to be acting in good faith and is immune from civil

1 and criminal liability if the person

2 (1) makes a report of medical assistance fraud, abuse, neglect, or
3 exploitation;

4 (2) submits information to the registry; or

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

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

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

13 **Sec. 47.05.390. Definitions.** In AS 47.05.300 - 47.05.390, unless the context
14 otherwise requires,

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

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

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

18 (4) "criminal justice information" has the meaning given in
19 AS 12.62.900;

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

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

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

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

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

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

31 (1) the peace officer shall

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

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

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

14 (i) an office specified by the Department of Health and
15 Social Services;

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

18 (iii) a shelter for runaways that has a permit from the
19 department under AS 47.32 [AS 47.35.085] that agrees to shelter the
20 minor;

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

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

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

31 (3) a minor under protective custody may not be housed in a jail or

1 other detention facility but may be housed in a semi-secure portion of an office,
2 program, shelter, or other facility under (1) (C) of this subsection;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (24) "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. 26. AS 47.12.990(14) is amended to read:

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

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

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

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

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

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

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

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

27 (2) participate in the day care assistance program under AS 47.25.001 -
28 47.25.095; and

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

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

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

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

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

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

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

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

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

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

19 (4) "evaluation facility" means a health care facility that has been
20 designated by the department to perform the evaluations described in AS 47.30.670 -
21 47.30.915, including a facility licensed under AS 47.32 [AS 18.20.020] or operated by
22 the federal government;

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

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

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

31 (b) This chapter and regulations adopted under this chapter apply to the

1 following entities:

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

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

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

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

- 28 (1) administer and enforce the provisions of this chapter;
- 29 (2) coordinate and develop policies, programs, and planning related to
30 licensure and operation of entities listed in AS 47.32.010(b);
- 31 (3) adopt regulations necessary to carry out the purposes of this

1 chapter, including regulations that

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

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

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

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

13 (ii) record-keeping requirements;

14 (iii) reporting requirements; and

15 (iv) requirements and standards regarding health, safety,
16 and sanitation;

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

21 (E) establish requirements for the operation of entities licensed
22 under this chapter;

23 (4) investigate

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

25 (B) applicants for licensure, including individuals named in an
26 application; and

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

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

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

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

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

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

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

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

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

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

31 (c) Nothing in this chapter obligates the department to provide financial

1 support to an entity licensed under this chapter.

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

6 (1) any fee established by regulation; and

7 (2) documents and information required by regulation.

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

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

21 (1) the entity meets the requirements for biennial licensure established
22 in this chapter, regulations adopted under this chapter, and other applicable statutes
23 and regulations;

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

25 (3) any applicable fee has been paid.

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

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

1 format approved by the department, accompanied by

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

4 (2) any fee established by regulation.

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

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

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

13 (3) any applicable fee has been paid.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (1) to determine whether an application for licensure or renewal is
30 appropriate;

31 (2) to conduct a complaint investigation;

- 1 (3) to conduct a standard inspection;
- 2 (4) to inspect documents, including personnel records, accounts, the
- 3 building, or the premises;
- 4 (5) to interview staff or residents; or
- 5 (6) if the department has reasonable cause to believe that the entity is
- 6 operating in violation of this chapter or the regulations adopted under this chapter.

7 (b) If an entity denies access, the department may petition the court for an

8 order permitting access, or the department may seek to revoke the entity's license

9 under AS 47.32.140.

10 (c) Upon petition of the department and after a hearing held upon reasonable

11 notice to the entity, the court shall issue an order to an officer or employee of the

12 department authorizing the officer or employee to enter for any of the purposes

13 described in (a) of this section.

14 **Sec. 47.32.120. Report.** (a) Within 10 working days after completing an

15 investigation or inspection under AS 47.32.090 - 47.32.110, the department shall

16 prepare a report of the results of the investigation or inspection and mail a copy of the

17 report to the entity. The report shall include a description of

18 (1) any violation, including a citation to each statute or regulation that

19 has been violated; and

20 (2) any enforcement action the department intends to take under

21 AS 47.32.130 or 47.32.140.

22 (b) An entity that receives a copy of a report under this section may submit a

23 written response to the report to the department. The department may require an entity

24 to submit a response to a report received under this section.

25 (c) Within 14 days after the entity receives a copy of the report under this

26 section, upon request of the complainant, the department shall provide a copy of the

27 report to the complainant.

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

29 (a) If the department's report of investigation or inspection under AS 47.32.120

30 concludes that the department has reasonable cause to believe that a violation of an

31 applicable statute or regulation has occurred that presents an immediate danger to the

1 health, safety, or welfare of an individual receiving services from the entity, the
2 department, without an administrative hearing and without providing an opportunity to
3 cure or correct the violation, may immediately revoke or suspend the entity's license
4 or, if the entity is not licensed under this chapter, may revoke the entity's ability to
5 become licensed under this chapter or to provide services as an entity exempted under
6 this chapter. A suspension or revocation under this subsection takes effect
7 immediately upon initial notice to the entity from the department, is in addition to any
8 enforcement action under AS 47.32.140, and continues until a final determination
9 under (c) of this section or AS 47.32.150.

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

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

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

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

23 (B) a description of any enforcement action the department
24 intends to take under AS 47.32.140(d) or (f); and

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

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

1 the department may seek the court's assistance in enforcing.

2 **Sec. 47.32.140. Enforcement actions.** (a) If the department's report of
3 investigation or inspection under AS 47.32.120 concludes that the department has
4 reasonable cause to believe that a violation of an applicable statute or regulation has
5 occurred, the department shall provide notice to the entity of the violation and an
6 opportunity to cure the violation within a reasonable time specified by the department.
7 The notice must include a copy of the department's report under AS 47.32.120, a
8 statement that the entity may submit a written response to the report, any department
9 requirement that the entity submit a written response to the report, a description of any
10 enforcement action the department intends to take under (d) or (f) of this section, and
11 information regarding the entity's appeal rights.

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

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

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

31 (1) delivery of a warning notice to the licensed entity and to any

1 additional person who was the subject of the investigation or inspection;

2 (2) modification of the term or scope of the entity's existing license,
3 including changing a biennial license to a provisional license or adding a condition to
4 the license;

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

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

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

11 (6) revocation of the entity's license or, if the entity is not licensed
12 under this chapter, revocation of the entity's ability to become licensed under this
13 chapter;

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

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

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

20 (10) reduction of the number of individuals receiving services from the
21 entity under the license;

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

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

24 (13) requirement that the entity prepare and submit a plan of
25 correction.

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

30 (f) In addition to any other enforcement actions the department may take
31 under this section, the department may assess a civil fine against an entity for a

1 violation of an applicable statute or regulation, taking into account the type and size of
2 the entity and the type and severity of the violation. A fine assessed under this
3 subsection may not exceed \$2,500 a day for each day of violation for a continuing
4 violation or \$25,000 for a single violation.

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

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

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

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

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

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

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

31 **Sec. 47.32.150. Hearings.** (a) Upon receipt of a timely request for a hearing

1 by an entity regarding an enforcement action under AS 47.32.130(a) or
2 47.32.140(d)(3), (5), (6), (7), or (9), the department shall request the chief
3 administrative law judge appointed under AS 44.64.020 to appoint an administrative
4 law judge employed or retained by the office of administrative hearings to preside
5 over a hearing conducted under this section. AS 44.64.060 applies to the hearing.

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

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

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

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

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

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

1 **Sec. 47.32.170. Criminal penalty.** A person who intentionally or with
2 criminal negligence violates a provision of this chapter or a regulation adopted under
3 this chapter related to the health and safety of persons served by an entity required to
4 comply with this chapter is guilty of a class B misdemeanor.

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

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

17 (1) entity receives its copy of the report of investigation under
18 AS 47.32.120, if the department has determined that an enforcement action under AS
19 47.32.130 or 47.32.140 will not be taken regarding the entity;

20 (2) department's notice of enforcement action under AS 47.32.130 or
21 47.32.140 becomes a final administrative order without a hearing under
22 AS 47.32.130(c) or 47.32.140(i); or

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

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

30 **Sec. 47.32.200. Notice of changes from an entity.** (a) An entity shall
31 provide the department with written notice of a change of mailing address at least 14

1 days before the effective date of the change.

2 (b) An entity shall notify the department within 24 hours after having
3 knowledge that an administrator, employee, volunteer, or household member, as
4 required by the type of entity under department regulations, has been

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

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

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

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

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

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

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

22 (1) "ambulatory surgical center" means a facility that

23 (A) is not a part of a hospital or a physician's general medical
24 practice; and

25 (B) operates primarily for the purpose of providing surgical
26 services to patients who do not require hospitalization;

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

- 1 (i) provides housing and food services to its residents;
2 (ii) offers to provide or obtain for its residents
3 assistance with activities of daily living; or
4 (iii) provides or offers any combination of these
5 services;

6 (B) does not include

- 7 (i) a correctional facility;
8 (ii) an emergency shelter;
9 (iii) a program licensed under AS 47.10.310 for
10 runaway minors;
11 (iv) a type of entity listed in AS 47.32.010(b)(5), (8),
12 (9), (10), (11), or (12);

13 (3) "child placement agency" means an agency that arranges for
14 placement of a child

15 (A) in a foster home, residential child care facility, or adoptive
16 home; or

17 (B) for guardianship purposes;

18 (4) "commissioner" means the commissioner of health and social
19 services;

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

21 (6) "entity" means an entity listed in AS 47.32.010(b);

22 (7) "foster home" means a place where the adult head of household
23 provides 24-hour care on a continuing basis to one or more children who are apart
24 from their parents;

25 (8) "free-standing birth center" means a facility that is not a part of a
26 hospital and that provides a birth service to maternal clients;

27 (9) "frontier extended stay clinic" means a rural health clinic that is
28 authorized to provide 24-hour care to one or more individuals;

29 (10) "home health agency" means a public agency or private
30 organization, or a subdivision of a public agency or private organization, that
31 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 (c) 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 (c) 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.

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
FAX: (907) 465-3088

April 14, 2005

Honorable Ralph Seekins, Chairman
Senate Judiciary Committee
Alaska State Capitol; Rm. 125
Juneau, AK 99801

Dear Senator Seekins,

The Department of Health and Social Services respectfully requests a hearing in the Senate Judiciary Committee on Senate Bill 125 "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 Senate Health, Education, and Social Services Committee has heard the bill and recommends it be replaced with a Senate (HES) Committee Substitute. The department supports the improvements to the bill reflected in the Senate (HES) amendments and suggests that the Senate (HES) CS serve as the basis for the Judiciary Committees deliberations on the bill.

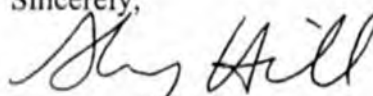
Honorable Ralph Seekins

Page 2

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 Senate (HES) Committee Substitute in the next several days.

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

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

35125
P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

March 1, 2005

The Honorable Ben Stevens
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Stevens:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to consolidating the licensing functions of the Department of Health and Social Services (DHSS).

Executive Order No. 108, which took effect in 2003, reorganized the DHSS in an effort to streamline functions and make services more efficient and cost effective. As part of that reorganization, DHSS is consolidating all of its licensing functions.

Currently, there are at least 12 different statutory schemes for the licensure of different entities by the DHSS. The complexity of the existing statutes and regulations and the absence of any clear rationale for the wide variation in standards for licensing, enforcement, and appeals has resulted in a very burdensome and bureaucratic system. The proposed bill will streamline the licensing process so that the functions are administered in a much more efficient and cost-effective manner by consolidating virtually all of the licensing functions related to standards, enforcement, and appeal rights into a single chapter of the Alaska Statutes.

In addition, the bill requires the DHSS to implement a single, consolidated background check process across all of its programs with the goal of reducing the risk of abuse and neglect of vulnerable clients.

In December 2004, the DHSS was awarded a \$4.9 million federal grant to conduct background checks for any new worker with direct patient care duties in nursing homes and other long-term care facilities, and to establish a comprehensive training program that will meet the unique needs of workers in

COMMITTEE COPY

The Honorable Ben Stevens
March 1, 2005
Page 2

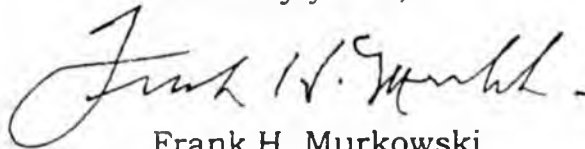
Alaska's long-term care system. This grant, in conjunction with the provisions of the legislation I am proposing today will:

- Improve monitoring and enforcement of life, health, and safety regulations for all DHSS long term-care programs.
- Extend background checks and fitness determinations to all staff serving vulnerable populations.
- Improve the overall safety and security of vulnerable individuals in state licensed and certified long-term care programs.

Finally, this bill contemplates that at the same time that the statutory changes would take effect, DHSS would have adopted regulations to implement these statutory changes. It is anticipated that the resulting regulations would further achieve the goal of efficiency and cost effectiveness.

I urge your prompt and favorable action on this measure.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Frank H. Murkowski".

Frank H. Murkowski
Governor

Enclosure

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 E- Version: SB125-LAW-HS-02-28-01
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to the licensing, regulation, RDU CIVIL
enforcement, and appeal rights of certain ...facilities" Component Human Services
 Sponsor Senate Rules
 Requester Senate Health Education and Human Svces 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						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

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 Daughhelee, Director Phone 465-3673
 Division Administrative Services Date/Time 4/12/05 3:49 PM
 Approved by: Kathryn Daughhelee for David Márquez, Attorney General Date 4/12/2005
 Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 125
 (S) 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
 Sponsor: _____ 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	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 ()						
-------------------------------	--	--	--	--	--	--

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 465-5427
 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: 2
 Bill Version: SB 125
 (S) Publish Date: 3/2/05
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

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

Sponsor: (RLS) BY REQUEST OF THE GOVERNOR

Requester: GOVERNOR Component No. 245

Expenditures/Revenues (Thousands of Dollars)

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

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

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES (0)						
-------------------------------	--	--	--	--	--	--

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

Sectional Analysis of CS SB 125 (HES) (Licensing)

(Prepared by the Department of Health and Social Services and the Department of Law, April 15, 2005)

CS SB 125 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 (Sections 34 and 35):

Sections 34 and 35 add 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.

II. Addition of a new article to centralize background checks and registry functions (Section 19):

Section 19 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. Change to allow exception to ban on possession of firearm in or near a licensed child care facility (Section 5):

Section 5 creates an exception to the ban on the possession of a firearm within the grounds or on a parking lot adjacent to a licensed child care facility by allowing a person 21 years or older to possess an unloaded firearm in the trunk of a motor vehicle or encase in a closed container of a motor vehicle (AS 11.61.220).

IV. Conforming amendments (Sections 1 – 18, 20 – 33, and 36 - 42):

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. 2) and AS 09.65.096(d) (sec. 3);
- the identification of a child care facility related to misconduct involving a weapon under AS 11.61.195(a) (sec. 4) and 11.61.220(a) (sec. 5);
- the conversion of a nursing facility to a nursing home under AS 18.07.031(b) (sec.6);
- the definitions of "department," "governmental unit," and "hospital" under AS 18.20.130 (sec. 7);
- sanctions regarding nursing facilities under AS 18.20.310 (sec. 8);
- the definition of "health care provider" under AS 18.23.070 (sec. 9) and AS 09.55.560 (sec. 1);
- facility compliance with health and safety laws and licensing requirements under AS 18.26.220 (sec. 10);
- the definition of "child adoption agency" in AS 18.50.950 (sec. 11);
- health maintenance organizations' requirement regarding regulation of hospitals under AS 21.86.030(c) (sec. 12);
- maintenance of records by a child placement agency under AS 25.23.185(c) (sec. 13);
- the definition of "license" under AS 25.27.244(s) (sec. 14);
- licensing fees under AS 37.05.146(c) (sec. 15);
- jurisdiction of the Office of Administrative Hearings under AS 44.64.030 (sec. 16);
- investigation of reports of abuse, neglect, or misappropriation of property under AS 47.05.010(15) (sec. 17) and AS 47.05.055(a) (sec. 18);

- runaway minors under AS 47.10.141 (sec. 20) and runaway shelters under AS 47.10.392 (sec. 21) and 47.10.399 (sec. 22);
- the definition of “foster care” under AS 47.10.990 (sec. 23) and “secure residential treatment center” under AS 47.10.990 and AS 47.12.990 (secs. 24 – 25);
- a report of harm under AS 47.24.013(a) (sec. 25);
- minimum daily reimbursement rates under AS 47.24.017(d) (sec. 27);
- grants for child care facilities under AS 47.25.071(b) (sec. 28);
- the definition of “child care facility” and “day care facility” under AS 47.25.095 (secs. 29 – 30);
- the definition of “assisted living home” under AS 47.25.195(f) (sec. 31);
- the definition of “evaluation facility” under AS 47.30.915 (sec. 32) and AS 47.31.100 (sec. 33);
- assisted living homes under AS 47.33.010 (sec. 36) and 47.33.070 (sec. 37);
- licensing and supervision under AS 47.40.021 (sec. 38) and AS 47.40.110 (sec. 39);
- Pioneer Homes under AS 47.55.010 (sec. 40);
- the definition of “long-term care facility” under AS 47.62.090 (sec. 41);
- 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. 42).

V. Repealers (Sections 43 - 50):

Section 43 repeals a reference to 47.35, which would be repealed by this bill.

Section 44 repeals certain statutes governing hospice and home care programs.

Section 45 repeals certain statutes governing hospitals and nursing facilities.

Sections 46 and 47 repeal certain statutory provisions regarding the applicability of administrative adjudication.

Section 48 repeals certain statutes governing assisted living homes.

Section 49 repeals certain statutes governing child care facilities, child placement agencies, child treatment facilities, foster homes, and maternity homes.

Section 50 repeals certain statutory definitions related to alcohol treatment.

VI. Applicability (Sections 51 and 52):

Sections 51 and 52 set out the applicability of the bill to applications and requests depending on when submitted.

VII. Transition (Sections 53 – 56):

Section 53 sets out the transition rules for entities currently licensed or approved.

Section 54 sets out the transition rules for entities with applications pending for more than 90 days.

Section 55 sets out the transition rules for certain entities with pending application and other requests.

Section 56 allows the DHSS to proceed to adopt regulations under the bill.

VIII. Certification (Section 57)

Section 57 requires the lieutenant governor to certify to the revisor of statutes the effective date of certain regulations.

IX. Effective date (Sections 58 – 61):

Section 58 sets out an immediate effective date for secs. 51, 54, and 56.

Section 59 sets out an effective date of July 1, 2006, for section 41 (This should be section 42. The error occurred in the drafting of the CS).

Section 60 sets out an effective date of the earlier of the effective date of regulations adopted under sec. 56(b) or March 1, 2006, for sections 19 and 35 of the bill.

Section 61 sets out an effective date of July 2, 2005, for the remainder of the bill.

Amendment to CSSB 125 (HES) in SJUD

#1

Page 8, following line 19:

Insert a new bill section to read:

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

(45) Department of Health and Social Services as to the licensing centralized registry under AS 47.05.330 – 47.05.390;

Renumber the following bill sections accordingly.

Page 14, line 21, following "employee":

Insert "or volunteer"

Page 14, line 22, following "(1)":

Insert "decisions,"

Following "applicant":

Insert ","

Delete "or"

Page 14, line 23:

Delete "the"

Following "employee":

Insert ", or volunteer"

Page 14, line 24, following "jurisdiction":

Insert "or medical assistance fraud under AS 47.05.210 or a substantially similar provision in another jurisdiction"

Page 15, line 2:

Delete "and"

Following "employees":

Insert ", and volunteers"

Page 15, following line 2:

Insert new subsections to read:

"(d) An entity, individual service provider, or employee or volunteer of an entity or individual service provider shall report to the department if a court issues a decision, order, judgment, or adjudication that the entity, individual service provider, or the employee or volunteer committed medical assistance fraud or abuse, neglect, or exploitation of a child or a vulnerable adult. An entity, individual service provider, or employee or volunteer of an entity or individual service provider shall make a report under this subsection within 24 hours of receiving a decision, order, judgment, or adjudication of medical assistance fraud or abuse, neglect, or exploitation of a child or vulnerable adult.

(e) An entity or individual service provider shall report to the department any allegation that an employee, volunteer, or former employee or volunteer has committed, not more than 10 years ago, medical assistance fraud or abuse, neglect, or exploitation of a child or vulnerable adult receiving services from the entity or individual service provider. An entity or individual service provider shall make a report under this subsection within 24 hours of receiving notice of the allegation."

Page 15, line 3:

Delete "(d)"

Insert "(f)"

Page 15, line 5:

Delete "(e)"

Insert "(g)"

Page 15, lines 10 - 11:

Delete all material.

Insert "(h) Information contained on the registry is confidential and not subject to public inspection and copying under AS 40.25.110 – 40.25.125. However, in accordance with this section and regulations adopted under AS 47.05.380, information contained on the registry may be released to authorized entities, individual service providers, and governmental agencies."

Page 15, lines 9 - 11:

Delete all material.

Insert "(i) A person who makes a report of medical assistance fraud, abuse, neglect, or exploitation or submits information to the registry, or an entity or individual service provider that fails to hire or retain an employee because the employee is included on the registry, is presumed to be acting in good faith and shall be immune from civil liability and criminal liability."

Page 15, line 15:

Delete "(h)"

Insert "(j)"

Page 15, line 29, following "AS 47.32.010(b)"

Insert "and an owner, officer, director, member, and partner of the entity"

Page 36, line 26:

Delete "34"

Insert "35"

Page 40, line 13:

Delete "1 - 18, 20 - 34, 36 - 41, and 43 - 50"

Insert "1 - 15, 17 - 19, 21 - 35, 37 - 42, and 44 - 51"

Page 40, line 15:

Delete "34"

Insert "35"

Page 40, line 16:

Delete "34"

Insert "35"

Page 40, line 18:

Delete "1 - 18, 20 - 34, 36 - 41, and 43 - 50"

Insert "1 - 15, 17 - 19, 21 - 35, 37 - 42, and 44 - 51"

Page 40, line 19:

Delete "1 - 18, 20 - 34, 36 - 41, and 43 - 50"

Insert "1 - 15, 17 - 19, 21 - 35, 37 - 42, and 44 - 51"

Page 40, line 21:

Delete "34"

Insert "35"

Page 40, line 24:

Delete "1 - 18, 20 - 34, 36 - 41, and 43 - 50"

Insert "1 - 15, 17 - 19, 21 - 35, 37 - 42, and 44 - 51"

Page 40, line 27:

Delete "19"

Insert "20"

Page 40, line 28:

Delete "19"

Insert "20"

Page 40, line 30:

Delete "19"

Insert "20"

Page 41, line 2:

Delete "19"

Insert "20"

Page 41, line 3:

Delete "34"

Insert "35"

Page 41, line 6:

Delete "19"

Insert "20"

Page 41, line 8:

Delete "19"

Insert "20"

Page 41, line 11:

Delete "19"

Insert "20"

Page 41, line 14:

Delete "19"

Insert "20"

Delete "34"

Insert "35"

Page 41, line 15:

Delete "19"

Insert "20"

Page 41, line 17:

Delete "19"

Insert "20"

Page 41, line 21:

Delete "34"

Insert "35"

Page 41, line 22:

Delete "34"

Insert "35"

Page 41, line 23:

Delete "1 - 18, 20 - 34, 36 - 41, and 43 - 50"

Insert "1 - 15, 17 - 19, 21 - 35, 37 - 42, and 44 - 51"

Page 41, line 31:

Delete "17"

Insert "18"

Page 42, line 1:

Delete "18"

Insert "19"

Page 42, line 2:

Delete "20"

Insert "21"

Page 42, line 3:

Delete "21"

Insert "22"

Page 42, line 4:

Delete "22"

Insert "23"

Page 42, line 5:

Delete "23"

Insert "24"

Delete "24"

Insert "25"

Page 42, line 6:

Delete "26"

Insert "27"

Page 42, line 7:

Delete "27"

Insert "28"

Page 42, line 8:

Delete "23"

Insert "29"

Page 42, line 9:

Delete "29"

Insert "30"

Page 42, line 10:

Delete "30"

Insert "31"

Page 42, line 11:

Delete "31"

Insert "32"

Page 42, line 12:

Delete "32"

Insert "33"

Page 42, line 13:

Delete "33"

Insert "34"

Page 42, line 14:

Delete "37"

Insert "38"

Page 42, line 15:

Delete "40"

Insert "41"

Page 42, line 20:

Delete "1 - 18, 20 - 34, 36 - 41, and 43 - 50"

Insert "1 - 15, 17 - 19, 21 - 35, 37 - 42, and 44 - 51"

Page 42, line 26:

Delete "34"

Insert "35"

Page 42, line 29:

Delete "34"

Insert "35"

Page 43, line 8:

Delete "3 "

Insert "35"

Page 43, line 9:

Delete "1 - 18, 20 - 34, 36 - 41, and 43 - 50"

Insert "1 - 15, 17 - 19, 21 - 35, 37 - 42, and 44 - 51"

Page 43, line 11:

Delete "1 - 18, 20 - 34, 36 - 41, and 43 - 50"

Insert "1 - 15, 17 - 19, 21 - 35, 37 - 42, and 44 - 51"

Page 43, lines 13 - 14:

Delete "secs. 1 - 18, 20 - 34, 36 - 41, and 43 - 50"

Insert "secs. 1 - 15, 17 - 19, 21 - 35, 37 - 42, and 44 - 51"

Page 43, line 19:

Delete "1 - 18, 20 - 34, 36 - 41, and 43 - 50"

Insert "1 - 15, 17 - 19, 21 - 35, 37 - 42, and 44 - 51"

Page 43, line 22:

Delete "1 - 18, 20 - 34, 36 - 41, and 43 - 50"

Insert "1 - 15, 17 - 19, 21 - 35, 37 - 42, and 44 - 51"

Page 43, line 24:

Delete "34"

Insert "35"

Page 43, line 28:

Delete "34"

Insert "35"

Page 44, line 6:

Delete "19"

Insert "20"

Page 44, line 8:

Delete "19"

Insert "20"

Page 44, line 9:

Delete "19"

Insert "20"

Page 44, line 10:

Delete "19"

Insert "20"

Page 44, line 12:

Delete "19"

Insert "20"

Page 44, line 15:

Delete "19"

Insert "20"

Page 44, line 17:

Delete "19"

Insert "20"

Page 44, lines 24 - 25:

Delete "secs. 1 - 18, 20 - 34, 36 - 41, and 43 - 50"

Insert "secs. 1 - 15, 17 - 19, 21 - 35, 37 - 42, and 44 - 51"

Page 44, line 28:

Delete "19 and 35"

Insert "16, 20, and 36"

Page 45, line 3:

Delete "56"

Insert "57"

Page 45, line 4:

Delete "52, 54, and 56"

Insert "53, 55, and 57"

Page 45, line 6:

Delete "41"

Insert "43"

Page 45, line 7:

Delete "19 and 35"

Insert "16, 20, and 36"

Page 45, line 8:

Delete "56(b)"

Insert "57(b)"

Page 45, line 10:

Delete "58 - 60"

Insert "59 - 61"

Amendment #2 to CSSB 125 (HES) in SJUD

#.2

Page 22, following line 27:

Insert a new subsection to read:

“(b) The department shall, within 90 days after receiving a written request that it do so, delegate its powers relating to child care facilities under this chapter to a municipality that has adopted an ordinance providing for child care licensing under home rule powers under AS 29.10.010 or as authorized under AS 29.35.200 – 29.35.210. A municipality to which these powers have been delegated may adopt, by ordinance, additional requirements for child care facilities operating within its boundaries if the requirements meet or exceed the requirements adopted by the department.”

Page 22, line 28:

Delete “(b)”

Insert “(c)”

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.



PUBLIC HEALTH

**PROTECTING AND PROMOTING THE
HEALTH OF ALL ALASKANS**

CSSB 125(HESS), 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

4/20/2005

Why are we doing this? What's wrong with things the way they are?



- The existing statutory and regulatory environment is a complex patchwork, with holes, duplication and unnecessary variants.
 - Agencies which offer more than one type of care services must meet different requirements for licensing created by evolving program standards and historical licensing criteria.
 - These differences limit the flexibility of licensing staff to operate across different program types.
 - There is no compelling rationale to maintain these differences, and much benefit to be derived from eliminating them.
- Some provider types are not covered today, for either requirements of licensing or background check requirements, or both.
- Some individuals can currently pass a background screen, who shouldn't.
- Tracking of required care provider information has not been consistent.
- Existing requirements can also raise the costs to care provider applicants.
- We want to have a say in what is going to be mandated at the Federal level.
 - The current pilot program that is underway has as an objective to "recommend appropriate procedures and payment mechanisms for implementing a national criminal background check program for such facilities and providers." (excerpt from Section 307, MMA of 2003)

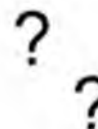
"Recruiting and hiring ... is an area we cannot afford even a single failure of the system." Matthew Jones, Executive Director, Assets Inc.

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.

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.
- 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.
- Three licensing program units have been consolidated within Public Health, but the programs they manage still must be uniquely administered.

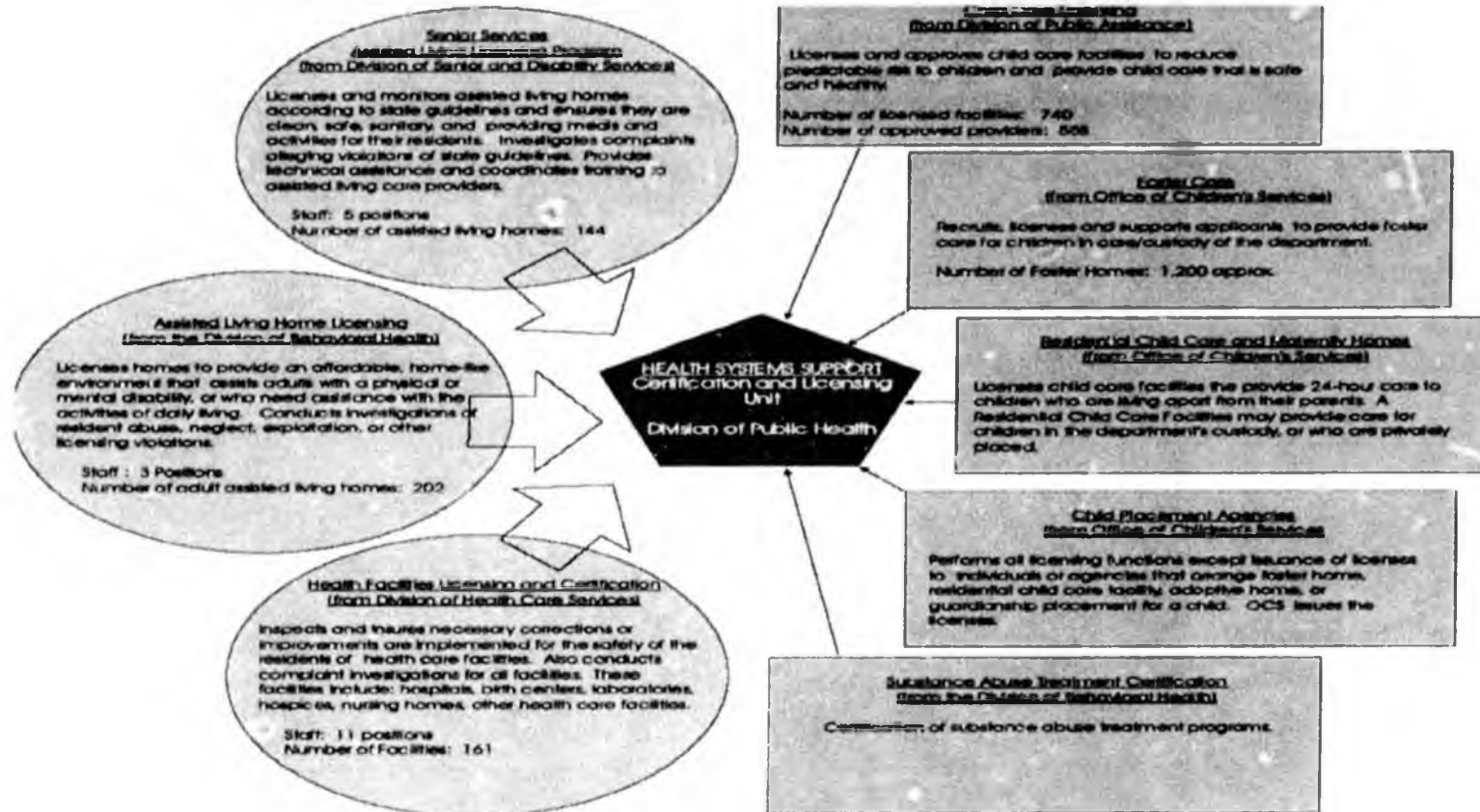


The three units that have been consolidated represent Phase I of the consolidation process.

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:**

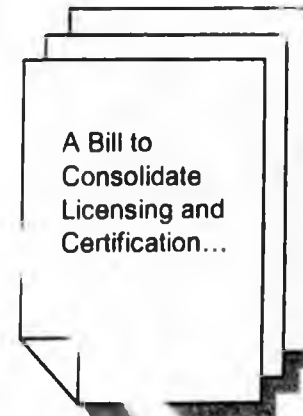
- | | | |
|-----------------------------|----------------------|--|
| Ambulatory Surgical Centers | Home Health Agencies | Residential Child Care Facilities |
| Assisted Living Homes | Hospices | Residential Psychiatric Treatment Ctrs |
| Child Care Facilities | Hospitals | Rural Health Clinics |
| Child 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 |

* Subject to background check provisions only

- **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

[Licensed Certified Both]



How CSSB 125 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)(1C)	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
moved to regulation

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 means being deleted as a separate statutory entity. The subject area will be included in the proposed new statute, and usually relates to specifics of licensing, licensing oversight and background check requirements.
 Retained indicates these statutory sections remain unchanged. These are typically definitional or program operational in nature.

What's in CSSB 125?



- **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 (Article 3):**
 - Defines who is required to have background checks
 - Provides for regulatory definition of barrier conditions
 - Requires a centralized registry be created and maintained
 - Confidential and controlled access
- **Updates to existing statutes (see previous page)**
- **Establishes the timeline for implementation**
 - July 1, 2006 for Section 1
 - March 2006 or the effective date of this bill, whichever is sooner, for Article 3

The key provisions of CSSB 125:

- 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.
- A confidential centralized 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 the current regulatory crosswalk

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)

		ALH	FH	FGH	RGH	RCCC	CCH	CCGH	CCC	RPTC	MH	AP
<i>7 AAC 10.610. Life and fire safety.</i>												
<i>Based on existing child care licensing, 7 AAC 62.510; existing residential child care, 7 AAC 59.510; 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	E	N	N	
(b)(2) -- municipal building code approvals	-- [1-5] E [6+]	N	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	E	
(d)--disaster preparedness/emergency evacuation plan	E	E	E	E	E	E	E	E	E	E	E	
(e) -- emergency evacuation drills	E	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	E	
(g) notification of fire or other emergency	N	N	N	N	N	N	N	N	N	N	N	
(h) carbon monoxide detector	N	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	N	



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the SEN-JUD

Committee on SB 125 Dated 4-20-05

Bill / Subject

#1 ON THE BACKGROUND CHECKS; WILL THERE BE SOME FORM OF REGISTRY FOR CRIMINAL HIST. CHECKS ON THE RESIDENTS WHO ARE PLACED IN OUR HOMES? THERE HAS BEEN MURDERERS ADMITTED TO MY HOME W/ NO INFO FROM THE STATE WHO PLACED THEM; YET I AND ALL EMPLOYERS MUST PASS A BACKGROUND CHECK TO CARE FOR THEM. ITS OK, BUT LETS TREAT EVERYONE EQUAL IN THIS MATTER, INCLUDING BACKGROUND CHECKS FOR YOUR OWN STATE EMPLOYEES NO MATTER WHAT THEIR JOB, THEY ARE ALSO PAID WITH PUBLIC & FEDERAL DOLLARS.

#2 HOW WILL YOU DO A BACKGROUND CHECK ON THE ASIAN OR ANY FOREIGNERS COMING INTO THE STATE, STARTING AN ALH OR CHILD CARE HOME, THEY HAVE NO BACKGROUND HERE; BUT WHAT DO YOU KNOW OF THEIR PAST.

#3 DOES THE STATE REGULATE WHO CAN WORK IN ANY OF YOUR BUSINESSES IF THEY DO CAN YOU SEND ME THE REGS ON HOW YOU ARE CONTROLLED TO HIRE PRIVATE SECTOR, STATE, & PUBLIC EMPLOYEES, WE ARE A SMALL BUSINESS WHO MOST OF LIVE IN OUR ALH'S, WE ARE ON BOARD 84-7 DO YOU REALLY THINK THESE ABUSE'S WOULD LIKELY HAPPEN HERE? I THINK NOT! ABOUT MEDICAL FUND I CAN SHOW YOU WHERE IT IS JUST TALK TO ME, IT IS NOT IN THESE LITTLE ALH'S AT ALL

SIGNED:

Monica Taylor Lavoie
Testifier

Monica Taylor Lavoie
Representing Assisted Living Care Services

109 E. 5th AVE NORTH POLE AK 99705

Address / Phone Number

488-9159